

Washington Unified School District

Board Policy

Administrative And Supervisory Personnel

BP 4300

Personnel

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

(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 the district.

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

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

(6/98 11/03) 3/07

Washington Unified School District

Administrative Regulation

Administrative And Supervisory Personnel

AR 4300
Personnel

Classified Senior Management and Supervisory Employees

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

Employees holding positions designated as classified senior management and supervisory positions are entitled to all of the rights, benefits, and burdens of other classified employees, except that each senior management and supervisory employees shall not obtain permanent status in a senior management position. (Education Code 45100.5, 45256.5)

If assigned to a position within a bargaining unit, classified management and supervisory employees shall be reclassified at the discretion of the Governing Board subject to provisions of the applicable collective bargaining agreement or, for districts incorporating the merit system, the rules of the personnel commission.

(cf. 4312.1 - Contracts)

Positions in the senior management of the classified service shall be filled from an unranked list of eligible persons who have demonstrated managerial ability and who have been found qualified for the positions as specified by the Superintendent and determined by the personnel commission. (Education Code 45256.5)

(10/96 11/03) 3/07

Washington Unified School District

Board Policy

Administrative Staff Organization

BP 4301

Personnel

The Governing Board authorizes the Superintendent to organize the administrative and supervisory staff in a manner that best supports student achievement, the educational program, and efficient operations.

(cf. 2110 - Superintendent Responsibilities and Duties)

(cf. 4300 - Administrative and Supervisory Personnel)

The Superintendent shall establish and define job responsibilities for supervisory and administrative personnel. (Education Code 44662)

(cf. 4000 - Concepts and Roles)

(cf. 4315 - Evaluation/Supervision)

The Superintendent or designee may adjust staff responsibilities temporarily or permanently as needed to accommodate the workload and/or individual capabilities.

(cf. 4032 - Reasonable Accommodation)

The Superintendent shall maintain a current district organization chart which designates lines of primary responsibility and the relationships among all district 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>

(9/89 7/01) 7/07

Washington Unified School District

Board Policy

Recruitment And Selection

BP 4311 4111, 4211
Personnel

The Governing Board is committed to employing suitable, qualified individuals to carry out the district's mission to provide high-quality education to its students and to ensure the efficiency of district operations.

(cf. 0100 - Goals for the School District)
(cf. 4000 - Concepts and Roles)
(cf. 4100 - Certificated Personnel)
(cf. 4200 - Classified Personnel)
(cf. 4300 - Administrative and Supervisory Personnel)

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

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 4030 - Nondiscrimination in Employment)
(cf. 4032 - Reasonable Accommodation)
(cf. 4111.2/4211.2/4311.2 - Legal Status Requirement)

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

With Board approval, the Superintendent or designee may provide incentives to recruit teachers, administrators, or other employees to work in low-performing schools or in hard-to-fill positions.

(cf. 4113 - Assignment)

The district's selection procedures shall include screening processes, interviews, observations, and recommendations from previous employers as necessary to identify the best possible

candidate for a position. The Superintendent or designee may establish an interview committee, as appropriate, to rank candidates and recommend finalists. All discussions and recommendations shall be confidential in accordance with law.

(cf. 2230 - Representative and Deliberative Groups)

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

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

(cf. 4112 - Appointment and Conditions of Employment)
(cf. 4112.2 - Certification)
(cf. 4112.22 - Staff Teaching English Language Learners)
(cf. 4112.23 - Special Education Staff)
(cf. 4112.8/4212.8/4312.8 - Employment of Relatives)
(cf. 4212 - Appointment and Conditions of Employment)
(cf. 4312.1 - Contracts)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination
41530-41533 Professional Development Block Grant
44066 Limitations on certification requirement
44259 Teaching credential; exception; designated subjects; minimum requirements
44735 Teaching as a Priority block grant
44740-44741 Personnel management assistance teams
44750 Teacher recruitment resource center
44830-44831 Employment of certificated persons
44858 Age or marital status in certificated positions
44859 Prohibition against certain rules and regulations re: residency
45103-45139 Employment (classified employees)
49406 Examination for tuberculosis

GOVERNMENT CODE

815.2 Liability of public entities and public employees
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

COURT DECISIONS

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

Management Resources:

WEB SITES

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

Education Job Opportunities Information Network: <http://www.edjoin.org>

Teach USA: <http://www.calteach.org>

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

(7/03 7/12) 12/13

Washington Unified School District

Board Policy

Legal Status Requirement

BP 4311.2

Personnel

The Governing Board shall ensure that the district employs only those individuals who are lawfully authorized to work in the United States.

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

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

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

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4111/4211/4311 - 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>

(9/92 3/00) 3/09

Washington Unified School District

Administrative Regulation

Legal Status Requirement

AR 4311.2
Personnel

Within three business days of hire, the Superintendent or designee shall physically examine the documentation presented by the employee establishing his/her identity and employment 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 Superintendent 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 Superintendent 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 district 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 Superintendent 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 the district's past decision to accept the documents as valid.

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

(9/92 3/00) 3/09

Washington Unified School District

Board Policy

Contracts

BP 4312.1

Personnel

The Governing Board recognizes the importance of employing qualified and competent individuals to manage district programs and to assist the Superintendent in coordinating efforts to achieve district goals and objectives. To that end, the Board may fill certificated administrative and supervisory positions and classified senior management positions on a contract basis.

(cf. 0000 - Vision)

(cf. 2121 - Superintendent's Contract)

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

(cf. 4300 - Administrative and Supervisory Personnel)

(cf. 4313.2 - Demotion/Reassignment)

(cf. 4314 - Transfers)

The Board may offer a continuing contract of up to four years to any deputy, associate, or assistant superintendent; any certificated employee holding a position requiring a supervision or administration credential; or any senior manager of the classified service. (Education Code 35031, 44929.20)

Prior to entering into any such contract, the Board and Superintendent shall consider the financial impact of the contract on the district. The proposed contract shall also be reviewed by legal counsel to ensure that all legally required provisions are included in the contract and to address any potentially adverse obligations for the district.

(cf. 3460 - Financial Reports and Accountability)

The Board may deliberate in the closed session of a regular meeting about the terms of an employment contract for a deputy, associate, or assistant superintendent; other certificated employee holding a position requiring a supervision or administration credential; or a senior manager of the classified service. Discussions regarding salary, salary schedule, or other compensation may occur in the closed session of a regular meeting only between the Board and its designated representative(s), as permitted under Government Code 54957.6 (the "labor exception") for the purpose of reviewing the Board's position and/or instructing the designated representative(s) prior to or during bona fide negotiations with the employee. Such deliberations shall not be held during a special meeting. (Government Code 54956, 54957, 54957.6)

(cf. 9320 - Meetings and Notices)

(cf. 9321 - Closed Session Purposes and Agendas)
(cf. 9321.1 - Closed Session Actions and Reports)

The Board shall take final action on an employment contract during an open session of a regularly scheduled Board meeting, and that action shall be reflected in the Board's minutes. At that meeting, prior to taking action, the Board shall orally report a summary of the recommendation for the final action on salary or compensation in the form of fringe benefits. (Government Code 3511.1, 53262, 54953)

Copies of any contract and other public records created or received in the process of developing the recommendation related to the salary, benefits, and other compensation shall be available to the public upon request. (Government Code 53262, 54953)

BP 4312.1 - Contracts
(BP revised)

Policy updated to reflect NEW LAW (SB 1436, 2016) which requires the board, prior to taking final action on the salary or benefits of employees whose position within the district is established through an employment contract, to orally report a summary of the recommended action during open session of a board meeting. Updated policy also clarifies the limited circumstances under which salary and benefits may be discussed in closed session and the prohibition against discussing salary or other compensation during a special meeting of the board.

(cf. 1340 - Access to District Records)
(cf. 9322 - Agenda/Meeting Materials)
(cf. 9324 - Minutes and Recordings)

Extension of Contract/Reemployment

A contract shall be extended only by Board action and subsequent to a satisfactory evaluation of the employee's performance. No employment contract shall include a provision for automatic renewal of the contract.

(cf. 4315 - Evaluation/Supervision)

During the term of the contract and with the consent of the employee involved, the Board may reelect or reemploy the employee starting on the next succeeding first day of July and based on terms and conditions mutually agreed upon by the Board and the employee. (Education Code 35031)

If the Board decides not to reelect or reemploy a deputy, associate, or assistant superintendent or a senior manager of the classified service upon the expiration of his/her term, it shall notify the employee in writing 45 calendar days prior to the expiration of the term of the contract. (Education Code 35031)

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

Termination of Contract

The Board may terminate an employment contract prior to its expiration date in accordance with the conditions and process specified in the contract.

Every employment contract shall include a provision specifying the legal maximum cash settlement that the employee may receive in the event that the contract is terminated prior to its expiration date. (Government Code 3511.2, 53260)

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

In addition, all employment contracts shall include a provision that, if the employee is convicted of a crime involving an abuse of his/her office or position, he/she shall fully reimburse the district for payments he/she receives as paid leave salary pending investigation or as cash settlement upon his/her termination and for any funds expended by the district in his/her criminal legal defense. (Government Code 53243-53243.4, 53260)

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

3511.1-3511.2 Local agency executives

53243-53243.4 Abuse of office

53260-53264 Employment contracts

54953 Oral summary of recommended salary and benefits of district executive

54954 Time and place of regular meetings

54956 Brown Act - Open meeting laws; special meetings

54957 Closed session, personnel matters

ATTORNEY GENERAL OPINIONS

57 Ops.Cal.Atty.Gen. 209 (1974)

Management Resources:

ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for Local Legislative Bodies, 2003

WEB SITES

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

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

California Office of the Attorney General: <https://oag.ca.gov>

(6/99 7/07) 3/12

Washington Unified School District

Administrative Regulation

Oath Or Affirmation

AR 4312.3 4112.3, 4212.3

Personnel

This oath or affirmation is different from the oath or affirmation required of certificated employees as a licensing requirement pursuant to Education Code 44334, in which credential candidates must affirm that they support the Constitution of the United States of America, the Constitution of the State of California, and the laws of the United States and the State of California. Thus, the district should require all employees to take the oath or affirmation required by Government Code 3100-3102.

The California Constitution requires that Board members take the same oath; see BB 9224 - Oath or Affirmation.

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

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

(cf. 9224 - Oath or Affirmation)

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

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

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

In the case of intermittent, temporary, emergency or successive employments, the

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

(cf. 4121 - Temporary/Substitute Personnel)

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

Reimbursement of Expenses for Disaster Service Workers

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

Legal Reference:

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

(9/91 10/95) 7/03

Exhibit

Oath Or Affirmation

E 4312.3 4112.3, 4212.3

Personnel

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)

(9/91) 7/03

Washington Unified School District

Administrative Regulation

Health Examinations

AR 4312.4 4112.4, 4212.4

Personnel

Tuberculosis Tests

No applicant shall be initially employed by the district, or employed under contract, in a classified or certificated position unless he/she has submitted to a tuberculosis risk assessment within the past 60 days and, if tuberculosis risk factors are identified, has submitted to an intradermal or other approved tuberculosis examination to determine that he/she is free of infectious tuberculosis. If the results of the examination are positive, the applicant shall obtain an x-ray of the lungs. At his/her discretion, an applicant may choose to submit to the examination instead of the risk assessment. (Education Code 49406)

(cf. 1240 - Volunteer Assistance)

(cf. 4112 - Appointment and Conditions of Employment)

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

(cf. 4212 - Appointment and Conditions of Employment)

Prior to employment by the district, an applicant shall submit a certificate from an authorized health provider stating that the applicant was assessed and/or examined and found to be free of infectious tuberculosis. (Education Code 49406)

An applicant who was previously employed in another school district or private or parochial school shall be deemed to have fulfilled the tuberculosis testing requirement if he/she produces a certificate showing that he/she was found to be free of infectious tuberculosis within 60 days of initial hire or if his/her previous employer verifies that it has a certificate on file showing that the applicant is free from infectious tuberculosis. (Education Code 49406)

Thereafter, each district employee who was found free of infectious tuberculosis shall undergo a tuberculosis risk assessment, and an examination whenever risk factors are identified, at least once every four years or more often when required by the Governing Board upon recommendation of the county health officer. However, once an employee has a documented positive test for tuberculosis infection followed by an x-ray, he/she shall no longer be required to submit to the tuberculosis risk assessment but shall be referred to the county health officer within 30 days of the examination to determine the need for follow-up care. (Education Code 49406)

The cost of the pre-employment tuberculosis risk assessment and/or examination shall be paid by the applicant, unless the Board has determined that the district will reimburse an applicant who is subsequently hired by the district. The district shall reimburse the employee for the cost, if any, of subsequent tuberculosis risk assessments and examinations. The district may provide for the

risk assessment and examination or may establish a reasonable fee for the examination that is reimbursable to the employee. (Education Code 49406)

Whenever the district contracts for the transportation of students, the contract shall require that all drivers who will be transporting students complete the tuberculosis risk assessment and, if indicated, the examination for infectious tuberculosis within 60 days of initial hire. (Education Code 49406)

(cf. 3312 - Contracts)

(cf. 3540 - Transportation)

(cf. 3542 - School Bus Drivers)

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

1. An applicant/employee who files an affidavit stating that he/she adheres to the faith or teachings of a well-recognized religious sect, denomination, or organization and, in accordance with its creed, tenets, or principles, depends for healing upon prayer in the practice of religion and that, to the best of his/her knowledge and belief, he/she is free from infectious tuberculosis

Such an exemption shall be allowed only if the Board determines by resolution, after a hearing, that the health of students would not be jeopardized. If at any time there is probable cause to believe that the applicant/employee is afflicted with infectious tuberculosis, he/she may be excluded from service until the Board is satisfied that he/she is not afflicted.

(cf. 4030 - Nondiscrimination in Employment)

2. A classified employee who is employed for less than a school year and whose functions do not require frequent or prolonged contact with students

3. A pregnant employee who has positive results on a tuberculosis skin test, in which case she shall be exempted from the requirement to follow up with an x-ray of the lungs for a period not to exceed 60 days after the end of the pregnancy

4. A private contracted driver who transports students infrequently without prolonged contact with students

Examination of Certificated Employees for Disabling Diseases

To fill a certificated position with an applicant who has not previously been employed in a certificated position in California, or with a retirant who has not been employed as a retirant, the district shall have on file a medical certification indicating that the applicant or retirant is free from any disabling disease which would render him/her unfit to instruct or associate with children. (Education Code 44839, 44839.5)

(cf. 4117.14/4317.14 - Postretirement Employment)

The certificate shall be completed and submitted directly to the district by an authorized health care provider. The medical examination referenced in the certificate must have been conducted within six months of the date that the certificate is filed. (Education Code 44839, 44839.5; 5 CCR 5503)

Applicants and retirants shall pay for the cost of obtaining the medical certification. (Education Code 44849, 44839.5)

Certificated employees and/or retirants shall be required to periodically undergo, at district expense, a medical examination pursuant to Education Code 44839 or 44839.5 to determine that they are free from any communicable disease making them unfit to instruct or associate with children. (Education Code 44839, 44839.5)

Mental Examination for Certificated Employees

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

(cf. 4032 - Reasonable Accommodation)

(cf. 4114 - Transfers)

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

Legal Reference:

EDUCATION CODE

44839 Medical certificate; periodic medical examination

44839.5 Requirements for employment of retirant

44932 Grounds for dismissal of permanent employee

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

45122 Physical examinations

49406 Examination for tuberculosis

BUSINESS AND PROFESSIONS CODE

2700-2838 Nurses

3500-3546 Physician assistants

HEALTH AND SAFETY CODE

121525 Private and parochial school employees, examination for tuberculosis

CODE OF REGULATIONS, TITLE 5

5502 Filing of notice of physical examination for employment of retired persons
5503 Physical examination for employment of retired persons
5504 Medical certification procedures

COURT DECISIONS

Doe v. Lincoln Unified School District, (2010) 188 Cal.App.4th 758
Leonel v. American Airlines, Inc., (2005) 400 F.3d. 702
Raven v. Oakland Unified School District, (1989) 213 Cal.App.3d 1347

Management Resources:

WEB SITES

California Department of Public Health: <http://www.cdph.ca.gov>
Centers for Disease Control and Prevention: <http://www.cdc.gov>
Public Health Institute: <http://www.phi.org>
U.S. Food and Drug Administration: <http://www.fda.gov>

(11/09 11/10) 12/14

Washington Unified School District

Board Policy

Employee Drug Testing

BP 4312.41 4112.41, 4212.41

Personnel

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

(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.

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

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. /4212.4/4312.4 - Health Examinations)

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

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

Washington Unified School District

Administrative Regulation

Employee Drug Testing

AR 4312.41 4112.41, 4212.41

Personnel

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 district. To ensure an individual's privacy, the district 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 Superintendent 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 the district's expense. If an applicant's initial test is positive, a second test, at the district'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 the district with a negative drug and alcohol screening report within five working days of a confirmed positive result shall be determined to have failed the screening and shall not be employed.

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

(10/93 6/97) 7/08

Washington Unified School District

Board Policy

Drug And Alcohol Testing For School Bus Drivers

BP 4312.42 4112.42, 4212.42

Personnel

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

(cf. 3540 - Transportation)

(cf. 3542 - School Bus Drivers)

(cf. 3543 - Transportation Safety and Emergencies)

(cf. 4020 - Drug and Alcohol-Free Workplace)

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

A driver shall not report for duty or remain on duty when he/she has used any drug listed in 21 CFR 1308.11. A driver is also prohibited from reporting for duty or remaining on duty when he/she has used any drug listed in 21 CFR 1308.12-1308.15, unless he/she is using the drug under the direction of a physician who has advised him/her that the substance will not adversely affect the driver's ability to safely operate a bus. In addition, a driver shall not consume alcohol while on duty or for four hours prior to on-duty time. (49 CFR 382.201-382.209, 382.213)

The district's testing program for drivers shall include pre-employment drug testing and reasonable suspicion, random, post-accident, return-to-duty, and follow-up drug and alcohol testing of drivers. (49 USC 31306; 49 CFR 382.301-382.311)

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

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

Consequences Based on Test Results

Any driver who refuses to take a required drug or alcohol test, tests positive for drugs, or is

found to have a blood alcohol concentration level that exceeds the levels specified in law shall be removed from performing safety-sensitive functions in accordance with 49 CFR 40.23 and 382.211.

No driver shall be temporarily removed from the performance of safety-sensitive functions based only on a laboratory report of a confirmed positive test before the certified medical review officer has completed verification of the test results, unless the district has obtained a waiver. (49 CFR 40.21, 382.107, 382.119)

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

Any driver who refuses, fails to comply, or has a positive test result may be referred to an education and treatment program that meets the requirements of 49 CFR 40.281-40.313. If the substance abuse professional recommends that ongoing services are needed to assist the driver to maintain sobriety or abstinence from drug use, the Superintendent or designee shall require the driver to participate in the recommended services as part of a return-to-duty agreement and shall monitor his/her compliance. Any drop from a rehabilitation or return-to-duty program or a subsequent positive test result shall be reported to the DMV. (Vehicle Code 13376; 49 CFR 40.285, 40.287, 40.303, 382.605)

(cf. 4159/4259/4359 - Employee Assistance Programs)
(cf. 4161/4261 - Leaves)
(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)
(cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)
(cf. 4261.1 - Personal Illness/Injury Leave)

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

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

Voluntary Self-Identification

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

1. No adverse action shall be taken against the driver by the district.
2. The driver shall be allowed sufficient opportunity to seek evaluation, education, or treatment to establish control over his/her drug or alcohol problem.

3. The driver shall be permitted to participate in safety-sensitive functions only after:
 - a. Successfully completing an education or treatment program, as determined by a drug and alcohol abuse evaluation expert, such as an employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor
 - b. Undergoing a return-to-duty test with a result indicating an alcohol concentration of less than 0.02 and/or a verified negative result for drug use

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

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

GOVERNMENT CODE

8355 Drug-free workplace; employee notification

VEHICLE CODE

13376 Driver certificates; revocation or suspension

34500-34520.5 Safety regulations

CODE OF REGULATIONS, TITLE 13

1200-1293 Motor carrier safety, especially:

1213.1 Placing drivers out-of-service

UNITED STATES CODE, TITLE 41

8101-8106 Drug-Free Workplace Act

UNITED STATES CODE, TITLE 49

31306 Alcohol and drug testing

CODE OF FEDERAL REGULATIONS, TITLE 21

1308.11-1308.15 Controlled substances

CODE OF FEDERAL REGULATIONS, TITLE 49

40.1-40.413 Procedures for transportation workplace drug and alcohol testing programs

382.101-382.605 Drug and alcohol use and testing; especially:

382.205 On-duty use

382.207 Pre-duty use

382.209 Use following an accident

Management Resources:

CALIFORNIA HIGHWAY PATROL PUBLICATIONS

Controlled Substances and Alcohol Testing Compliance Checklist, 2007

What is CSAT? Controlled Substances and Alcohol Testing, 2005

WEB SITES

California Highway Patrol: <http://www.chp.ca.gov>

Federal Motor Carrier Safety Administration: <http://www.fmcsa.dot.gov>

U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance:
<http://www.dot.gov/ost/dapc>

(2/96 3/06) 8/13

Washington Unified School District

Administrative Regulation

Drug And Alcohol Testing For School Bus Drivers

AR 4312.42

Personnel

Definitions

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

Alcohol concentration or level means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath. For purposes of the DOT alcohol testing program, an alcohol level between 0.02 and 0.04 requires removal of the bus driver for a 24-hour period following the test. An alcohol level of 0.04 or higher requires immediate removal of the driver from performing safety-sensitive functions until the driver has successfully completed the return-to-duty process. (49 CFR 382.107, 382.201, 382.505)

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

(cf. 3540 - Transportation)

(cf. 3542 - School Bus Drivers)

(cf. 3543 - Transportation Safety and Emergencies)

(cf. 4020 - Drug and Alcohol-Free Workplace)

Designated Employer Representative

The Superintendent or designee shall identify a designated employer representative and shall provide his/her name and telephone number to the testing contractor to contact about any problems or issues that may arise during the testing process. (49 CFR 40.35, 40.215)

The designated employer representative shall be responsible for receiving test results and other communications, taking immediate action(s) to remove drivers from safety-sensitive functions, and making other required decisions in the testing and evaluation processes. (49 CFR 40.3)

Pre-employment Testing

When hiring a new driver, the Superintendent or designee shall, with the driver's written consent, request the driver's past drug and alcohol testing record, as specified in 49 CFR 40.25, from any employer who has employed the driver at any time during the previous two years. In addition, the Superintendent or designee shall ask the driver if he/she tested positive, or refused to test, on any pre-employment drug or alcohol test that was administered during the past two years in the course of applying for another safety-sensitive transportation position that he/she did not obtain. The driver shall not be permitted to perform safety-sensitive functions if he/she refuses to provide consent to obtain the information from previous employers, the information from previous employers is not received within 30 days of the date on which the driver first performed safety-sensitive functions for the district, or the driver or a previous employer reports a violation of a drug or alcohol regulation without subsequent completion of the return-to-duty process. (49 CFR 40.25, 382.413)

Upon making a contingent offer of employment to a driver and prior to the first time the driver performs safety-sensitive functions for the district, the Superintendent or designee shall require the driver to undergo testing for drugs and to receive a verified negative test result. This testing requirement may be waived if all of the following conditions exist: (49 CFR 382.301)

1. The driver has participated in a qualified drug testing program within the previous 30 days.
2. While participating in the program, the driver either was tested within the past six months or participated in a random drug testing program for the previous 12 months.
3. The Superintendent or designee has contacted the testing program(s) in which the driver has participated and has obtained information about the program and the driver's participation as specified in 49 CFR 382.301.
4. No prior employer of the driver of whom the district has knowledge has records of the driver's violation of federal drug testing regulations within the previous six months.

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

Post-Accident Testing

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

1. The accident involved loss of human life.
2. The driver receives a citation for a moving violation and the accident involved bodily injury

to a person who required immediate medical treatment away from the scene of the accident and/or disabling damage to one or more vehicles requiring towing.

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

Random Testing

The Superintendent or designee shall ensure that random, unannounced drug and alcohol tests of bus drivers are conducted on testing dates reasonably spread throughout the year. Such tests shall be conducted during, immediately before, or immediately after the performance of safety-sensitive functions. (49 CFR 382.305)

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

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

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

Reasonable Suspicion Testing

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

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

Within 24 hours of the observed behavior or before the results of the drug or alcohol test are released, whichever is earlier, the Superintendent or designee shall prepare and sign a written

record of the observations leading to a reasonable suspicion test. (49 CFR 382.307)

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

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

Return-to-Duty Testing

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

Follow-Up Testing

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

Notifications

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

1. The identity of the person designated by the district to answer driver questions about the materials
2. The categories of drivers who are subject to drug and alcohol testing
3. Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the workday the driver is required to be in compliance

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

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

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

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

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

Records

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

(cf. 3580 - District Records)

8/13

Washington Unified School District

Administrative Regulation

Criminal Record Check

AR 4312.5

Personnel

The Superintendent or designee shall not hire or retain in employment, in a certificated or classified position, a person who has been convicted of a violent or serious felony as defined in Penal Code 667.5(c) or 1192.7(c), a controlled substance offense as defined in Education Code 44011, or a sex offense as defined in Education Code 44010. However, the Superintendent or designee shall not deny or terminate employment if: (Education Code 44830.1, 44836, 45122.1, 45123)

1. The conviction for a violent or serious felony, controlled substance offense, or sex offense is reversed and the person is acquitted of the offense in a new trial or the charges against the person are dismissed, unless the sex offense for which the conviction is dismissed pursuant to Penal Code 1203.4 involves a victim who was a minor.
2. A person convicted of a violent or serious felony has obtained a certificate of rehabilitation or a pardon.
3. A person who has been convicted of a serious felony, that is not also a violent felony, proves to the sentencing court that he/she has been rehabilitated for purposes of school employment for at least one year.
4. A person who has been convicted of a controlled substance offense is applying for or is employed in a certificated position and has a credential issued by the Commission on Teacher Credentialing.
5. A person who has been convicted of a controlled substance offense is applying for or is employed in a classified position and has been determined by the Governing Board, from the evidence presented, to have been rehabilitated for at least five years.

(cf. 4112 - Appointment and Conditions of Employment)

(cf. 4112.2 - Certification)

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

(cf. 4127/4227/4327 - Temporary Athletic Team Coaches)

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

The Superintendent or designee shall not issue a temporary certificate of clearance to a person whose application for a credential, certificate, or permit is being processed by the Commission

on Teacher Credentialing if that person has been convicted of a violent or serious felony, unless the person is otherwise exempt pursuant to Education Code 44332.6 or 44830.1. (Education Code 44332.5, 44332.6)

Pre-Employment Record Check

The Superintendent or designee shall require each person to be employed by the district to submit his/her fingerprints electronically through the Live Scan system so that a criminal record check may be conducted by the Department of Justice (DOJ). The Superintendent or designee shall provide the applicant with a Live Scan request form and a list of nearby Live Scan locations.

When a person is applying for a classified position, the Superintendent or designee shall request that the DOJ also obtain a criminal record check through the Federal Bureau of Investigation. (Education Code 45125)

The Superintendent or designee shall immediately notify the DOJ when an applicant who has submitted his/her fingerprints to the DOJ is not subsequently employed by the district. (Penal Code 11105.2)

Subsequent Arrest Notification

The Superintendent or designee shall enter into a contract with the DOJ to receive notification of subsequent arrests resulting in conviction of any person whose fingerprints have been submitted to the DOJ. (Education Code 44830.1, 45125; Penal Code 11105.2)

Upon telephone or email notification by the DOJ that a current temporary employee, substitute employee, or probationary employee serving before March 15 of his/her second probationary year has been convicted of a violent or serious felony, the Superintendent or designee shall immediately place that employee on leave without pay. (Education Code 44830.1, 45122.1)

(cf. 4116 - Probationary/Permanent Status)
(cf. 4121 - Temporary/Substitute Personnel)

When the district receives written electronic notification by the DOJ of the fact of conviction, the temporary employee, substitute employee, or probationary employee serving before March 15 of his/her second probationary year shall be terminated automatically unless the employee challenges the DOJ record and the DOJ withdraws its notification in writing. Upon receipt of the written withdrawal of notification by the DOJ, the Superintendent or designee shall immediately reinstate that employee with full restoration of salary and benefits for the period of time from the suspension without pay to the reinstatement if the employee is still employed by the district. (Education Code 44830.1, 45122.1)

The Superintendent or designee shall immediately notify the DOJ whenever a person whose fingerprints are maintained by the DOJ is terminated. (Penal Code 11105.2)

Notification of Applicant/Employee

The Superintendent or designee shall expeditiously furnish a copy of any DOJ notification to the applicant or employee to whom it relates if the information is a basis for an adverse employment decision. The copy shall be delivered in person or to the last contact information provided by the applicant or employee. (Penal Code 11105, 11105.2)

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

Maintenance of Records

The Superintendent shall designate at least one custodian of records who shall be responsible for the security, storage, dissemination, and destruction of all Criminal Offender Record Information (CORI) furnished to the district and shall serve as the primary contact for the DOJ for any related issues. (Penal Code 11102.2)

An employee designated as custodian of records shall receive a criminal background check clearance from the DOJ prior to serving in that capacity. (Penal Code 11102.2)

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

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

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 9011 - Disclosure of Confidential/Privileged Information)

Once a hiring determination is made, the applicant's CORI shall be destroyed to the extent that the identity of the individual can no longer be reasonably ascertained. (Education Code 44830.1, 45125; 11 CCR 708)

The Superintendent or designee shall immediately notify the DOJ whenever a designated custodian of records ceases to serve in that capacity. (Penal Code 11102.2)

Legal Reference:

EDUCATION CODE

44010 Sex offense

44011 Controlled substance offense

44332-44332.6 Temporary certificate of clearance
44346.1 Applicants for credential, conviction of a violent or serious felony
44830.1 Certificated employees, conviction of a violent or serious felony
44830.2 Certificated employees; interagency agreement for sharing criminal record information
44836 Conviction of a sex or controlled substance offense
44932 Grounds for dismissal of permanent certificated employees
45122.1 Classified employees, conviction of a violent or serious felony
45125 Use of personal identification cards to ascertain conviction of crime
45125.01 Classified employees; interagency agreement for sharing criminal record information
45125.5 Automated records check
45126 Duty of Department of Justice to furnish information
49024 Activity supervisor clearance certificates

PENAL CODE

667.5 Violent felonies
1192.7 Serious felonies
1203.4 Dismissal of conviction
11075-11081 Criminal record dissemination
11102.2 Maintenance of criminal offender records; custodian of records
11105 Access to criminal history information
11105.2 Subsequent arrest notification
11105.3 Record of conviction involving sex crimes, drug crimes or crimes of violence;
availability to employer for applicants for positions with supervisory or disciplinary power over
minors
11140-11144 Furnishing of state criminal history information
13300-13305 Local summary criminal history information

CODE OF REGULATIONS, TITLE 11

701-708 Criminal offender record information
720-724 Incomplete criminal history information
994-994.15 Certification of individuals who take fingerprint impressions

COURT DECISIONS

Central Valley Chapter of the 7th Step Foundation Inc. v. Evelle J. Younger, (1989) 214 Cal.
App. 3d 145

Management Resources:

WEB SITES

Office of the Attorney General, Department of Justice, Background Checks:
<http://www.oag.ca.gov/fingerprints>

(10/98 7/02) 12/14

Exhibit

Criminal Record Check

E 4312.5

Personnel

EMPLOYEE STATEMENT FORM USE OF CRIMINAL JUSTICE INFORMATION

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

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

Civil Code 1798.53, Invasion of Privacy, states:

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

CIVIL, CRIMINAL, AND ADMINISTRATIVE PENALTIES:

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

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

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

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

* Civil Code 1798.53, Invasion of Privacy

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

Any employee who is responsible for such misuse may be subject to immediate dismissal subject to all required due process and collective bargaining agreements. 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.

(10/97 7/10) 12/14

Washington Unified School District

Administrative Regulation

Personnel Files

AR 4312.6 4112.6, 4212.6

Personnel

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

The Superintendent or designee shall determine the types of information to be included in personnel files, including, but not limited to, records required by law, and shall process all material to be placed in such files.

(cf. 4112.5/4212.5/4312.5 - Criminal Record Check)

Personnel files for district police or security officers shall be maintained and accessed in accordance with Government Code 3305-3306.5 and AR 3515.3 - District Police/Security Department.

(cf. 3515.3 - District Police/Security Department)

Placement of Material in Personnel Files

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

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

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

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

(cf. 4115 - Evaluation/Supervision)

(cf. 4215 - Evaluation/Supervision)

(cf. 4315 - Evaluation/Supervision)

Derogatory Information

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

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 4112.9 - Employee Notifications)
(cf. 4118 - Dismissal/Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
(cf. 5141.4 - Child Abuse Prevention and Reporting)

Persons with Authorized Access

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

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

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

Individual Governing Board members shall not be allowed to access personnel files, but the Board may request pertinent information from an employee's file in cases of personnel action. The Governing Board must review any information from a personnel file in a properly called closed session.

(cf. 9011 - Disclosure of Confidential/Privileged Information)
(cf. 9321 - Closed Session Purposes and Agendas)
(cf. 9321.1 - Closed Session Actions and Reports)

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

File Review by Employee

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

With the exceptions noted below, all personnel records related to the employee's performance or to any grievance concerning the employee shall be made available for inspection by the

employee. Non-credentialed employees shall have access to any numerical scores obtained as a result of written examinations. (Education Code 44031; Labor Code 1198.5)

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

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

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

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

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

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

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

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

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

Record Retention

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

16023.

(cf. 3580 - District Records)

The Superintendent or designee shall not expunge from an employee's personnel file, nor enter into an agreement that would authorize expunging from an employee's personnel file, credible complaints of, substantiated investigations into, or discipline for egregious misconduct as defined in Education Code 44932. However, such documentation may be removed if, during a hearing before the Board, an arbiter, personnel commission, Commission on Professional Competence, or administrative law judge, the employee prevailed, the allegations were determined to be false, not credible, or unsubstantiated, or a determination was made that the discipline was not warranted. (Education Code 44939.5)

Legal Reference:

EDUCATION CODE

35253 Regulations to destroy records

44031 Personnel file contents and inspection

44663 Performance appraisals and related materials

GOVERNMENT CODE

3305-3306.5 District police officers; personnel files

6250-6270 California Public Records Act, especially:

6254 Exemption for personnel records if invasion of personal privacy

6254.3 Disclosure of home address and phone number

LABOR CODE

1198.5 Inspection of personnel files

PENAL CODE

11165.14 Report of investigation of child abuse complaint

CODE OF REGULATIONS, TITLE 5

16020-16022 Records, general provisions

16023-16027 Retention of records

COURT DECISIONS

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

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

ATTORNEY GENERAL OPINIONS

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

(3/01 7/12) 3/16

Washington Unified School District

Board Policy

Employment References

BP 4312.61 4112.61, 4212.61

Personnel

The Superintendent or designee shall process all requests for references, letters of recommendation, or information about the reasons for separation regarding all district employees other than himself/herself. All letters of recommendation to be issued on behalf of the district for current or former employees must be approved by the Superintendent or designee.

At his/her discretion, the Superintendent 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

(9/89 2/95) 10/96

Washington Unified School District

Administrative Regulation

Employment References

AR 4312.61 4112.61, 4212.61

Personnel

No certificated 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. (5 CCR 80332)

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

(9/89) 10/96

Washington Unified School District

Board Policy

Employment Of Relatives

BP 4312.8 4112.8, 4212.8

Personnel

The Governing Board desires to maximize staff and community confidence in district 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 Superintendent 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 district employees or (2) a conflict of interest for the individuals involved which is greater because of the their relationship than it would be for another person.

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:

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>

(2/86 3/91) 3/08

Washington Unified School District

Board Policy

Employee Notifications

BP 4312.9

Personnel

The Governing Board believes that providing clear communications to staff is essential to establishing a professional, positive work environment and enhancing their job performance. The Superintendent or designee shall provide district employees all notifications required by law and any other notifications he/she believes will promote staff knowledge of the district's policies, programs, activities, and operations.

When required by law, Board policy, or administrative regulation, district employees shall be asked to sign an acknowledgment indicating receipt of the notification. Such acknowledgments shall be retained in each employee's personnel file.

(cf. 3580 - District Records)

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

Legal Reference:

EDUCATION CODE

231.5 Sexual harassment policy

17612 Notification of pesticide use

22455.5 STRS information to potential members

22461 Postretirement compensation limitation

35031 Nonreelection of superintendent, assistant superintendent, or manager of classified services

35171 Notice of regulations pertaining to certificated employee evaluations

37616 Notice of public hearing on year-round schedule

44031 Personnel file contents, inspection

44663-44664 Evaluation of certificated employees

44842 Reemployment notices, certificated employees

44896 Transfer of administrator or supervisor to teaching position

44916 Written statement of employment status

44929.21 Reelection or nonreelection of probationary employee after second year

44934 Notice of disciplinary action for cause

44938 Notice of unprofessional conduct and opportunity to correct

44940.5-44941 Notification of suspension and intent to dismiss

44948.3-44948.5 Dismissal of probationary employees

44949 Cause, notice and right to hearing

44951 Continuation in position unless notified, administrative or supervisory personnel

44954 Nonreelection of temporary employees
44955 Reduction in number of employees
45113 Notification of charges, classified employees
45117 Notice of layoff, classified employees
45169 Employee salary data, classified employees
45192 Industrial and accident leave
45195 Additional leave
46162 Notice of public hearing on block schedule
49013 Complaints regarding student fees
49079 Notification to teacher; student who has engaged in acts re: grounds suspension or
expulsion
GOVERNMENT CODE
1126 Incompatible activities of employees
3100-3109 Oath or affirmation of allegiance
8355 Certification of drug-free workplace, including notification
12950 Sexual harassment
54957 Complaints against employees; right to open session
54963 Unauthorized disclosure of confidential information
HEALTH AND SAFETY CODE
1797.196 Automated external defibrillators; notification of use and locations
104420 Tobacco-free schools
120875 Information on AIDS, AIDS-related conditions, and hepatitis B
120880 Notification to employees re AIDS, AIDS-related conditions, and hepatitis B
LABOR CODE
2800.2 Notification of availability of continuation health coverage
3550-3553 Notifications re: workers' compensation benefits
5401 Workers' compensation; claim form and notice of potential eligibility
PENAL CODE
11165.7 Child Abuse and Neglect Reporting Act; notification requirement
11166.5 Employment; statement of knowledge of duty to report child abuse or neglect
UNEMPLOYMENT INSURANCE CODE
2613 Disability insurance; notice of rights and benefits
CODE OF REGULATIONS, TITLE 2
7288.0 Sexual harassment training, provision of district policy
11049 Notice of right to request pregnancy disability leave or transfer
11096 Notice of right to request family care leave
CODE OF REGULATIONS, TITLE 5
4622 Uniform complaint procedures
80303 Reports of change in employment status, alleged misconduct
CODE OF REGULATIONS, TITLE 8
3204 Employees exposed to bloodborne pathogens, access to exposure and medical records
5193 California bloodborne pathogens standard
CODE OF REGULATIONS, TITLE 13
1234 Reports regarding school buses and bus drivers
2480 Vehicle idling, limitations
UNITED STATES CODE, TITLE 38

4344 Uniformed Services Employment and Reemployment Rights Act, notice requirement
UNITED STATES CODE, TITLE 41
8101-8106 Drug-Free Workplace Act
CODE OF FEDERAL REGULATIONS, TITLE 29
825.300 Family and Medical Leave Act; notice requirement
CODE OF FEDERAL REGULATIONS, TITLE 34
104.8 Nondiscrimination
106.9 Dissemination of policy, nondiscrimination on basis of sex
CODE OF FEDERAL REGULATIONS, TITLE 40
763.84 Asbestos inspections, response actions and post-response actions
763.93 Asbestos management plans
CODE OF FEDERAL REGULATIONS, TITLE 49
382.601 Controlled substance and alcohol use and testing notifications

(6/94 2/95) 7/12

Policy Reference UPDATE Service

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Exhibit

Employee Notifications

E 4312.9

Personnel

I. To All Employees

When/Whom to Notify: At the beginning of school year or upon employment

Education or Other Legal Code: Education Code 231.5, Government Code 12950, 2 CCR 11024

Board Policy/Administrative Regulation #: AR 4119.11/4219.11/4319.11

Subject: The district's policy on sexual harassment, legal remedies, complaints

When/Whom to Notify: Annually to all employees and 72 hours before pesticide application

Education or Other 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, prior to implementing year-round schedule

Education or Other Legal Code: Education Code 37616

Board Policy/Administrative Regulation #: BP 6117

Subject: Public hearing on year-round implementing year-round program schedule

When/Whom to Notify: To all employees, prior to implementing alternative schedule

Education or Other Legal Code: Education Code 46162

Board Policy/Administrative Regulation #: AR 6112

Subject: Public hearing on alternative schedule

When/Whom to Notify: To all employees

Education or Other Legal Code: Education Code 49013; 5 CCR 4622

Board Policy/Administrative Regulation #: AR 1312.3; BP 0460; BP 3260

Subject: Uniform complaint procedures, appeals, civil law remedies, coordinator, complaints about student fees and local control accountability plan

When/Whom to Notify: To all employees

Education or Other Legal Code: Education Code 49414

Board Policy/Administrative Regulation #: AR 5141.21

Subject: Request for volunteers to be trained to administer epinephrine auto-injectors

When/Whom to Notify: At least once per year

Education or Other Legal Code: Education Code 49414.3

Board Policy/Administrative Regulation #: AR 5141.21

Subject: Request for volunteers to be trained to administer opioid antagonist

When/Whom to Notify: To all employees
Education or Other 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
Education or Other Legal Code: Government Code 3102
Board Policy/Administrative Regulation #: AR 4112.3/4212.3/4312.3
Subject: Oath or affirmation of allegiance required of disaster service workers

When/Whom to Notify: To all employees
Education or Other Legal Code: Government Code 8355; 41 USC 8102; 34 CFR 84.205, 84.210
Board Policy/Administrative Regulation #: BP 4020, BP 4159/4259/4359
Subject: District's drug- and alcohol-free workplace; actions that will be taken if violated; available employee assistance programs

When/Whom to Notify: To all employee upon employment
Education or Other Legal Code: Government Code 21029
Board Policy/Administrative Regulation: None
Subject: Right to purchase PERS service credit for military service performed prior to public employment

When/Whom to Notify: Upon placement of automated external defibrillator (AED) in school, annually thereafter
Education or Other Legal Code: Health and Safety Code 1797.196
Board Policy/Administrative Regulation #: AR 5141
Subject: Proper use of AED; location of all AEDs on campus, sudden cardiac arrest, school's emergency response plan

When/Whom to Notify: To all employees, if the district receives Tobacco-Use Prevention Education funds
Education or Other Legal Code: Health and Safety Code 104420
Board Policy/Administrative Regulation #: AR 3513.3
Subject: District's tobacco-free schools policy and enforcement procedures

When/Whom to Notify: Annually to all employees, or more frequently if there is new information
Education or Other Legal Code: Health and Safety Code 120875, 120880
Board Policy/Administrative Regulation #: AR 4119.43/4219.43/4319.43
Subject: AIDS and hepatitis B, methods to prevent exposure

When/Whom to Notify: To all employees, with each paycheck
Education or Other 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

Education or Other Legal Code: Labor Cod e2800.2

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

When/Whom to Notify: To every new employee, either at the time employee is hired or by end of first pay period

Education or Other 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

Education or Other 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: Upon employment, and when employee goes on leave for specified reasons

Education or Other Legal Code: Unemployment Insurance Code 2613

Board Policy/Administrative Regulation #: AR 4154/4254/4354

Subject: Disability insurance rights and benefits

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

Education or Other Legal Code: 2 CCR 11023; 34 CFR 104.8, 106.9

Board Policy/Administrative Regulation #: BP 0410/ 4030

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

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

Education or Other Legal Code: 29 CFR 825.300; 2 CCR ~~11096~~-11091, 11095

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

Subject: Benefits through Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA); obligation to provide 30 day's notice of need for leave when possible

When/Whom to Notify: Annually to all employees

Education or Other Legal Code: 40 CFR 763.84, 763.93

Board Policy/Administrative Regulation #: AR 3514

Subject: Availability of asbestos management plan; any inspections, response actions or post-response actions planned or in progress

II. To Certificated Employees

When/Whom to Notify: To eligible certificated employees in a timely manner, and to part-time and substitute certificated employees within 30 days of hire

Education or Other Legal Code: Education Code 22455.5

Board Policy/Administrative Regulation #: AR 4121

Subject: Criteria for membership in retirement system; right to elect membership at any time

When/Whom to Notify: Upon employment of a retired certificated individual

Education or Other Legal Code: Education Code 22461

Board Policy/Administrative Regulation #: AR 4117.14/4317.14

Subject: Postretirement earnings limitation or employment restriction; monthly report of compensation

When/Whom to Notify: To certificated employees

Education or Other Legal Code: Education Code 35171

Board Policy/Administrative Regulation #: AR 4115, BP 4315

Subject: District regulations related to performance evaluations

When/Whom to Notify: 30 days before last day of school year for instructional staff, or by June 30 for noninstructional certificated staff, in any year in which employee is evaluated

Education or Other Legal Code: Education Code 44663

Board Policy/Administrative Regulation #: AR 4115

Subject: Copy of employee's evaluation

When/Whom to Notify: To a certificated employee with unsatisfactory evaluation, once per year for probationary employee or at least once every other year for permanent employee

Education or Other Legal Code: Education Code 44664

Board Policy/Administrative Regulation #: AR 4115

Subject: Notice and description of the unsatisfactory performance

When/Whom to Notify: By May 30, if district elects to issue reemployment notices to certificated employees

Education or Other Legal Code: Education Code 44842

Board Policy/Administrative Regulation #: AR 4112.1

Subject: Request that the employee notify district of intent to remain in service next year

When/Whom to Notify: To certificated employees upon employment and to nonpermanent employees in July of each school year

Education or Other Legal Code: Education Code 44916

Board Policy/Administrative Regulation #: AR 4112.1, AR 4121

Subject: Employment status and salary

When/Whom to Notify: To probationary employees in district with ADA of 250 or more, by March 15 of employee's second consecutive year of employment

Education or Other Legal Code: Education Code 44929.21

Board Policy/Administrative Regulation #: AR 4117.6
Subject: Whether or not employee is reelected for next school year

When/Whom to Notify: When certificated employee is subject to disciplinary action for cause, at any time of year or, for charge of unsatisfactory performance, during instructional year
Education or Other Legal Code: Education Code 44934, 44934.1, 44936
Board Policy/Administrative Regulation #: BP 4118; AR 4118
Subject: Notice of charges, procedures, and employee rights; intent to dismiss or suspend 30 days after notice

When/Whom to Notify: To certificated employee charged with unprofessional conduct, at least 45 days prior to suspension/dismissal notice
Education or Other Legal Code: Education Code 44938
Board Policy/Administrative Regulation #: BP 4118
Subject: Notice of deficiency and opportunity to correct

When/Whom to Notify: To certificated employee charged with unsatisfactory performance, at least 90 days prior to suspension/dismissal notice or prior to last quarter of school year
Education or Other Legal Code: Education Code 44938
Board Policy/Administrative Regulation #: BP 4118
Subject: Notice of deficiency and opportunity to correct

When/Whom to Notify: To certificated employee charged with mandatory leave of absence offense, within 10 days of entry of judgment in proceedings
Education or Other Legal Code: Education Code 44940.5
Board Policy/Administrative Regulation #: AR 4118
Subject: Notice of intent to dismiss 30 days from notice unless employee demands hearing

When/Whom to Notify: To probationary employees 30 days prior to dismissal during school year, but not later than March 15 for second- year probationary employees
Education or Other Legal Code: Education Code 44948.3
Board Policy/Administrative Regulation #: AR 4118
Subject: Reasons for dismissal and opportunity to appeal

When/Whom to Notify: By March 15 when necessary to reduce certificated personnel, with final notice by May 15
Education or Other Legal Code: Education Code 44949, 44955
Board Policy/Administrative Regulation #: BP 4117.3
Subject: Reasons for personnel reduction and employees' right to hearing; final notice of Board decision re: termination

When/Whom to Notify: On or before June 30, to temporary employee who served 75 percent of school year but will be released
Education or Other Legal Code: Education Code 44954
Board Policy/Administrative Regulation #: BP 4121
Subject: District's decision not to reelect employee for following school year

When/Whom to Notify: To teacher, when a student engages in or is reasonably suspected of specified acts
Education or Other Legal Code: Education Code 49079
Board Policy/Administrative Regulation #: AR 4158/4258/4358
Subject: Student has committed specified act that constitutes ground for suspension or expulsion

When/Whom to Notify: To certificated employee upon change in employment status due to alleged misconduct
Education or Other Legal Code: 5 CCR 80303
Board Policy/Administrative Regulation #: AR 4117.7/4317.7
Subject: Contents of state regulation re: report to Commission on Teacher Credentialing

III. To Classified Employees

When/Whom to Notify: To classified employee charged with mandatory leave of absence offense, in merit system district
Education or Other Legal Code: Education Code 44940.5
Board Policy/Administrative Regulation #: AR 4218
Subject: Notice of intent to dismiss in 30 days

When/Whom to Notify: When classified employee is subject to disciplinary action for cause, in nonmerit district
Education or Other Legal Code: Education Code 45113
Board Policy/Administrative Regulation #: AR 4218
Subject: Notice of charges, procedures, and employee rights

When/Whom to Notify: To classified employees at least 60 days prior to layoff, or by April 29 if specially funded program that expires at end of school year
Education or Other Legal Code: Education Code 45117
Board Policy/Administrative Regulation #: AR 4217.3
Subject: Notice of layoff and reemployment rights

When/Whom to Notify: To classified employees upon employment and upon each change in classification
Education or Other Legal Code: Education Code 45169
Board Policy/Administrative Regulation #: AR 4212
Subject: Employee's class specification, salary data, assignment or work location, duty hours, prescribed workweek

When/Whom to Notify: To classified permanent employee whose leave is exhausted
Education or Other Legal Code: Education Code 45192, 45195
Board Policy/Administrative Regulation #: AR 4261.1, AR 4261.11
Subject: Exhaustion of leave, opportunity to request additional leave

When/Whom to Notify: To school bus drivers and school activity bus drivers prior to expiration

of specified documents

Education or Other Legal Code: 13 CCR 1234

Board Policy/Administrative Regulation #: AR 3542

Subject: Expiration date of driver's license, driver's certificate and medical certificate; need to renew

When/Whom to Notify: To school bus drivers and school activity bus drivers upon employment and at least once per year thereafter

Education or Other Legal Code: 13 CCR 2480

Board Policy/Administrative Regulation #: AR 3542

Subject: Limitations on vehicle idling; consequences of not complying

When/Whom to Notify: To school bus drivers, prior to district drug testing program and thereafter upon employment

Education or Other Legal Code: 49 CFR 382.601

Board Policy/Administrative Regulation #: BP 4112.42/4212.42/4312.42

Subject: Explanation of federal requirements for drug testing program and district's policy

IV. To Administrative/Supervisory Personnel

When/Whom to Notify: To deputy, associate, or assistant superintendent or senior manager of classified service, at least 45 days before expiration of contract

Education or Other Legal Code: Education Code 35031

Board Policy/Administrative Regulation #: BP 4312.1

Subject: Decision not to reelect or reemploy upon expiration of contract or term

When/Whom to Notify: Upon request by administrative or supervisory employee transferred to teaching position

Education or Other Legal Code: Education Code 44896

Board Policy/Administrative Regulation #: AR 4313.2

Subject: Statement of the reasons for the release or reassignment

When/Whom to Notify: By March 15 to employee who may be released/reassigned the following school year

Education or Other Legal Code: Education Code 44951

Board Policy/Administrative Regulation #: AR 4313.2

Subject: Notice that employee may be released or reassigned the following school year

V. To Individual Employees Under Special Circumstances

When/Whom to Notify: In the event of a breach of security of district records to affected employees

Education or Other Legal Code: Civil Code 1798.21

Board Policy/Administrative Regulation #: BP 3580

Subject: Types of records affected, date of breach, description of incident, and, as applicable, contact information for credit reporting agencies

When/Whom to Notify: Prior to placing derogatory information in personnel file
Education or Other 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: To employees who volunteer to administer epinephrine auto-injector
Education or Other Legal Code: Education Code 49414
Board Policy/Administrative Regulation #: AR 5141.21
Subject: Defense and indemnification from civil liability by the district

When/Whom to Notify: To employees returning from military leave of absence, within 30 days of return
Education or Other Legal Code: Government Code 20997
Board Policy/Administrative Regulation #: AR 4161.5/4261.5/4361.5
Subject: Right to receive PERS service credit for military service; application form

When/Whom to Notify: 24 hours before Board meets in closed session to hear complaints or charges against employee
Education or Other 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: When taking disciplinary action against employee for disclosure of confidential information
Education or Other 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

When/Whom to Notify: Within one working day of work-related injury or victimization of crime
Education or Other 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
Education or Other 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 with exposure to blood or potentially infectious materials, upon initial employment and at least annually thereafter
Education or Other Legal Code: 8 CCR 3204, 5193
Board Policy/Administrative Regulation #: AR 4119.42/4219.42/4319.42
Subject: The existence, location, and availability of exposure and medical records; person responsible for maintaining and providing access to records; right to access records

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

Education or Other 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

Education or Other Legal Code: 8 CCR 5194

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 material safety data sheet, employee rights

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

Education or Other 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, receipt of supporting information, or district's knowledge that the requested leave may qualify as FMLA leave

Education or Other Legal Code: 29 CFR 825.300; 2 CCR 11049,11091

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

Subject: Designation of leave as FMLA or non-FMLA; if not eligible, reason not eligible; requirement to use paid leave; any requirement for fitness-for-duty certification; any subsequent changes in designation notice

When/Whom to Notify: Whenever notice of eligibility for FMLA is provided to employee

Education or Other Legal Code: 29 CFR 825.300

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

Subject: Rights and responsibilities re: use of FMLA; consequences of failure to meet obligations

(4/15 5/16) 7/16

Washington Unified School District

Board Policy

Demotion/Reassignment

BP 4313.2

Personnel

The Governing Board may authorize the demotion or reassignment of any administrative or supervisory employee upon the recommendation of the Superintendent or designee and when such action is determined to be in the best interest of the district.

(cf. 0520.2 - Title I Program Improvement Schools)
(cf. 0520.3 - Title I Program Improvement Districts)
(cf. 4300 - Administrative and Supervisory Personnel)
(cf. 4312.1 - Contracts)
(cf. 4314 - Transfers)

The Superintendent or designee shall ensure that the district complies with all applicable statutory deadlines and due process procedures when an employee is to be demoted or reassigned.

Legal Reference:

EDUCATION CODE

35031 Senior management employee in the classified service: nonreelection
44660-44665 Evaluation and assessment of performance of certificated employees
44850.1 No tenure in administrative or supervisory positions
44896 Transfer of administrator or supervisor to teaching position
44897 Classification of administrator or supervisor to a teaching position
44951 Continuation in position unless notified
45101 Definitions (including disciplinary action, cause)
45113 Rules for classified service in districts not incorporating the merit system
52055.5 Meeting or exceeding growth requirements
52055.57 Districts identified or at risk of identification for program improvement

COURT DECISIONS

Jefferson v. Compton Unified School District, (1993) 14 Cal. App. 4th 32
Schultz v. Regents of the University of California, (1984) 160 Cal. App. 3d 768
Ellerbroek v. Saddleback Valley Unified School District, (1981) 125 Cal. App 3d 348
Skelly v. California Personnel Board, (1975) 15 Cal.3d 194
Hentschke v. Sink, (1973) 34 Cal. App. 3d 19

(7/86 10/94) 3/07

Washington Unified School District

Administrative Regulation

Demotion/Reassignment

AR 4313.2
Personnel

Certificated Administrative Employees

Permanent certificated management staff are not entitled to seniority rights in their administrative positions. However, such staff shall earn and/or retain any seniority earned in service as a classroom teacher or site administrator pursuant to Education Code 44893, 44894, or 44956.5.

(cf. 4117.3 - Personnel Reduction)
(cf. 4117.6 - Decision Not to Rehire)

End of Year Release/Reassignment of Certificated Administrators

By March 15, an employee shall be notified by either registered mail or in person that he/she may be released or reassigned from his/her position for the following school year. If the notice is presented to the employee in person, the district shall obtain his/her signature acknowledging receipt of the notice on the district's copy of the written notice. (Education Code 44951)

If the March 15 notice indicates that release or reassignment is only a possibility, the Governing Board shall take additional action to release/reassign the employee before the new school year and shall send the employee a second notice by June 30 indicating that he/she has been released or reassigned.

If the employee is to be released or reassigned to a teaching position, the Board shall give the employee, upon his/her request, a written statement of the reasons for the release/reassignment. If the reasons include incompetence as an administrator or supervisor, the district shall have completed an evaluation of the employee within the 60-day period immediately preceding the notice date. (Education Code 44896)

(7/86 10/94) 3/07

Washington Unified School District

Board Policy

Temporary Modified/Light-Duty Assignment

BP 4313.4 4113.4, 4213.4

Personnel

The Governing Board recognizes that, when employees have temporarily disabling medical conditions, temporary modified or light-duty assignments can allow the district 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 Superintendent 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 Superintendent 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 Superintendent 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 district's insurance policy.

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>

(10/95) 7/07

Washington Unified School District

Board Policy

Transfers

BP 4314

Personnel

The Governing Board recognizes the importance of placing employees in positions that best utilize their skills and talents, help improve student achievement, and provide the most benefit to the district.

(cf. 4300 - Administrative and Supervisory Personnel)

(cf. 4312.1 - Contracts)

(cf. 4313.2 - Demotion/Reassignment)

Upon the recommendation of the Superintendent or designee, the Board shall approve the transfer or rotation of administrative or supervisory personnel to the same position at another location for reasons including, but not limited to, the need to improve student achievement and operational efficiency, utilize the skills and talents of the employee more effectively, provide opportunities for professional growth, provide an opportunity for evaluating employees in different school settings or locations, and best accommodate the overall needs of the district.

(cf. 0520.2 - Title I Program Improvement Schools)

(cf. 0520.3 - Title I Program Improvement Districts)

The Superintendent or designee shall establish procedures to enable administrative or supervisory personnel to request a transfer to a vacant position.

Legal Reference:

EDUCATION CODE

35031 Senior management employee in the classified service: nonreelection

35035 Additional powers and duties of superintendent

44850.1 No tenure in administrative or supervisory positions

44896 Transfer of administrator or supervisor to teaching position

44897 Classification of administrator or supervisor to a teaching position

44951 Continuation in position unless notified

45101 Definitions (including disciplinary action, cause)

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

52055.57 Districts identified or at risk of identification for program improvement
COURT DECISIONS
Hentschke v. Sink, (1973) 34 Cal.App. 3d 19

(7/86 10/94) 3/07

Washington Unified School District

Administrative Regulation

Transfers

AR 4314

Personnel

Involuntary Transfer

Before recommending the transfer or lateral rotation of an employee, the Superintendent or designee shall confer with the affected employee and notify him/her of the intent to recommend the transfer. For transfers effective at the beginning of the school year, this conference shall take place before May 30. Affected employees shall be notified of the final decision, in writing, as soon as practicable.

Voluntary Transfer

The employee shall submit a transfer request to the Superintendent or designee at the time of the known vacancy. The employee shall be notified in writing of the decision whether or not to grant the transfer request.

Transfer requests may be withdrawn by the employee at any time prior to the final decision.

(7/86 10/94) 3/07

Washington Unified School District

Board Policy

Evaluation/Supervision

BP 4315

Personnel

The Governing Board believes that regular, comprehensive evaluations designed to hold administrative and supervisory staff accountable for their performance are key to improving their instructional leadership and management skills. Evaluations shall be linked to the district's vision and goals and school improvement plans.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

(cf. 0460 - Local Control and Accountability Plan)

(cf. 0500 - Accountability)

(cf. 2140 - Evaluation of the Superintendent)

(cf. 4300 - Administrative and Supervisory Personnel)

Evaluations shall be used to recognize the exemplary skills and accomplishments of administrative and supervisory employees, serve as a criterion for contract renewals, and identify areas needing improvement. When the evaluation indicates areas needing improvement, the Board expects employees to take the initiative to improve their performance and for their supervisors to assist them in obtaining needed job skills.

(cf. 4331 - Staff Development)

Administrative and supervisory employees shall be evaluated in accordance with provisions of employee contracts and/or applicable collective bargaining agreements as appropriate.

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

(cf. 4312.1 - Contracts)

The Superintendent or designee shall make written evaluation procedures available to all administrative and supervisory employees.

(cf. 4112.9 - Employee Notifications)

An employee shall be evaluated annually for the first and second years of employment as an administrator or supervisor in the district, and at least every two years thereafter, unless otherwise provided for in an employee contract or collective bargaining agreement. Evaluations may occur between scheduled periods at the request of the employee, his/her supervisor, or the Superintendent or designee.

The Superintendent or designee shall establish clear, objective criteria for evaluation based on the job responsibilities of each administrative or supervisory position.

Evaluation criteria for certificated school site administrators may be based on the California Professional Standards for Educational Leaders (CPSEL) and also may include, but not be limited to, evidence of: (Education Code 44671)

1. Academic growth of students, based on multiple measures which may include student work as well as student and school longitudinal data that demonstrate academic growth over time

Assessments used for this purpose shall be valid and reliable and used for the intended purposes and for the appropriate student populations. Local and state academic assessments may include, but are not limited to, state standardized assessments and formative, summative, benchmark, end-of-chapter, end-of-course, Advanced Placement, International Baccalaureate, college entrance, and performance assessments.

(cf. 6162.5 - Student Assessment)

(cf. 6162.51 - State Academic Achievement Tests)

(cf. 6141.5 - Advanced Placement)

2. Effective and comprehensive teacher evaluations, including, but not limited to, curricular and management leadership, ongoing professional development, teacher-principal teamwork, and professional learning communities

3. Culturally responsive instructional strategies to address and eliminate the achievement gap

4. The ability to analyze quality instructional strategies and provide effective feedback that leads to instructional improvement

5. High expectations for all students and leadership to ensure active student engagement and learning

6. Collaborative professional practices for improving instructional strategies

7. Effective school management, including personnel and resource management, organizational leadership, sound fiscal practices, a safe campus environment, and appropriate student behavior

8. Meaningful self-assessment to improve as a professional educator, which may include,

but not be limited to, a self-assessment based on the CPSEL and the identification of areas of strengths and areas for professional growth to engage in activities to foster professional growth

9. Consistent and effective relationships with students, parents/guardians, teachers, staff, and other administrators

(cf. 4119.21/4219.21/4319.21 - Professional Standards)

The evaluation shall be dated and signed by the employee and evaluator. The 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 the employee's personnel file.

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

Legal Reference:

EDUCATION CODE

35171 Availability of rules and regulations for evaluation of performance

44660-44665 Evaluation and assessment of performance of certificated employees

44670-44671 Principal evaluation

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

GOVERNMENT CODE

3540.1 Meeting and negotiating in public educational employment, definitions

3543.2 Scope of representation

3545 Determination of bargaining units

Management Resources:

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

California Professional Standards for Educational Leaders

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>

(11/86 7/07) 8/14

Washington Unified School District

Administrative Regulation

Preretirement Part-Time Employment

AR 4317.11
Personnel

When the Governing Board has adopted the reduced workload program, any certificated employee may reduce his/her workload from full time to part time in accordance with applicable law, district regulations, and collective bargaining agreement.

Any such certificated employee who is a member of the defined benefit program of the California State Teachers' Retirement System (STRS) may continue to receive the service credits and maintain the retirement and health and welfare benefits that he/she would have received if employed on a full-time basis, provided the following conditions exist: (Education Code 22713, 44922)

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

1. The option to reduce the employee's workload shall be exercised at the request of the employee and the agreement to reduce the workload shall be in effect at the beginning of the school year.
2. Prior to the reduction in workload, the employee shall have a minimum of 10 years of credited service, of which the immediately preceding five years shall be full-time employment.
3. The employee shall not have had a break in service during the five years immediately preceding the reduction in workload. Sabbaticals, other approved leaves of absence, and unpaid absences from full-time employment for personal reasons shall not constitute a break in service. However, any period of time during which an employee is retired shall constitute a break in service and the employee shall be required to be employed to perform creditable service on a full-time basis for at least five school years preceding the workload reduction if he/she reinstates from retirement.

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

4. The employee shall have reached the age of 55 years prior to the workload reduction.
5. The employee shall not hold a position with a salary above that of a school principal.
6. The reduced workload shall be equal to at least one-half of the time the district requires for full-time employment, in accordance with Education Code 22138.5, pursuant to the

employee's contract of employment during his/her last year of full-time employment preceding the reduction in workload.

7. The employee shall be paid compensation that is the pro rata share of the creditable compensation he/she would have earned had he/she not reduced his/her workload.

8. For each school year that the employee's workload is reduced, the district and/or employee shall make any payment or contribution necessary for the employee's retention of a benefit to which he/she is entitled if employed full time, in the same manner as if the employee were employed full time.

9. The agreement may be revoked only by mutual consent of the employee and the district.

However, an employee who has entered into a formalized agreement with the district to have his/her contribution into the defined benefit program paid (picked up) by the district may not terminate the agreement to reduce his/her workload except by one of the following:

a. Terminating his/her service

b. Retiring from service under the defined benefit program

c. Continuing to perform creditable service under a new reduced workload arrangement for at least one-half of the time the district requires for full-time employment in accordance with Education Code 22138.5

d. Returning to full-time employment

10. The period of the reduced workload shall not exceed 10 years.

Prior to the reduction of an employee's workload, the Superintendent or designee shall verify the employee's eligibility in conjunction with the administrative staff of STRS and/or the Public Employees' Retirement System. (Education Code 22713)

The Superintendent or designee shall maintain the necessary records to separately identify each employee who participates in the reduced workload program. (Education Code 22713)

After determining that it is in the best interest of the district, the Board may allow any certificated employee who is not eligible to reduce his/her workload pursuant to Education Code 22713 or 44922 to reduce his/her workload from full time to part time. In any such case, the Board shall specify the terms and conditions under which the reduction in workload shall take place.

Legal Reference:

EDUCATION CODE

22119.5 Creditable service, definition

22138.5 Full-time, definition

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

22903 Payment of contributions by employer for tax deferred purposes

44922 Regulations; reduction to part-time employment

44924 Regulations; prohibition against waiver of benefits

GOVERNMENT CODE

21110-21120 Reduced workload, partial service retirement under PERS

53201 Health and welfare benefits: election by officers and employees

COURT DECISIONS

Praiser v. Biggs Unified School District (2001) 87 Cal.App.4th 398

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

Management Resources:

WEB SITES

California Public Employees' Retirement System: <http://www.calpers.ca.gov>

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

(11/09 11/10) 11/11

Washington Unified School District

Board Policy

Early Retirement Option

BP 4317.13

Personnel

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

Two Years of Service Credit Retirement Incentive

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

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

The Board may also consider the impact of the early retirement option on the staffing needs of district schools.

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

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

Two + Two Retirement Incentive: 2 Years of Service Credit + 2 Years of Age Credit

As an incentive to early retirement for certificated employees participating in the State Teachers' Retirement System, the Board may offer an additional two years of service credit and two years of age credit to employees who retire within the "window period" established by the Board in a Memorandum of Understanding or by Board action prior to January 1, 2005 pursuant to repealed

Education Code 22714.5.

Legal Reference:

EDUCATION CODE

22714 Service credit under STRS; additional two years

44929 Service credit under STRS; additional two years

COURT DECISIONS

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

Management Resources:

CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM PUBLICATIONS

Retirement Incentive Program, Frequently Asked Questions

WEB SITES

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

(3/04 7/06) 5/16

Washington Unified School District

Administrative Regulation

Postretirement Employment

AR 4317.14

Personnel

When necessary, the Governing Board may hire a qualified retired certificated individual who possesses the knowledge and experience needed to perform creditable service for the district as an employee, the employee of a third party, or an independent contractor/consultant, provided that all applicable restrictions specified by the California State Teachers' Retirement System (CalSTRS) are met. Applicable CalSTRS restrictions include, but are not limited to, a requirement that a retired member be paid compensation comparable to that for active employees for comparable duties and prohibitions against the hiring of a retired member within 180 days of his/her retirement and for the classified service, except as an aide pursuant to Education Code 45134. Additional restrictions and rules may apply to other employment situations, such as when CalSTRS retired members are employed as employees of third parties, independent contractors, or consultants. The Superintendent or designee should consult legal counsel when dealing with such employment situations. (Education Code 22119.5, 22164.5, 24214, 24214.5)

(cf. 3600 - Consultants)

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

(cf. 4112 - Appointment and Conditions of Employment)

Any retired member of the defined benefit program of CalSTRS who is hired by the district to perform retired member activities as defined pursuant to Education Code 22164.5 shall be paid at an annualized rate of pay that shall not be below the minimum or exceed the maximum paid to other district employees performing comparable duties. However, such a retired individual shall not make contributions to the CalSTRS retirement fund or accrue service credit based on compensation earned from the retired member activity. (Education Code 24214)

No retired member of the CalSTRS defined benefit program shall be hired by the district for at least 180 calendar days after his/her retirement from service, unless he/she has attained the normal retirement age and qualifies for an exemption to the 180-day waiting period. To seek this exemption, the Board shall, during the open session of a Board meeting, adopt a resolution which shall include the following information and findings: (Education Code 24214.5)

1. A statement expressing the Board's intent to seek an exemption to the 180-day waiting period
2. A description of the nature of the employment of the retiree
3. A finding that the retiree has reached the normal retirement age

4. A finding that the appointment of the retiree is necessary to fill a critically needed position before the 180-day waiting period has passed

5. A finding that the retired individual did not receive additional service credit pursuant to Education Code 22714 or 22715 or any financial inducement to retire. Financial inducement to retire shall include, but is not limited to, cash or any form of compensation or other payment directly or indirectly paid by any public employer to the retired individual before or after his/her retirement, if the individual retires for service on or before a specific date or range of dates established by the public employer on or before the date the inducement is offered

6. A finding that the retired individual's termination of employment with the district is not the basis for the need to acquire the services of the retired individual

The resolution shall not be adopted through the Board's consent agenda. (Education Code 24214.5)

(cf. 9320 - Meetings and Notices)

When employing a retired individual who is eligible for exemption from the 180-day waiting period, the Superintendent or designee shall submit all required documentation to substantiate eligibility for the exemption to CalSTRS before the retired member begins performing any retired member activities. The Superintendent or designee may contact

CalSTRS to request information as to whether the retired member qualifies for the exemption after 30 days of submitting the required documentation to CalSTRS. (Education Code 24214.5)

Postretirement Compensation Limitation, Notice, and Report

All CalSTRS retirees performing creditable service for the district shall be subject to the applicable CalSTRS earnings limit. Monies earned in excess of the limit may subject the CalSTRS retiree to a reduction in his/her retirement allowance. Compensation subject to the earnings limitation includes, but is not limited to, salary or wages, deferred compensation plans, purchase of an annuity contract, tax-deferred retirement plan or insurance program, and other plans or contributions when the cost is covered by a district. (Education Code 22119.5, 22164.5, 24214)

Whenever the district retains the services of a CalSTRS retiree as a district employee, employee of a third party, or an independent contractor, the Superintendent or designee shall: (Education Code 22461, 24214)

1. Advise the retired individual of the postretirement earnings limitation or employment restriction set forth in Education Code 22714, 24214, or 24214.5 or any other applicable law

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

2. Maintain accurate records of the retired individual's compensation and report it monthly to CalSTRS and the individual, regardless of the method of payment or the fund from which the payments are made

Legal Reference:

EDUCATION CODE

22119.5 Creditable service, definition

22131 Employer; employing agency, definition

22164.5 Retired member activities, definition

22461 Notice of earnings limitation

22714 Encouragement of retirement

22715 Additional service credit

22716 Unpaid services

24214 Creditable service by retiree

24214.5 Postretirement compensation limit; members below normal retirement age

26113 Creditable service, definition

35046 Consultancy contracts

44830 Employment of certificated employees

44830.3 Employment of district interns

44929 Service credit under STRS; additional two years

44929.1 2+2 service and year credit option under STRS

45134 Age limits

CODE OF REGULATIONS, TITLE 5

27000-27009 Penalties and interests for late remittances and late and unacceptable reporting by employers

Management Resources:

WEB SITES

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

(11/10 4/13) 4/14

Washington Unified School District

Board Policy

Resignation

BP 4317.2 4117.2, 4217.2

Personnel

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

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

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

(cf. 4117.7/4317.7- Employment Status Reports)

Legal Reference:

EDUCATION CODE

35161 Board delegation of any powers or duties

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

(10/96 11/99) 7/01

Washington Unified School District

Administrative Regulation

Termination Agreements

AR 4317.5
Personnel

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

(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 district may offer to continue for the unexpired term up to 18 months or until the employee finds other employment, whichever comes first. (Government Code 53261)

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

(cf. 2121 - Superintendent's Contract)
(cf. 4312.1 - Contracts)

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

(6/93) 10/97

Washington Unified School District

Administrative Regulation

Employment Status Reports

AR 4317.7
Personnel

The Superintendent shall report to the Commission on Teacher Credentialing (CTC) any change in the employment status of a certificated employee who, while working in a position requiring a credential and as a result of an allegation of misconduct or while an allegation of misconduct is pending: (Education Code 44030.5, 44242.5; 5 CCR 80303)

1. Is dismissed or nonreelected

(cf. 4116 - Probationary/Permanent Status)
(cf. 4117.6 - Decision Not to Rehire)
(cf. 4118 - Dismissal/Suspension/Disciplinary Action)

2. Resigns

(cf. 4117.2 - Resignation)

3. Is suspended or placed on unpaid administrative leave for more than 10 days as a final adverse employment action

4. Retires

5. Is otherwise terminated by a decision not to employ or reemploy

(cf. 4119.21/4219.21/4319.21 - Professional Standards)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

This report is not required when the change in employment status is due solely to unsatisfactory performance pursuant to Education Code 44932 or a reduction in force pursuant to Education Code 44955-44958. (Education Code 44030.5, 44242.5; 5 CCR 80303)

(cf. 4115 - Evaluation/Supervision)
(cf. 4117.3 - Personnel Reduction)

When required, the report of a change in employment status shall be submitted not later than 30 days after the employment action. The report shall be made using a form provided by the CTC and shall include all known information about each alleged act of misconduct by the employee. The report shall contain the name and current address of the certificated employee, name of the district, last school or district assignment, an explanation of the allegation of misconduct or pending allegation of misconduct, current contact information for all persons who may have information relating to the alleged misconduct, and any and all documentation related to the case. (Education Code 44030.5; 5 CCR 80303)

Upon a change in employment status as a result of alleged misconduct or while an allegation of misconduct is pending, the Superintendent shall, in writing, inform the employee of the contents of 5 CCR 80303. (5 CCR 80303)

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

Additional Reports of Employee Misconduct

The Superintendent or designee shall submit a report to the CTC, using a form provided by the CTC and attaching all relevant documents, whenever:

1. An employee, by complaint, information, or indictment filed in court, is charged with a "mandatory leave of absence offense," defined as a sex or drug offense specified in Education Code 44940. (Education Code 44242.5, 44940, 44940.5)

Not later than 10 days after receipt of such a complaint, information, or indictment regarding an employee, the Superintendent or designee shall forward a copy of the received documents to the CTC. In addition, he/she shall report to the CTC any action taken in connection with extending the employee's mandatory leave beyond the initial period. (Education Code 44940, 44940.5)

If the offense results in a change in employment status, the Superintendent shall submit an employment status report in addition to the report of the mandatory leave of absence offense.

2. An employee refuses, without good cause, to fulfill a valid employment contract, or departs from district service without the consent of the Superintendent or Governing Board. (Education Code 44242.5, 44420)

As appropriate, the Superintendent or designee also shall notify the CTC of any of the following:

1. A complaint filed with the district regarding a certificated employee's alleged sexual misconduct (Education Code 44242.5)

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

- a. Name of the employee alleged to have engaged in the sexual misconduct
- b. Name, age, and address of each victim of the alleged sexual misconduct
- c. A summary of all information known to the district regarding the alleged sexual misconduct
- d. A summary of the action, if any, taken at the district level in response to the complaint of sexual misconduct

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)
(cf. 5145.7 - Sexual Harassment)

2. An employee's knowing and willful use of school records of student data in connection with, or in implicit or explicit attempts to recruit a student to be a customer for, any business owned by the certificated employee or in which the certificated employee is an employee (Education Code 44242.5, 44421.1)

(cf. 5125 - Student Records)

3. An employee's knowing and willful reporting of false fiscal expenditure data relative to the conduct of any educational program (Education Code 44242.5, 44421.5)

4. An employee's subversion or attempt to subvert any licensing examination or the administration of an examination (Education Code 44242.5, 44439)

Legal Reference:

EDUCATION CODE

44009 Conviction of specified crimes

44010 Sex offense, definitions

44011 Controlled substance offense, definitions

44030.5 Employment status reports

44225 Powers and duties of the CTC

44242.5 Reports and review of alleged misconduct

44420-44440 Adverse actions by CTC against credential holder

44932 Causes for dismissal

44940 Sex offenses and narcotic offenses; compulsory leave of absence

44940.5 Compulsory leave of absence

44955-44958 Reduction in force

CODE OF REGULATIONS, TITLE 5

80303 Reports of change in employment status, alleged misconduct

80304 Notice of sexual misconduct

Management Resources:

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

California's Laws and Rules Pertaining to the Discipline of Professional Certificated Personnel,
2013

WEB SITES

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

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

(3/02 11/08) 4/14

Policy Reference UPDATE Service

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Washington Unified School District

Board Policy

Civil And Legal Rights

BP 4319.1 4119.1, 4219.1

Personnel

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

An employee's personal beliefs and activities, including religious, political, cultural, social, or other beliefs or activities, or lack thereof, shall not be grounds for disciplinary action against the employee, provided that 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 district shall make no inquiry concerning the personal values, attitudes, and beliefs of district employees or their sexual orientation or political or religious affiliations, beliefs, or opinions except when authorized by law. In addition, no district employee shall be required to provide critical appraisals of other individuals with whom the employee has a familial relationship. However, the district reserves the right to access any publicly available information about any employee.

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, a school administrator, a member of the County Board of Education, County Superintendent of Schools, or the Superintendent of Public Instruction any improper governmental activity by the district or a district employee that violates state or federal law, is economically wasteful, or involves gross

misconduct, incompetency, or inefficiency. When the employee has reasonable cause to believe that the information discloses a violation of state or federal statute or a violation of or noncompliance with a state or federal rule or regulation, he/she has the right to disclose such information to a government or law enforcement agency or to refuse to participate in any such activity. (Education Code 44112, 44113; Labor Code 1102.5)

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

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

(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 the district's complaint procedures. After filing a complaint with the district, the employee 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 district responsibilities; when the employee's act or omission is in conformity with federal or state law, district 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.

(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.
2. The 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

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

Management Resources:

WEB SITES

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

(3/04 7/07) 7/12

Washington Unified School District

Board Policy

Sexual Harassment

BP 4319.11 4119.11, 4219.11

Personnel

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

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

(cf. 4030 - Nondiscrimination in Employment)

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

1. Providing training to employees in accordance with law and administrative regulation
2. Publicizing and disseminating the district'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 district employee who feels that he/she has been sexually harassed or who has knowledge of any incident of sexual harassment by or against another employee shall immediately report the incident to his/her supervisor, the principal, district administrator, or Superintendent.

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

Complaints of sexual harassment shall be filed in accordance with AR 4030 - Nondiscrimination in Employment. An employee may bypass his/her supervisor in filing a complaint where the supervisor is the subject of the complaint.

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

(cf. 4118 - Dismissal/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

12950.1 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 42

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

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

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

CODE OF FEDERAL REGULATIONS, TITLE 34

106.9 Dissemination of policy

COURT DECISIONS

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

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

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

Gebser v. Lago Vista Independent School District, (1998) 118 S.Ct. 1989
Oncale v. Sundowner Offshore Serv. Inc., (1998) 118 S.Ct. 998
Meritor Savings Bank, FSB v. Vinson et al., (1986) 447 U.S. 57

Management Resources:

OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS
GENERAL

Protecting Students from Harassment and Hate Crime, January 1999

WEB SITES

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

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

U.S. Department of Education, Office for Civil Rights:

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

(7/05 12/15) 12/16

Washington Unified School District

Administrative Regulation

Sexual Harassment

AR 4319.11 4119.11, 4219.11

Personnel

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 the conduct 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 district.

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 Superintendent or designee shall ensure that all employees receive training regarding the district's sexual harassment policies when hired and periodically thereafter. The training shall include the procedures for reporting and/or filing complaints involving an employee, employees' duty to use the district's complaint procedures, and employee obligations when a sexual harassment report involving a student is made to the employee.

(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 4030 - Nondiscrimination in Employment)
(cf. 5145.7 - Sexual Harassment)

Every two years, the Superintendent 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 employees shall receive training within six months of their assumption of the new position. (Government Code 12950.1)

A supervisory employee is any employee having the authority, in the interest of the district, 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 judgment. (Government Code 12926)

(cf. 4300 - Administrative and Supervisory Personnel)

The district'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 12950.1; 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 district'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 district'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, 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

The Superintendent 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 the training, the type of training, and the name of the training provider. (2 CCR 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 main administrative building, district office, or other area of the school where notices of district rules, regulations, procedures, and standards of conduct are posted
2. Be provided to every district 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 school or district publication that sets forth the school's or district's

comprehensive rules, regulations, procedures, and standards of conduct

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

1. The illegality of sexual harassment
2. The definition of sexual harassment under applicable state and federal law
3. A description of sexual harassment, with examples
4. The district's complaint process available to the employee
5. The legal remedies and complaint process available through DFEH and the Equal Employment Opportunity Commission (EEOC)
6. Directions on how to contact DFEH and the EEOC
7. The protection against retaliation provided by 2 CCR 11021 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

In addition, the district shall post, in a prominent and accessible location, DFEH's poster on discrimination in employment and the illegality of sexual harassment. (Government Code 12950)

(3/08 10/15) 12/16

Washington Unified School District

Board Policy

Professional Standards

BP 4319.21
Personnel

The Governing Board expects district employees to maintain the highest ethical standards, exhibit professional behavior, follow district policies and regulations, abide by state and federal laws, and exercise good judgment when interacting with students and other members of the school community. Employee conduct should enhance the integrity of the district, advance the goals of the district's educational programs, and contribute to a positive school climate.

(cf. 0200 - Goals for the School District)
(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)
(cf. 5131 - Conduct)
(cf. 5137 - Positive School Climate)

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

(cf. 2111 - Superintendent Governance Standards)
(cf. 9005 - Governance Standards)

Each employee should make a commitment to acquire the knowledge and skills necessary to fulfill his/her responsibilities and should focus on his/her contribution to the learning and achievement of district students.

(cf. 4112.2 - Certification)
(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

Inappropriate employee conduct includes, but is not limited to:

1. Engaging in any conduct that endangers students, staff, or others, including, but not limited to, physical violence, threats of violence, or possession of a firearm or other weapon

(cf. 0450 - Comprehensive Safety Plan)
(cf. 4158/4258/4358 - Employee Security)

2. Engaging in harassing or discriminatory behavior towards students, parents/guardians, staff, or community members, or failing or refusing to intervene when an act of discrimination, harassment, intimidation, or bullying against a student is observed

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

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

(cf. 5131.2 - Bullying)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

3. Physically abusing, sexually abusing, neglecting, or otherwise willfully harming or injuring a child

4. Engaging in inappropriate socialization or fraternization with a student or soliciting, encouraging, or maintaining an inappropriate written, verbal, or physical relationship with a student

5. Possessing or viewing any pornography on school grounds, or possessing or viewing child pornography or other imagery portraying children in a sexualized manner at any time

6. Using profane, obscene, or abusive language against students, parents/guardians, staff, or community members

7. Willfully disrupting district or school operations by loud or unreasonable noise or other action

8. Using tobacco, alcohol, marijuana, or an illegal or unauthorized substance, or possessing or distributing any controlled substance, while in the workplace or at a school-sponsored activity

(cf. 3513.3 - Tobacco-Free Schools)

(cf. 4020 - Drug and Alcohol Free Workplace)

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

(cf. 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers)

9. Dishonesty with students, parents/guardians, staff, or members of the public, including, but not limited to, falsification of information in employment records or other school records

10. Divulging confidential information about students, district employees, or district operations to persons not authorized to receive the information

(cf. 3580 - District Records)

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

(cf. 5125 - Student Records)

(cf. 5125.1 - Release of Directory Information)

11. Using district equipment or other district resources for the employee's own commercial purposes or for political activities

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

12. Using district equipment or communications devices for personal purposes while on duty, except in an emergency, during scheduled work breaks, or for personal necessity

Employees shall be notified that computer files and all electronic communications, including, but not limited to, email and voice mail, are not private. To ensure proper use, the Superintendent or designee may monitor employee usage of district technological resources at any time without the employee's consent.

(cf. 4040 - Employee Use of Technology)

13. Causing damage to or engaging in theft of property belonging to students, staff, or the district

14. Wearing inappropriate attire

(cf. 4119.22/4219.22/4319.22 - Dress and Grooming)

An employee who observes or has evidence of another employee's inappropriate conduct shall immediately report such conduct to the principal or Superintendent or designee. An employee who has knowledge of or suspects child abuse or neglect shall file a report pursuant to the district's child abuse reporting procedures as detailed in AR 5141.4 - Child Abuse Prevention and Reporting.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

Any reports of employee misconduct shall be promptly investigated. Any employee who is found to have engaged in inappropriate conduct in violation of law or Board policy shall be subject to disciplinary action and, in the case of a certificated employee, may be subject to a report to the Commission on Teacher Credentialing. The Superintendent or designee shall notify local law enforcement as appropriate.

(cf. 4117.7/4317.7 - Employment Status Reports)

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

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

An employee who has knowledge of but fails to report inappropriate employee conduct may also be subject to discipline.

The district prohibits retaliation against anyone who files a complaint against an employee or

reports an employee's inappropriate conduct. Any employee who retaliates against any such complainant, reporter, or other participant in the district's complaint process shall be subject to discipline.

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

44242.5 Reports and review of alleged misconduct

PENAL CODE

11164-11174.4 Child Abuse and Neglect Reporting Act

CODE OF REGULATIONS, TITLE 5

80303 Reports of dismissal, resignation and other terminations for alleged misconduct

80331-80338 Rules of conduct for professional educators

Management Resources:

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

California Standards for the Teaching Profession, 2009

California Professional Standards for Educational Leaders, February 2014

COUNCIL OF CHIEF STATE SCHOOL OFFICERS PUBLICATIONS

Educational Leadership Policy Standards: ISLLC 2008, 2008

NATIONAL EDUCATION ASSOCIATION PUBLICATIONS

Code of Ethics of the Education Profession, 1975

WESTED PUBLICATIONS

Moving Leadership Standards into Everyday Work: Descriptions of Practice, 2003

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>

California Federation of Teachers: <http://www.cft.org>

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

California Teachers Association: <http://www.cta.org>

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

Council of Chief State School Officers: <http://www.ccsso.org>

WestEd: <http://www.wested.org>

(11/01 7/09) 7/12

Policy Reference UPDATE Service

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Exhibit

Professional Standards

E 4319.21

Personnel

CALIFORNIA PROFESSIONAL STANDARDS FOR EDUCATIONAL LEADERS

Standard 1. Development and Implementation of a Shared Vision: Education leaders facilitate the development and implementation of a shared vision of learning and growth of all students.

1A. Student-Centered Vision: Leaders shape a collective vision that uses multiple measures of data and focuses on equitable access, opportunities, and outcomes for all students.

1B. Developing Shared Vision: Leaders engage others in a collaborative process to develop a vision of teaching and learning that is shared and supported by all stakeholders.

1C. Vision Planning and Implementation: Leaders guide and monitor decisions, actions, and outcomes using the shared vision and goals.

Standard 2. Instructional Leadership: Education leaders shape a collaborative culture of teaching and learning informed by professional standards and focused on student and professional growth.

2A. Professional Learning Culture: Leaders promote a culture in which staff engages in individual and collective professional learning that results in their continuous improvement and high performance.

2B. Curriculum and Instruction: Leaders guide and support the implementation of standards-based curriculum, instruction, and assessments that address student expectations and outcomes.

2C. Assessment and Accountability: Leaders develop and use assessment and accountability systems to monitor, improve, and extend educator practice, program outcomes, and student learning.

Standard 3. Management and Learning Environment: Education leaders manage the organization to cultivate a safe and productive learning and working environment.

3A. Operations and Facilities: Leaders provide and oversee a functional, safe, and clean learning environment.

3B. Plans and Procedures: Leaders establish structures and employ policies and processes that support students to graduate ready for college and career.

3C. Climate: Leaders facilitate safe, fair, and respectful environments that meet the

intellectual, linguistic, cultural, social-emotional, and physical needs of each learner.

3D. Fiscal and Human Resources: Leaders align fiscal and human resources and manage policies and contractual agreements that build a productive learning environment.

Standard 4. Family and Community Engagement: Education leaders collaborate with families and other stakeholders to address diverse student and community interests and mobilize community resources.

4A. Parent and Family Engagement: Leaders meaningfully involve all parents and families, including underrepresented communities, in student learning and support programs.

4B. Community Partnerships: Leaders establish community partnerships that promote and support students to meet performance and content expectations and graduate ready for college and career.

4C. Community Resources and Services: Leaders leverage and integrate community resources and services to meet the varied needs of all students.

Standard 5. Ethics and Integrity: Education leaders make decisions, model, and behave in ways that demonstrate professionalism, ethics, integrity, justice, and equity and hold staff to the same standard.

5A. Reflective Practice: Leaders act upon a personal code of ethics that requires continuous reflection and learning.

5B. Ethical Decision-Making: Leaders guide and support personal and collective actions that use relevant evidence and available research to make fair and ethical decisions.

5C. Ethical Action: Leaders recognize and use their professional influence with staff and the community to develop a climate of trust, mutual respect, and honest communication necessary to consistently make fair and equitable decisions on behalf of all students.

Standard 6. External Context and Policy: Education leaders influence political, social, economic, legal, and cultural contexts affecting education to improve education policies and practices.

6A. Understanding and Communicating Policy: Leaders actively structure and participate in opportunities that develop greater public understanding of the education policy environment.

6B. Professional Influence: Leaders use their understanding of social, cultural, economic, legal, and political contexts to shape policies that lead all students to graduate ready for college and career.

6C. Policy Engagement: Leaders engage with policymakers and stakeholders to collaborate on education policies focused on improving education for all students.

(11/01 7/12) 8/14

Washington Unified School District

Board Policy

Dress And Grooming

BP 4319.22 4119.22, 4219.22

Personnel

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

(cf. 4118 - Suspension/Disciplinary Action)

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

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

(cf. 5132 - Dress and Grooming)

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

35160.1 Broad authority of school districts

GOVERNMENT CODE

3543.2 Scope of representation

12949 Dress standards, consistency with gender identity

COURT DECISIONS

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

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

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

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

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

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

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

Management Resources:

WEB SITES

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

(9/91) 7/04

Washington Unified School District

Board Policy

Unauthorized Release Of Confidential/Privileged Information

BP 4319.23 4119.23, 4219.23

Personnel

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

Disclosure of Closed Session Information

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

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

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

1. Making a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts necessary to establish the illegality or potential illegality of a Board action that has been the subject of deliberation during a closed session

(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
3. Disclosing information that is not confidential

Other Disclosures

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

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

- (cf. 4112.5/4212.5/4312.5 - Criminal Record Check)
- (cf. 4112.6/4212.6/4312.6 - Personnel Files)
- (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 Superintendent or designee may deny the employee further access to any privileged information and shall take any steps necessary to prevent any further unauthorized release of such information.

Legal Reference:

EDUCATION CODE

- 35010 Control of district; prescription and enforcement of rules
- 35146 Closed sessions
- 35160 Authority of governing boards
- 44031 Personnel file contents and inspection
- 44932 Grounds for dismissal of permanent employees
- 44933 Other grounds for dismissal
- 45113 Rules and regulations for classified service

49060-49079 Pupil records

GOVERNMENT CODE

- 1098 Public officials and employees: confidential information
- 6250-6270 Inspection of public records
- 54950-54963 Brown Act

UNITED STATES CODE, TITLE 20
1232g Family Education Rights and Privacy Act

Management Resources:

WEB SITES

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

(5/87 3/88) 7/03

Washington Unified School District

Board Policy

Political Activities Of Employees

BP 4319.25 4119.25, 4219.25

Personnel

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

(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>

(6/96 6/98) 7/02

Washington Unified School District

Administrative Regulation

Political Activities Of Employees

AR 4319.25 4119.25, 4219.25

Personnel

District employees shall not:

1. Use district funds, services, supplies or equipment to urge the passage or defeat of any ballot measure or candidate, including any candidate for election to the Governing Board (Education Code 7054)

(cf. 1160 - Political Processes)

2. During working hours and on district property, solicit or receive any political funds or contributions to promote the passage or defeat of a ballot measure that would affect the rate of pay, hours of work, retirement, civil service or other working conditions (Education Code 7056)

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

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

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

(cf. 3512 - Equipment)

6. Post or distribute political campaign materials on district property

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

(cf. 4040 - Employee Use of Technology)

8. Use students to write, address or distribute political campaign materials

9. Present viewpoints on particular candidates or ballot measures in the classroom without giving equal time to the presentation of opposing views

(cf. 6144 - Controversial Issues)

10. Wear buttons or articles of clothing that express political opinions on ballot measures or candidates during instructional time

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

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

Employee Organizations

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

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

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

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

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

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

(6/96 6/98) 7/02

Washington Unified School District

Board Policy

Employees With Infectious Disease

BP 4319.41 4119.41, 4219.41

Personnel

The Governing Board desires to promote the health of district students and staff in order to reduce absenteeism and enhance employee and student performance. The Superintendent or designee shall develop strategies to prevent the outbreak or spread of infectious diseases at district schools.

(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, bloodborne 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 Superintendent 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 Bloodborne Pathogens)
(cf. 4119.43/4219.43/4319.43 - Universal Precautions)
(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

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 Superintendent or designee shall immediately report to the local health officer the presence or suspected presence of any communicable infectious disease. In addition, a school nurse or other 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 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 retirant

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 Medical 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, (2002) 536 U.S. 73, 122 S.Ct. 2045
School Board of Nassau County, Florida v. Arline, (1987) 408 U.S. 273

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

Washington Unified School District

Board Policy

Exposure Control Plan for Bloodborne Pathogens

BP 4319.42 4119.42, 4219.42

Personnel

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

(cf. 4119.43/4219.43/4319.43 - Universal Precautions)
(cf. 4157/4257/4357 - Employee Safety)

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

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

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

Legal Reference:

LABOR CODE

142.3 Authority of Cal/OSHA to adopt standards

144.7 Requirement to amend standards

CODE OF REGULATIONS, TITLE 8

3204 Access to employee exposure and medical records

5193 California bloodborne pathogens standards

CODE OF FEDERAL REGULATIONS, TITLE 29

1910.1030 OSHA bloodborne pathogens standards

Management Resources:

CDE 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

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

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

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

(3/93) 7/99

Washington Unified School District

Administrative Regulation

Exposure Control Plan For Bloodborne Pathogens

AR 4319.42 4119.42, 4219.42

Personnel

Note: The following sample regulation summarizes Cal/OSHA's key requirements for preventing and handling exposure to bloodborne pathogens (8 CCR 5193), as amended by emergency regulations adopted January 1999 and subsequent permanent regulations effective July 30, 1999, pursuant to Register 99, No. 31. The Cal/OSHA standards are detailed and lengthy, and districts are encouraged to examine the full content of 8 CCR 5193 to determine any additional requirements applicable to their circumstances.

Definitions

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

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

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

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

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

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

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

Engineered sharps injury protection is a physical attribute built into a needle device or into a

non-needle sharp which effectively reduces the risk of an exposure incident. (8 CCR 5193(b))

Exposure Control Plan

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

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

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

- a. All job classifications in which all employees have occupational exposure
- b. Job classifications in which some employees have occupational exposure
- c. All tasks and procedures, or groups of closely related tasks and procedures, in which occupational exposure occurs and which are performed by employees listed in item #b above

2. The schedule and method of implementing:

a. Methods of compliance required by 8 CCR 5193(d), such as universal precautions, general and specific engineering and work practice controls, and personal protective equipment

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

- b. Hepatitis B vaccination
- c. Bloodborne pathogen post-exposure evaluation and follow-up
- d. Communication of hazards to employees, including labels, signs, information and training
- e. Recordkeeping

3. The district's procedure for evaluating circumstances surrounding exposure incidents

Note: 8 CCR 5193(c), effective July 30, 1999, as amended in Register 99, No. 31, requires that the exposure control plan contain items #4-8 below.

4. An effective procedure for gathering information about each exposure incident involving a sharp, as required for the log of sharps injuries

5. An effective procedure for periodically determining the frequency of use of the types and brands of sharps involved in exposure incidents documented in the sharps injury log

6. An effective procedure for identifying currently available engineering controls and selecting such controls as appropriate for the procedures performed by employees in their work areas or departments

7. An effective procedure for documenting instances when a licensed healthcare professional directly involved in a patient's care determines, in the reasonable exercise of clinical judgment, that the use of an engineering control would jeopardize an individual's safety or the success of a medical, dental or nursing procedure involving the individual

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

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

Note: As amended in Register 99, No. 31, effective July 30, 1999, Items #2 and #5 below were added to 8 CCR 5193(c) to expand the situations in which the exposure control plan must be reviewed and updated.

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

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

Preventive Measures

Note: The implementation of universal precautions is another preventive measure that should be utilized by the district. See BP/AR 4119.43/4219.43/4319.43 - Universal Precautions.

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

Hepatitis B Vaccination

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

Note: If the employee declines to accept hepatitis B vaccination offered by the district, the district must ensure that he/she signs the statement reproduced as E 4119.42/4219.42/4319.42.

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

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

Information and Training

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

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

Reporting Incidents

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

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

Note: Requirements of 8 CCR 5193 related to designated first aid providers do not apply to employees who assist in nonemployment-related first aid situations as "good Samaritans." Although employees are not covered by the bloodborne pathogen standards if their exposure is unrelated to their job duties, Cal/OSHA encourages employers to offer post-exposure evaluation and follow-up to all employees.

Sharps Injury Log

Note: Pursuant to 8 CCR 5193(c), as amended in Register 99, No. 31, employers are required to establish and maintain a log recording each exposure incident involving a sharp. Item #3 below is effective July 30, 1999.

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

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

1. Date and time of the exposure incident
2. Type and brand of sharp involved in the exposure incident
3. A description of the exposure incident, including:
 - a. Job classification of the exposed employee
 - b. Department or work area where the exposure incident occurred
 - c. The procedure that the exposed employee was performing at the time of the incident
 - d. How the incident occurred
 - e. The body part involved in the incident
 - f. If the sharp had engineered sharps injury protection, whether the protective mechanism was activated and whether the injury occurred before, during or after the protective mechanism was activated
 - g. If the sharp had no engineered sharps injury protection, the injured employee's opinion as to whether and how such a mechanism could have prevented the injury
 - h. The employee's opinion about whether any other engineering, administrative or work practice could have prevented the injury

Post-Exposure Evaluation and Follow-up

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

1. Document the route(s) of exposure and the circumstances under which the exposure

incident occurred

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

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

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

Note: Districts should obtain permission from the source individual before disclosing confidential information about that source individual, in accordance with law. Legal counsel should be consulted regarding current rules for the contents and format of consent forms.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 9011 - Disclosure of Confidential/Privileged Information)

Records

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

(cf. 1340 - Access to District Records)
(cf. 3580 - District Records)

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

Upon request by an employee, or a designated representative with the employee's written consent, the Superintendent or designee shall provide access to a record in a reasonable time,

place and manner, no later than 15 days after the request is made. (8 CCR 3204(e))

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

1. Medical records shall be maintained for the duration of employment plus 30 years.
2. Training records shall be maintained for three years from the date of training.

Note: Pursuant to 8 CCR 5193(h), as amended, the sharps injury log must be maintained for five years as described in item #3 below.

3. The sharps injury log shall be maintained five years from the date the exposure incident occurred.
4. Exposure records shall be maintained for at least 30 years.
5. Each analysis using medical or exposure records shall be maintained for at least 30 years.

(3/93) 7/99

Policy Reference UPDATE Service

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Exhibit

Exposure Control Plan for Bloodborne Pathogens

E 4319.42 4119.42, 4219.42

Personnel

Hepatitis B Vaccine Declination

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

Signature

Employee Name (Please print)

Date

3/93

Washington Unified School District

Board Policy

Universal Precautions

BP 4319.43 4119.43, 4219.43

Personnel

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

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

(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 the district'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>

(3/93) 7/99

Washington Unified School District

Administrative Regulation

Universal Precautions

AR 4319.43 4119.43, 4219.43

Personnel

Definitions

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

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

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

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

Employee Information

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

(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 Superintendent or designee shall ensure that the worksite is effectively maintained in a clean

and sanitary condition, and shall implement an appropriate written schedule for cleaning and decontamination of the worksite. (8 CCR 5193(d))

Where occupational exposure remains after the institution of engineering and work practice controls, the Superintendent or designee shall provide appropriate personal protective equipment at no cost to the employee. Such equipment may include gloves, gowns, masks, eye protection, and other devices that do not permit blood or other potentially infectious materials to pass through or reach the employee's clothes, skin, eyes, mouth or other mucous membranes under normal conditions of use. The Superintendent or designee shall maintain, repair, make accessible and require employees to use and properly handle protective equipment. (8 CCR 5193(d))

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

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

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

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

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

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

- c. Masks in combination with eye protection devices or face shields shall be worn whenever splashes, spray, spatter, or droplets of blood or other potentially infectious materials may be generated and eye, nose or mouth contamination can be reasonably anticipated.

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

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

4. Refrain from eating, drinking, smoking, applying cosmetics or lip balm, or handling contact lenses in work areas with a reasonable likelihood of occupational exposure.
5. Clean and decontaminate all equipment and environmental and work surfaces after contact with blood or other potentially infectious material, no later than the end of the shift or more frequently as required by state regulations.
6. Rather than using the hands directly, use mechanical means such as a brush and dust pan, tongs or forceps to clean up broken glassware which may be contaminated.
7. Use effective patient-handling techniques and other methods designed to minimize the risk of a sharps injury in all procedures involving the use of sharps in patient care.

(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)

(cf. 5141.24 - Specialized Health Care Services)

- a. Needleless systems shall be used to administer medication or fluids, withdraw body fluids after initial venous or arterial access is established, and conduct any other procedure involving the potential for an exposure incident for which a needleless system is available as an alternative to the use of needle devices. If needleless systems are not used, needles or non-needle sharps with engineered sharps injury protection shall be used.
 - b. Contaminated needles or other sharps shall not be broken, bent, recapped, removed from devices, or stored or processed in a manner that requires employees to reach by hand into the containers where these sharps have been placed.
 - c. Disposable sharps shall not be reused.
8. Handle, store, treat and dispose of regulated waste in accordance with Health and Safety Code 117600-118360 and other applicable state and federal regulations.
 - a. Immediately or as soon as possible after use, contaminated sharps shall be placed in containers meeting the requirements of 8 CCR 5193(d)(3)(D). Containers shall be easily accessible, maintained upright throughout use where feasible, and replaced as necessary to avoid

overfilling.

b. Specimens of blood or other potentially infectious material shall be placed in a container which prevents leakage during collection, handling, processing, storage, transport or shipping.

(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)

(3/93) 7/99

Washington Unified School District

Board Policy

Temporary Athletic Team Coaches

BP 4327 4127, 4227

Personnel

The Governing Board desires to employ highly qualified coaches for the district's sports and interscholastic athletic programs in order to enhance the knowledge, skills, motivation, and safety of student athletes.

(cf. 6142.7 - Physical Education and Activity)

(cf. 6145.2 - Athletic Competition)

The Superintendent or designee may hire a certificated or noncertificated employee, other than a substitute employee, to supervise or instruct interscholastic athletic activities as a temporary employee in a limited assignment capacity. (5 CCR 5590)

(cf. 4121 - Temporary/Substitute Personnel)

When hiring a person to fill a position as a temporary athletic team coach, the position shall first be made available to qualified certificated teachers currently employed by the district.

(Education Code 44919)

All coaches shall be subject to Board policies, administrative regulations, and California Interscholastic Federation bylaws and codes of ethical conduct.

(cf. 4118 - Suspension/Disciplinary Action)

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

(cf. 5131.1 - Bus Conduct)

(cf. 5131.63 - Steroids)

(cf. 5141.1 - Child Abuse Prevention and Reporting)

Noncertificated coaches shall have no authority to assign grades to students.

(5 CCR 5591)

(cf. 5121 - Grades/Evaluation of Student Achievement)

Qualifications and Training

The Superintendent or designee shall establish qualification criteria for all athletic coaches in accordance with law and district standards. These criteria shall ensure that coaches possess an appropriate level of competence, knowledge, and skill.

Any noncertificated employee or volunteer who works with students in a district-sponsored interscholastic athletic program shall, prior to beginning his/her duties, obtain a Department of Justice and Federal Bureau of Investigation criminal background check through the district. (Education Code 49024)

(cf. 1240 - Volunteer Assistance)

(cf. 4112.5/4212.5/4312.5 - Criminal Record Check)

Following the selection of a temporary athletic team coach, the Superintendent or designee shall certify to the Board, at the next regular Board meeting or within 30 days, whichever is sooner, that the coach meets the qualifications and competencies required by 5 CCR 5593. By April 1 of each year, the Board shall certify to the State Board of Education that the provisions of 5 CCR 5593 have been met. (5 CCR 5594)

In addition, the Superintendent or designee shall regularly report to the Board regarding the extent to which the district's coaches have completed the trainings required by law, including those required pursuant to Education Code 33479.6 and 49032, and by district policy.

Legal Reference:

EDUCATION CODE

35179-35179.7 Interscholastic athletics

33479-33479.9 The Eric Parades Sudden Cardiac Arrest Prevention Act

44010 Sex offense

44011 Controlled substance offense

44332-44332.5 Temporary certificates

44424 Conviction of a crime

44808 Liability when students are not on school property

44916 Written statement indicating employment status

44919 Classification of temporary employees

45125.01 Interagency agreements for criminal record information

45347 Instructional aides subject to requirements for classified staff

45349 Use of volunteers to supervise or instruct students

49024 Activity Supervisor Clearance Certificate

49030-49034 Performance-enhancing substances

49406 Examination for tuberculosis

CODE OF REGULATIONS, TITLE 5

5531 Supervision of extracurricular activities

5590-5596 Duties of temporary athletic team coaches

COURT DECISIONS

Neily v. Manhattan Beach Unified School District, (2011) 192 Cal. App. 4th 187

County Union High School District, (2003) 29 Cal. App. 4th 911

CTA v. Rialto Unified School District, (1997) 14 Cal. App. 4th 627

San Jose Teachers Association, CTA, NEA v. Barozzi, (1991) 230 Cal.App.3d 1376

Management Resources:

CSBA PUBLICATIONS

Steroids and Students: What Boards Need to Know, Policy Brief, July 2005

CALIFORNIA INTERSCHOLASTIC FEDERATION PUBLICATIONS

Pursuing Victory with Honor, 1999

COMMISSION ON TEACHER CREDENTIALING CODED CORRESPONDENCE

10-11 Information on Assembly Bill 346 Concerning the Activity Supervisor Clearance Certificate (ASCC), July 20, 2010

WEB SITES

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

California Athletic Trainers' Association: <http://www.ca-at.org>

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

California Interscholastic Federation: <http://www.cifstate.org>

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

National Athletic Trainers' Association: <http://www.nata.org>

(11/05 3/10) 7/10

Washington Unified School District

Administrative Regulation

Temporary Athletic Team Coaches

AR 4327 4127, 4227

Personnel

Qualifications

Minimum qualifications for temporary athletic team coaches shall include, but are not necessarily limited to, competencies in the following areas: (5 CCR 5593)

1. Care and prevention of athletic injuries, basic sports injury first aid, and emergency procedures, as evidenced by one or more of the following:
 - a. Completion of a college-level course in the care and prevention of athletic injuries and possession of a valid cardiopulmonary resuscitation (CPR) card
 - b. A valid sports injury certificate or first aid card, and a valid CPR card
 - c. A valid Emergency Medical Technician (EMT) I or II card
 - d. A valid trainer's certification issued by the National or California Athletic Trainers' Association (NATA/CATA)
 - e. Possession of both valid CPR and first aid cards and practical experience under the supervision of an athletic coach or trainer or experience assisting in team athletic training and conditioning
2. Coaching theory and techniques in the sport or game being coached, as evidenced by one or more of the following:
 - a. Completion of a college course in coaching theory and techniques
 - b. Completion of inservice programs arranged by a school district or county office of education
 - c. Prior service as a student coach or assistant athletic coach in the sport or game being coached
 - d. Prior coaching in community youth athletic programs in the sport being coached
 - e. Prior participation in organized competitive athletics at the high school level or above in

the sport being coached

3. Knowledge of the rules and regulations pertaining to the sport or game being coached, the league rules, and, at the high school level, regulations of the California Interscholastic Federation (CIF)
4. Knowledge of child or adolescent psychology, as appropriate, as it relates to sport participation, as evidenced by one or more of the following:
 - a. Completion of a college-level course in child psychology for elementary school positions and adolescent or sports psychology for secondary school positions
 - b. Completion of a seminar or workshop on human growth and development of youth
 - c. Prior active involvement with youth in school or community sports program

The Superintendent or designee may waive competency requirements for persons enrolled in appropriate training courses leading to acquisition of the competency, provided such persons serve under the direct supervision of a fully qualified coach until the competencies are met. (5 CCR 5593)

Volunteers who supervise or direct an athletic program shall meet the qualification criteria specified in 5 CCR 5593 required for temporary athletic team coaches employed by the district. Any volunteer who does not meet such criteria shall serve only under the supervision of a fully qualified coach and shall not be given charge of an athletic program.

(cf. 1240 - Volunteer Assistance)

Additional Qualifications of Noncertificated Personnel and Volunteers

In addition to the qualifications listed above, any noncertificated employee or volunteer assigned as a temporary athletic team coach shall: (5 CCR 5592)

1. Be free from tuberculosis and any other contagious disease that would prohibit certificated teachers from teaching, as verified by a written statement, renewable every four years, from a licensed physician or other person approved by the district

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

2. Not have been convicted of any offense referred to in Education Code 44010, 44011, or 44424, or any offense involving moral turpitude or evidencing unfitness to associate with children

Any noncertificated employee or volunteer assigned as a temporary athletic team coach shall obtain an Activity Supervisor Clearance Certificate or a criminal background check in accordance with Board policy. (Education Code 49024)

(cf. 1240 - Volunteer Assistance)
(cf. 4112.5/4212.5/4312.5 - Criminal Record Check)

Training

Each employee or volunteer school athletic team coach shall complete, at his/her expense, a coaching education program that meets the standards developed by the CIF and includes, but is not limited to, training in regard to sport psychology, sport pedagogy, sport physiology, sport management, statewide and school regulations, and CPR and first aid, including the signs, symptoms, and appropriate response to concussions. A high school coach who has completed the education program in another California school district shall be deemed to have met the requirement for this district. An individual who has not completed the education program may be assigned as a coach for no longer than one season of interscholastic competition. (Education Code 35179.1, 49032)

In addition, prior to coaching an athletic activity and every two years thereafter, athletic coaches shall complete an approved training course on the nature and warning signs of sudden cardiac arrest. (Education Code 33479.2, 33479.6, 33479.7)

Code of Ethical Conduct

Employees providing supervisory or instructional services in interscholastic athletic programs and activities shall: (5 CCR 5596)

1. Show respect for players, officials, and other coaches
2. Respect the integrity and judgment of game officials
3. Establish and model fair play, sportsmanship, and proper conduct
4. Establish player safety and welfare as the highest priority
5. Provide proper supervision of students at all times
6. Use discretion when providing constructive criticism and when reprimanding players
7. Maintain consistency in requiring all players to adhere to the established rules and standards of the game
8. Properly instruct players in the safe use of equipment
9. Avoid exerting undue influence on a student's decision to enroll in an athletic program at any public or private postsecondary educational institution
10. Avoid exerting undue influence on students to take lighter academic course(s) in order to

be eligible to participate in athletics

11. Avoid suggesting, providing, or encouraging any athlete to use nonprescription drugs, anabolic steroids, or any substance to increase physical development or performance that is not approved by the U.S. Food and Drug Administration, U.S. Surgeon General, or the American Medical Association

(cf. 5131.63 - Steroids)

12. Avoid recruitment of athletes from other schools

13. Follow the rules of behavior and the procedures for crowd control as established by the district and the league in which the district participates

(6/97 3/10) 7/10

Washington Unified School District

Board Policy

Staff Development

BP 4331

Personnel

The Governing Board recognizes that professional development enhances employee effectiveness and contributes to personal growth. Staff development for administrative and supervisory personnel shall be designed to guide institutional improvement, build leadership skills, and enhance overall management efficiency.

(cf. 4119.21/4219.21/4319.21 - Professional Standards)

The Superintendent or designee shall develop a plan for administrator support and development activities that is based on a systematic assessment of the needs of district students and staff and is aligned to the district's vision, goals, local control and accountability plan, and other comprehensive plans.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

(cf. 0420 - School Plans/Site Councils)

(cf. 0460 - Local Control and Accountability Plan)

(cf. 0520.2 - Title I Program Improvement Schools)

(cf. 0520.3 - Title I Program Improvement Districts)

(cf. 0520.4 - Quality Education Investment Schools)

The district's staff development program for district and school administrators may include, but is not limited to, the following topics:

1. Personnel management, including best practices on hiring, recruitment, assignment, and retention of staff

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

(cf. 4113 - Assignment)

2. Effective fiscal management and accountability practices

(cf. 3100 - Budget)

(cf. 3460 - Financial Reports and Accountability)

3. Academic standards and standards-aligned curriculum and instructional materials

(cf. 6011 - Academic Standards)

(cf. 6141 - Curriculum Development and Evaluation)
(cf. 6161.1 - Selection and Evaluation of Instructional Materials)

4. Leadership training to improve the academic achievement of all students, including capacity building in pedagogies of learning, instructional strategies that meet the varied learning needs of students, and student motivation

5. The use of student assessments, including analysis of disaggregated assessment results to identify needs and progress of student subgroups

(cf. 6162.5 - Student Assessment)
(cf. 6162.51 - State Academic Achievement Tests)
(cf. 6162.52 - High School Exit Examination)

6. The use of technology to improve student performance and district operations

(cf. 0440 - District Technology Plan)

7. Creation of safe and inclusive school environments

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 5137 - Positive School Climate)

8. Parental involvement and community collaboration

(cf. 1240 - Volunteer Assistance)
(cf. 6020 - Parent Involvement)

9. Employee relations

10. Effective school and district planning processes

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

(cf. 4315 - Evaluation/Supervision)

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

(cf. 0500 - Accountability)

Legal Reference:

EDUCATION CODE

44681-44689.2 Administrator training and evaluation

52060-52077 Local control and accountability plan

Management Resources:

WESTED AND ASSOCIATION OF CALIFORNIA SCHOOL ADMINISTRATORS
PUBLICATIONS

California Professional Standards for Educational Leaders, 2001

WEB SITES

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

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

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

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

WestEd: <http://www.wested.org>

(10/98 11/01) 12/13

Washington Unified School District

Board Policy

Publication or Creation of Materials

BP 4332 4132, 4232

Personnel

The Governing Board recognizes the importance of creating a work environment that encourages employee innovation in creating and developing high-quality materials to improve student achievement and the efficiency of district operations.

(cf. 4119.21/4219.21/4319.21 - Professional Standards)

(cf. 6162.6 - Use of Copyrighted Materials)

The Superintendent or designee shall oversee the development of instructional materials, computer programs, and other copyrightable materials by employees, independent contractors, and consultants. An employee, independent contractor, or consultant shall notify the Superintendent or designee of his/her intent to publish or register a work developed in whole or in part within the scope of his/her employment.

(cf. 3600 - Consultants)

Instructional materials, computer programs, and other copyrightable materials developed by an employee within the scope of his/her employment shall be the property of the district.

(cf. 1113 - District and School Web Sites)

(cf. 4040 - Employee Use of Technology)

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

(cf. 6161.11 - Supplementary Instructional Materials)

(cf. 6163.1 - Library Media Centers)

If an employee has developed copyrightable material during both work and non-working hours, and the work was within the scope of his/her employment, the Superintendent or designee shall negotiate a contract with the employee to protect the district's right as to the ownership or partial ownership of the copyright.

(cf. 3312 - Contracts)

The Superintendent or designee shall ensure that any contract with an independent contractor or consultant contains a provision specifying the district's right to ownership of the copyright of any work produced by the contractor or consultant for the district.

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

Legal Reference:

EDUCATION CODE

32360 Copyrights; use of funds

32361 Copyrights; use of employee work time

35170 Authority to secure copyrights

35182 Marketing or licensing noneducational mainframe electronic data-processing software

60076 Royalties or other compensation

LABOR CODE

2870-2872 Inventions made by an employee

UNITED STATES CODE, TITLE 17

101-122 Subject matter and scope of copyright

201 Copyright ownership and transfer

COURT DECISIONS

Community for Creative Non-Violence v. Reid, (1989) 490 U.S. 730

Management Resources:

WEB SITES

Copyright Clearance Center: <http://www.copyright.com>

Copyright Society of the USA: <http://www.csusa.org>

U.S. Copyright Office: <http://www.copyright.gov>

(1/85 12/89) 7/08

Washington Unified School District

Board Policy

Soliciting And Selling

BP 4335 4135, 4235

Personnel

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

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

(cf. 5125.1 - Release of Directory Information)

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

(cf. 3312.2 - Educational Travel Program Contracts)

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

(9/88) 7/03

Washington Unified School District

Board Policy

Nonschool Employment

BP 4336

Personnel

In order to help maintain public trust in the integrity of district operations, the Governing Board expects all employees to give the responsibility of their positions precedence over any other outside employment. A district employee may receive compensation for outside activities as long as these activities are not inconsistent, incompatible, in conflict with, or inimical to his/her district duties.

(cf. 4119.21/4219.21/4319.21 - Professional Standards)

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

(cf. 9270 - Conflict of Interest)

An outside activity shall be considered inconsistent, incompatible, or inimical to district employment when such activity: (Government Code 1126)

1. Requires time periods that interfere with the proper, efficient discharge of the employee's duties
2. Entails compensation from an outside source for activities which are part of the employee's regular duties
3. Involves using the district's name, prestige, time, facilities, equipment, or supplies for private gain
4. Involves service which will be wholly or in part subject to the approval or control of another district employee or Board member

(cf. 1321 - Solicitation of Funds from and by Students)

(cf. 3300 - Expenditures and Purchases)

(cf. 4040 - Employee Use of Technology)

(cf. 4132/4232/4332 - Publication or Creation of Materials)

(cf. 4135/4235/4335 - Soliciting and Selling)

(cf. 6161.1 - Selection and Evaluation of Instructional Materials)

An employee wishing to accept outside employment that may be inconsistent, incompatible, in conflict with, or inimical to the employee's duties shall file a written request with his/her immediate supervisor describing the nature of the employment and the time required. The supervisor shall evaluate each request based on the employee's specific duties within the district and determine whether to grant authorization for such employment.

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

The supervisor shall inform the employee whether the outside employment is prohibited. The employee may appeal a supervisor's denial of authorization to the Superintendent or designee. An employee who continues to pursue a prohibited activity may be subject to disciplinary action.

(cf. 4118 - Suspension/Disciplinary Action)

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

(cf. 4144/4244/4344 - Complaints)

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

Tutoring

A certificated employee shall not accept any compensation or other benefit for tutoring a student enrolled in his/her class(es). An employee who wishes to tutor another district student shall first request authorization from his/her supervisor in accordance with this Board policy. If authorization is granted, the employee shall not use district facilities, equipment, or supplies when providing the tutoring service.

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

35160.1 Broad authority of school districts

51520 Prohibited solicitation on school premises

GOVERNMENT CODE

1126 Incompatible activities of employees

1127 Incompatible activities; off duty work

1128 Incompatible activities, attorney

CODE OF REGULATIONS, TITLE 5

80334 Unauthorized private gain or advantage

ATTORNEY GENERAL OPINIONS

70 Ops.Cal.Atty.Gen. 157 (1987)

Management Resources:

WEB SITES

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

Fair Political Practices Commission: <http://www.fppc.ca.gov>

(9/91) 7/08

Washington Unified School District

Board Policy

Bargaining Units

BP 4340

Personnel

The Governing Board recognizes the right of district employees to form bargaining units, select an employee organization as their exclusive representative, and be represented by that organization in their employment relationship with the district. The Board is committed to negotiating in good faith with recognized employee organizations and respecting the rights of employees and employee organizations.

(cf. 4141/4241 - Collective Bargaining Agreement)

(cf. 4143/4243 - Negotiations/Consultation)

(cf. 9000 - Role of the Board)

The district shall not dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it. (Government Code 3543.5)

Neither the district nor the employee organization shall impose or threaten to impose reprisals on employees, discriminate or threaten to discriminate against employees, or otherwise interfere with, restrain, or coerce employees because of their membership or nonmembership in an employee organization. (Government Code 3543.5, 3543.6)

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

Formation of Bargaining Units

Certificated and classified employees shall not be included in the same bargaining unit. (Government Code 3545)

The district may recognize a bargaining unit of supervisory employees if: (Government Code 3545)

1. The bargaining unit includes all supervisory employees.
2. The supervisors are not represented by the same organization that represents employees whom the supervisory employees supervise.

(cf. 4300 - Administrative and Supervisory Personnel)

(cf. 4301 - Administrative Staff Organization)

(cf. 4312.1 - Contracts)

For this purpose, supervisory employee means any employee, regardless of job description, having the authority, in the interest of the district, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, discipline, assign work, direct, adjust grievance of other employees, or effectively recommend that action. The exercise of this authority shall not be merely routine or clerical in nature, but shall require the use of independent judgment. (Government Code 3540.1)

Employees serving in management, senior management, or confidential positions shall not be represented by an exclusive representative. Such employees may represent themselves individually or may be represented by an employee organization whose membership is composed entirely of employees designated as holding those positions, but that organization shall not meet and negotiate with the district. For this purpose: (Government Code 3540.1, 3543.4)

1. Management employee means any employee who has significant responsibilities for formulating district policies or administering district programs, and whose position is designated as a management position by the Board.

2. Confidential employee means any employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information that is used to contribute significantly to the development of management positions.

Payment of Dues or Service Fee

Upon the written request of a recognized employee organization, the Superintendent or designee shall deduct the amount of organization dues or the fair share service fee, determined in accordance with Government Code 3546, from the wages and salary of each employee represented by that employee organization and shall pay that amount to the employee organization. (Education Code 45060, 45168; Government Code 3546)

Any employee who is a member of a religious body whose traditional tenets or teachings include objections to joining or financially supporting employee organizations shall not be required to join, maintain membership in, or financially support any employee organization as a condition of employment. However, such an employee may be required to pay an amount equal to the service fee to a designated charitable fund. (Government Code 3546.3)

Each employee organization shall, within 60 days after the end of its fiscal year, provide the Board and the employees who are members of the organization with a detailed financial report consisting of a balance sheet and an operating statement. If the employee organization fails to provide the financial report, the Board may issue an order compelling the organization to provide the financial report or any employee within the organization may petition the Board for such an order. (Government Code 3546.5)

(cf. 3460 - Financial Reports and Accountability)

The Superintendent or designee may provide an employee organization with the home address and home telephone number of employees, except any employees performing law enforcement-related functions and any employees who provide written request that the information not be disclosed for this purpose. (Government Code 6254.3)

(cf. 1340 - Access to District Records)

Legal Reference:

EDUCATION CODE

45060-45061.5 Deduction of fees from salary or wage payment, certificated employees

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

45168 Deduction of fees from salary or wage payment, classified employees

45220-45320 Merit system, classified employees

GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act, especially:

3540.1 Definitions

3543.4 Management position; representation

3545 Appropriateness of unit; basis

6254.3 Disclosure of employee contact information to employee organization

6503.5 Joint powers agencies

53260-53264 Employment contracts

CODE OF REGULATIONS, TITLE 8

33015-33490 Recognition of exclusive representative; proceedings

33700-33710 Severance of established unit

34020 Petition to rescind organizational security arrangement

34055 Reinstatement of organizational security arrangement

COURT DECISIONS

County of Los Angeles v. Service Employees International Union, Local 721, (2011), 192 Cal.App.4th 1409

Management Resources:

CSBA PUBLICATIONS

Collective Bargaining DVD-ROM

Before the Strike: Planning Ahead in Difficult Negotiations, 1996

WEB SITES

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

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

California Federation of Teachers: <http://www.cft.org>

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

California Teachers Association: <http://www.cta.org>
Public Employment Relations Board: <http://www.perb.ca.gov>

(10/95 3/07) 11/11

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Washington Unified School District

Board Policy

Complaints

BP 4344 4144, 4244

Personnel

The Governing Board recognizes the need to establish a process to allow employees and job applicants to have their concerns heard in an expeditious and unbiased manner. The Board expects that employees will make every effort to resolve complaints and disagreements informally before filing a formal complaint.

(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 1312.4 - Williams Uniform Complaint Procedures)
(cf. 3320 - Claims and Actions Against the District)
(cf. 4030 - Nondiscrimination in Employment)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

The Board prohibits retaliation against complainants. The Superintendent or designee may keep a complainant's identity confidential, except to the extent necessary to investigate the complaint.

(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)
(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

All matters related to a complaint shall be kept confidential and any document, communication, or record regarding the complaint shall be placed in a separate file and shall not be placed in an employee's personnel file.

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

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

35186 Williams uniform complaint procedures

44110-44114 Reporting by school employees of improper governmental activity

GOVERNMENT CODE

3543 Public school employees' rights

3543.1 Rights of employee organizations

53296-53299 Disclosure of confidential information; whistleblower
54957 Closed session; personnel matters

LABOR CODE

1102.5-1106 Whistleblower protections

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in district programs and activities

Management Resources:

WEB SITES

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

(6/90 6/92) 3/08

Washington Unified School District

Administrative Regulation

Complaints

AR 4344 4144, 4244

Personnel

Except as specified below, the following procedure shall be used for any complaint by an employee alleging misapplication of the district's policies, regulations, rules, or procedures or for "whistleblower" complaints by an employee or job applicant regarding an improper district activity including, but not limited to, an allegation of gross mismanagement, a significant waste of funds, an abuse of authority, or a specific danger to public health or safety.

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

Complaints alleging unlawful discrimination on any basis specified in the district's nondiscrimination policies, including complaints of sexual harassment, shall be resolved in accordance with the district's procedure for complaints regarding discrimination in employment.

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

(cf. 4030 - Nondiscrimination in Employment)

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

Complaints regarding unlawful discrimination in district programs or the district's failure to comply with state or federal laws regarding educational programs shall be resolved in accordance with the district's Uniform Complaint Procedures. Complaints regarding sufficiency of textbook materials, teacher vacancy or misassignment, an urgent or emergency facility condition, or the failure to provide intensive instruction to students who did not pass the high school exit examination by the end of grade 12 shall be resolved in accordance with the district's Williams Uniform Complaint Procedures. (Education Code 35186; 5 CCR 4621)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

For complaints regarding working conditions or other subjects of negotiation, the employee shall use the grievance procedure specified in the applicable collective bargaining agreement.

Any of the time limits specified in this procedure may be extended by written agreement between the district and complainant.

Step 1: Informal Complaint Process

Prior to instituting a formal, written complaint, the employee shall first discuss the issue with his/her supervisor or the principal of the school where the alleged act took place. Formal complaint procedures shall not be initiated until the employee has first attempted to resolve the complaint informally.

Step 2: Site Level Formal Complaint Process

If a complaint has not been satisfactorily resolved through the informal process in Step 1, the complainant may file a written complaint with his/her immediate supervisor or principal within 60 days of the act or event which is the subject of the complaint. If an employee fails to file a written complaint within 60 days, the complaint shall be considered settled on the basis of the answer given at the preceding step.

In the written complaint, the employee shall specify the nature of the problem, including names, dates, locations, witnesses, the remedy sought by the employee, and a description of informal efforts to resolve the issue.

Within 10 working days of receiving the complaint, the immediate supervisor or principal shall conduct any necessary investigation and meet with the complainant in an effort to resolve the complaint. Within five working days after the meeting, he/she shall prepare and send a written response to the complainant.

Step 3: District Level Appeal

If a complaint has not been satisfactorily resolved at Step 2, the complainant may file the written complaint with the Superintendent or designee within five working days of receiving the written response from the immediate supervisor or the principal. The complainant shall include all information presented to the immediate supervisor or principal at Step 2.

Within 10 working days of receiving the complaint, the Superintendent or designee shall conduct any necessary investigation, including reviewing the investigation and written response by the immediate supervisor or principal at Step 2, and shall meet with the complainant in an effort to resolve the complaint. Within five working days after the meeting, he/she shall prepare and send a written response to the complainant.

Step 4: Appeal to the Governing Board

If a complaint has not been satisfactorily resolved at Step 3, the complainant may file a written appeal to the Board within five working days of receiving the Superintendent or designee's response. All information presented at Steps 1, 2, and 3 shall be included with the appeal, and the Superintendent or designee shall submit to the Board a written report describing attempts to resolve the complaint and the district's response.

The Board may uphold the findings by the Superintendent or designee without hearing the complaint or the Board may hear the complaint at a regular or special Board meeting. The hearing shall be held in closed session if the complaint relates to matters that may be addressed in closed session in accordance with law.

(cf. 9321 - Closed Session Purposes and Agendas)

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

(1/85 6/90) 3/08

Washington Unified School District

Board Policy

Employee Compensation

BP 4351 4152, 4251

Personnel

In order to recruit and retain employees committed to the district's goals for student learning, the Governing Board recognizes the importance of offering a competitive compensation package which includes salaries and health and welfare benefits.

(cf. 3100 - Budget)

(cf. 3400 - Management of Districts Assets/Accounts)

(cf. 4000 - Concepts and Roles)

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

The Board shall adopt separate salary schedules for certificated, classified, and supervisory and administrative personnel. These schedules shall comply with law and collective bargaining agreements and shall be printed and made available for review at the district office. (Education Code 45022, 45023, 45160, 45162)

(cf. 4121 - Temporary/Substitute Personnel)

(cf. 4141/4241 - Collective Bargaining Agreement)

(cf. 4143/4243 - Negotiations/Consultation)

Each certificated employee, except an employee in an administrative or supervisory position, shall be classified on the salary schedule on the basis of uniform allowance for years of training and years of experience, unless the Board and employee organization negotiate and mutually agree to a salary schedule based on different criteria. Certificated employees shall not be placed in different classifications on the schedule, nor paid different salaries, solely on the basis of the grade levels at which they teach. (Education Code 45028)

(cf. 4030 - Nondiscrimination in Employment)

Salary schedules for staff who are not a part of a bargaining unit shall be determined by the Board at the recommendation of the Superintendent or designee.

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

(cf. 4312.1 - Contracts)

The Board shall determine the frequency and schedule of salary payments, including whether payments for employees who work less than 12 months per year will be made over the course of

the school year or in equal installments over the calendar year. (Education Code 45038, 45039, 45048, 45165)

The Superintendent or designee shall post a notice explaining the Fair Labor Standards Act's wage and hour provisions in a conspicuous place at each work site. (29 CFR 516.4)

Overtime Compensation

A district employee shall be paid an overtime rate of not less than one and one-half times his/her regular rate of pay for any hours worked in excess of eight hours in one day or 40 hours in one work week. However, employees shall be exempt from overtime rules if they are employed as teachers or school administrators or if they qualify as being employed in an executive, administrative, or professional capacity and are paid a fixed salary at or above the salary level established by federal regulations. (Labor Code 510; 29 USC 213; 29 CFR 541.0-541.710, 553.27, 553.32)

When authorized in a collective bargaining agreement or other agreement between the district and employees, an employee may take compensatory time off in lieu of overtime compensation, provided he/she has not accrued compensatory time in excess of the limits specified in 29 USC 207. An employee who has requested the use of compensatory time shall be allowed to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt district operations. (29 USC 207; 29 CFR 553.20-553.25)

For each nonexempt employee, the Superintendent or designee shall maintain records on the employee's wages, hours, and other information specified in 29 CFR 516.5-516.6.

(cf. 3580 - District Records)

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

Legal Reference:

EDUCATION CODE

45022-45061.5 Salaries, especially:

45023 Availability of salary schedule

45028 Salary schedule for certificated employees

45160-45169 Salaries for classified employees

45268 Salary schedule for classified service in merit system districts

GOVERNMENT CODE

3540-3549 Meeting and negotiating, especially:

3543.2 Scope of representation

3543.7 Duty to meet and negotiate in good faith

LABOR CODE

226 Employee access to payroll records

232 Disclosure of wages

510 Overtime compensation; length of work day and week; alternative schedules

UNITED STATES CODE, TITLE 26

409A Deferred compensation plans

UNITED STATES CODE, TITLE 29

201-219 Fair Labor Standards Act, especially:

203 Definitions

207 Overtime

213 Exemptions from minimum wage and overtime requirements

CODE OF FEDERAL REGULATIONS, TITLE 26

1.409A-1 Definitions and covered plans

CODE OF FEDERAL REGULATIONS, TITLE 29

516.4 Notice of minimum wage and overtime provisions

516.5-516.6 Records

541.0-541.710 Exemptions for executive, administrative, and professional employees

553.1-553.51 Fair Labor Standards Act; applicability to public agencies

COURT DECISIONS

Flores v. City of San Gabriel, 9th Cir., June 2, 2016, No. 14-56421

Management Resources:

WEB SITES

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

Internal Revenue Service: <http://www.irs.gov>

School Services of California, Inc.: <http://www.sscal.com>

U.S. Department of Labor, Wage and Hour Division: <https://www.dol.gov/whd>

(2/97 7/08) 10/16

Washington Unified School District

Board Policy

Health And Welfare Benefits

BP 4354 4154, 4254

Personnel

The Governing Board recognizes that health and welfare benefits are essential to promote employee health and productivity and are an important part of the compensation offered to employees. The district shall provide health and welfare benefits for employees in accordance with state and federal law and subject to negotiated employee agreements.

(cf. 4140/4240/4340 - Bargaining Units)
(cf. 4141/4241 - Collective Bargaining Agreement)
(cf. 4151/4251/4351 - Employee Compensation)

All certificated and classified management, administrative, confidential, and supervisory employees who are not in bargaining units shall receive the same health and welfare benefits as those specified in the collective bargaining agreement for certificated employees.

(cf. 4300 - Administrative and Supervisory Personnel)

For purposes of granting benefits, a registered domestic partner and his/her child shall have the same rights, protections, and benefits as a spouse and spouse's child. (Family Code 297.5, 300)

The district shall offer full-time employees who work an average of 30 hours or more per week and their dependents up to age 26 years a health insurance plan that includes coverage for essential health benefits, pays at least 60 percent of the medical expenses covered under the terms of the plan, and meets all other requirements of the federal Patient Protection and Affordable Care Act.

With respect to eligibility to participate in the health benefits plan or the level of health benefits provided, the district shall not discriminate in favor of employees who are among the highest paid 25 percent of all district employees. (26 USC 105; 42 USC 300gg-16)

Continuation of Coverage

Retired certificated employees, other employees who would otherwise lose coverage due to a qualifying event specified in law and administrative regulation, and their qualified beneficiaries may continue to participate in the district's group health and welfare benefits in accordance with state and federal law.

Unless otherwise provided for in the applicable collective bargaining agreement, covered employees and their qualified beneficiaries may receive continuation coverage by paying the premiums, dues, and other charges, including any increases in premiums, dues, and costs incurred by the district in administering the program.

Confidentiality

The Superintendent or designee shall not use or disclose any employee's medical information the district possesses without the employee's authorization obtained in accordance with Civil Code 56.21, except for the purpose of administering and maintaining employee benefit plans and for other purposes specified in law. (Civil Code 56.20)

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

Legal Reference:

EDUCATION CODE

7000-7008 Health and welfare benefits, retired certificated employees

17566 Self-insurance fund

35208 Liability insurance

35214 Liability insurance (self-insurance)

44041-44042 Payroll deductions for collection of premiums

44986 Leave of absence, state disability benefits

45136 Benefits for classified employees

CIVIL CODE

56.10-56.16 Disclosure of information by medical providers

56.20-56.245 Use and disclosure of medical information by employers

FAMILY CODE

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

300 Definition of marriage

GOVERNMENT CODE

12940 Discrimination in employment

22750-22944 Public Employees' Medical and Hospital Care Act

53200-53210 Group insurance

HEALTH AND SAFETY CODE

1366.20-1366.29 Cal-COBRA program, health insurance

1367.08 Disclosure of fees and commissions paid related to health care service plan

1373 Health services plan, coverage for dependent children who are full-time students

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

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

INSURANCE CODE

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

10128.50-10128.59 Cal-COBRA program, disability insurance

10277-10278 Group and individual health insurance, coverage for dependent children

10604.5 Annual disclosure of fees and commissions paid

12670-12692.5 Conversion coverage

LABOR CODE

2800.2 Notification of conversion and continuation coverage

4856 Health benefits for spouse of peace officer killed in performance of duties

UNEMPLOYMENT INSURANCE CODE

2613 Education program; notice of rights and benefits

UNITED STATES CODE, TITLE 1

7 Definition of marriage, spouse

UNITED STATES CODE, TITLE 26

105 Self-insured medical reimbursement plan; definition of highly compensated individual

4980B COBRA continuation coverage

4980H Penalty for noncompliance with employer-provided health care requirements

5000A Minimum essential coverage

6056 Report of health coverage provided to employees

UNITED STATES CODE, TITLE 29

1161-1168 COBRA continuation coverage

UNITED STATES CODE, TITLE 42

300gg-300gg95 Patient Protection and Affordable Care Act, especially:

300gg-16 Group health plan; nondiscrimination in favor of highly compensated individuals

1395-1395g Medicare benefits

CODE OF FEDERAL REGULATIONS, TITLE 26

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

54.4980H-1-54.4980H-6 Patient Protection and Affordable Care Act

1.105-11 Self-insured medical reimbursement plan

CODE OF FEDERAL REGULATIONS, TITLE 45

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

Management Resources:

CALIFORNIA SCHOOL BOARDS ASSOCIATION PUBLICATIONS

Health Policy: Implications of Covered California for School Boards, Districts and Personnel, Governance Brief, January 2013

INTERNAL REVENUE SERVICE NOTICES

2011-1 Affordable Care Act Nondiscrimination Provisions Applicable to Insured Group Health Plans

U.S. DEPARTMENT OF TREASURY PUBLICATIONS

Fact Sheet: Final Regulations Implementing Employer Shared Responsibility Under the Affordable Care Act (ACA) for 2015

WEB SITES

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

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

Internal Revenue Service: <http://www.irs.gov>

U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services: <http://www.cms.gov>

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

Washington Unified School District

Administrative Regulation

Health And Welfare Benefits

AR 4354 4154, 4254

Personnel

Affordability of Health Coverage

The Superintendent or designee shall seek written assurance from the district's health insurance carrier(s) that the health plan offered to full-time district employees and their dependents meets all requirements of the federal Patient Protection and Affordable Care Act. (42 USC 300gg-300gg95; 26 USC 4980H; 26 CFR 54.4980H-1-54.4980H-6)

The Superintendent or designee also shall ensure that each employee's contribution to the employee-only health coverage does not exceed 9.5 percent of his/her modified household income, as defined in 26 USC 5000A. The Superintendent or designee shall calculate the affordability of the coverage using one or more of the following methods in a uniform and consistent basis for all employees within the same category: (26 USC 4980H; 26 CFR 54.4980H-4-54.4980H-5)

1. The district shall ensure that the lowest cost employee-only coverage does not exceed 9.5 percent of wages paid to the employee by the district for the calendar year as reported on the employee's W-2 tax form. For an employee not offered coverage for an entire calendar year, the wages shall be adjusted to reflect the period for which coverage was offered.
2. The district shall ensure that the employee's required monthly contribution for the lowest cost employee-only coverage does not exceed 9.5 percent of an amount equal to 130 hours multiplied by the employee's hourly rate of pay on the first day of the plan year or his/her lowest hourly pay during the calendar month, whichever is lower.
3. The district shall ensure that the employee's contribution does not exceed 9.5 percent of a monthly amount determined as the federal poverty line for a single individual for the applicable calendar year, divided by 12.

Retired Certificated Employees

Any former certificated employee who retired from the district under any public retirement system and his/her spouse/domestic partner shall be permitted to enroll in the health and welfare and/or dental care benefit plan currently provided for certificated employees. The plan also shall be available to any surviving spouse/domestic partner of a former certificated employee who either retired from the district under any public retirement system or was, at the time of death,

employed by the district and a member of the State Teachers' Retirement System. (Education Code 7000)

A retired certificated employee or surviving spouse/domestic partner shall be allowed to enroll in the coverage within 30 days of losing active employee coverage. If he/she does not enroll during this initial enrollment period, he/she may be denied further opportunity to do so. (Education Code 7000)

COBRA/Cal-COBRA Continuation Coverage

Covered district employees and their qualified beneficiaries shall be offered the opportunity to continue health and disability insurance coverage when they otherwise would lose coverage due to one of the following qualifying events: (Health and Safety Code 1366.21, 1366.23, 1373; Insurance Code 10128.51, 10128.53, 10277; 26 USC 4980B; 26 CFR 54.4980B-4)

1. Death of the covered employee
2. Termination or reduction in hours of the covered employee's employment, other than termination by reason of the employee's gross misconduct

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

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

3. Divorce or legal separation of the covered employee
4. The covered employee becoming entitled to Medicare benefits
5. A dependent child ceasing to be a dependent child of the covered employee

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

The Superintendent or designee shall notify the health care service plan administrator of a qualifying event listed in item #1, 2, or 4 above, within 30 days of the event. A covered employee or qualified beneficiary shall notify the service plan administrator of a qualifying event listed in item #3 or 5 above within 60 days of the event or of the date that the beneficiary would lose coverage, whichever is later. (26 USC 4980B; 29 USC 1163, 1166; 26 CFR 54.4980B-6)

Continuation coverage shall be terminated in accordance with the district's insurance plan and federal and state law. (26 USC 4980B; 26 CFR 54.4980B-6; Health and Safety Code 1373.621; Insurance Code 10116.5)

The Superintendent or designee shall notify covered employees and qualified beneficiaries of the availability of conversion and continuation coverage. This notification shall include the statement in Labor Code 2800.2 encouraging individuals to examine their options carefully

before declining such coverage. (Labor Code 2800.2)

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

Disability Insurance

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

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

(cf. 4161/4261/4361 - Leaves)

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

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

(cf. 4261.1 - Personal Illness and Injury Leave)

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

(3/10 7/12) 10/15

Washington Unified School District

Board Policy

Awards And Recognition

BP 4356.2

Personnel

The Governing Board values its instructional and noninstructional staff and desires to recognize their outstanding service in order to increase employee morale and encourage creative and innovative performance.

(cf. 1150 - Commendations and Awards)

(cf. 5126 - Awards for Achievement)

The Board encourages recognition of all staff during days of significance designated by the Board, state law, or state resolution.

(cf. 6115 - Ceremonies and Observances)

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

1. Propose procedures or ideas that result in eliminating or reducing district expenditures or improving district operations
2. Perform special acts or services in the public interest
3. By their superior accomplishments, make exceptional contributions to the efficiency, economy, or other improvement in district operations

As the district budget permits, the Superintendent or designee may recognize such employees by issuing service pins, certificates, plaques, and/or other mementos. In addition, he/she may recommend employees to the Board for recognition at a public Board meeting.

(cf. 3100 - Budget)

(cf. 3300 - Expenditures and Purchases)

The Superintendent or designee shall establish procedures for the selection of individual employees to receive awards.

The Superintendent or designee may appoint one or more merit award committees consisting of Board members, district employees, and/or private citizens to review employee contributions and recommend awards.

Monetary awards to employees shall not exceed \$200 unless expressly approved by the Board.
(Education Code 44015)

(cf. 1220 - Citizen Advisory Committees)
(cf. 9140 - Board Representatives)

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards
35160.1 Broad authority of school districts
35161 Powers and duties generally
44015 Awards to employees
45460 Classified School Employee Week

Management Resources:

CSBA PUBLICATIONS

Maximizing School Board Governance: The Board's Relationship to District Staff, 2008

WEB SITES

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

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

(1/85 12/91) 7/10

Policy Reference UPDATE Service

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Washington Unified School District

Board Policy

Employee Property Reimbursement

BP 4356.3 4156.3, 4256.3

Personnel

The Governing Board does not authorize payment for the reimbursement of employee personal property which may be stolen or intentionally destroyed or damaged while being used for work-related purposes. Administration may address occurrences on a case-by-case basis.

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

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

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

(cf. 5131.5 - Vandalism and Graffiti)

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

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

Legal Reference:

EDUCATION CODE

35213 Reimbursement for loss, destruction or damage of personal property

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

CIVIL CODE

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

(9/88) 2/98

Washington Unified School District

Board Policy

Employee Safety

BP 4357 4157, 4257

Personnel

The Governing Board 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 Superintendent or designee.

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

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

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

The Superintendent 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 Superintendent or designee shall ensure the ready availability of first aid materials at district 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:

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>

(6/91 7/99) 3/10

Washington Unified School District

Administrative Regulation

Employee Safety

AR 4357 4157, 4257

Personnel

The Superintendent 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. 4161.11/4261.1/4361.11 - Industrial Accident/Illness Leave)

Injury and Illness Prevention Program

The district's injury and illness prevention program shall cover all district employees and all other workers whom the district controls or directs and directly supervises on the job to the extent that 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 district's injury and illness prevention program. (Labor Code 6401.7)

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

1. The name/position of the person(s) with authority and responsibility for implementing the program.
2. A system for ensuring that employees comply with safe and healthful work practices, which may include, but not be limited to:
 - a. Recognition of employees who follow safe and healthful work practices
- b. Training and retraining programs
- c. Disciplinary actions

(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
- 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 the district 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
- c. Whenever new substances, processes, procedures, or equipment is introduced into the workplace and represents a new hazard
- d. Whenever the district 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 and Health Committee

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

1. Meet regularly, but not less than quarterly.
2. Prepare and make available to affected employees written records of the safety and health issues discussed at committee meetings and maintained for review by 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 Superintendent or designee regarding the prevention of future incidents.
5. Review investigations of alleged hazardous conditions brought to the attention of any committee member. When determined necessary by the committee, it may conduct its own inspection and investigation to assist in remedial solutions.
6. Submit recommendations to assist in the evaluation of employee safety suggestions.
7. Upon request of Cal/OSHA, verify abatement action taken by the district to abate citations issued by Cal/OSHA.

Hearing Protection

Whenever employee noise exposure equals or exceeds the standards specified in law, the Superintendent 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 Superintendent 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 Superintendent or designee shall ensure that at least one employee is adequately trained to provide first aid. (8 CCR 3400)

The Superintendent 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 Superintendent 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 Superintendent 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)

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

(6/91 7/99) 3/10

Washington Unified School District

Administrative Regulation

Work-Related Injuries

AR 4357.1 4157.1, 4257.1

Personnel

In order to provide medical benefits, temporary or permanent disability benefits, wage replacement, retraining or skill enhancement, and/or death benefits in the event that an employee becomes injured or ill in the course of employment, the district shall provide all employees with insurance and workers' compensation benefits in accordance with law. The Superintendent or designee shall develop an efficient claims handling process that reduces costs and facilitates 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. 4161.11/4261.11/4361.11 - Industrial Accident/Illness Leave)

The Superintendent or designee shall notify every new employee, at the time of hire or by the end of the first pay period, of his/her right to receive workers' compensation benefits if injured at work. (Labor Code 3551; 8 CCR 15596)

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

In addition, a notice regarding workers' compensation benefits shall be posted in a conspicuous location frequented by employees, where the notice may be easily read during the workday. (Labor Code 3550)

In the event that an employee is injured or becomes ill in the course of employment, he/she shall report the work-related injury or illness to the Superintendent or designee as soon as practicable.

Within one working day of receiving notice or knowledge of any injury to an employee in the course of employment, the Superintendent or designee shall provide a claim form and notice of potential eligibility for workers' compensation benefits to the employee or, in the case of the employee's death, to his/her dependents. The claim form and notice shall be provided personally or by first class mail. (Labor Code 5401)

The Superintendent or designee shall additionally ensure that any employee who is a victim of a crime that occurred at the place of employment is given written notice personally or by first class mail within one working day of the crime, or when the district reasonably should have known of the crime, that the employee is eligible for workers' compensation benefits for injuries, including

psychiatric injuries, that may have resulted from the crime. (Labor Code 3553)

The Superintendent or designee shall ensure that all employee notices described above are in the form prescribed by the Department of Industrial Relations (DIR), Division of Workers Compensation.

Upon learning of a work-related injury or illness, or injury or illness alleged to have arisen out of and in the course of employment, the Superintendent or designee shall report the incident to the district's insurance carrier within five days after obtaining knowledge of the injury or illness. If a subsequent death arises as a result of the reported injury or illness, an amended report indicating the death must be filed with the insurance carrier within five days after being notified of or learning about the death. (Labor Code 6409.1)

In addition, in every case involving death or serious injury or illness, the Superintendent or designee shall immediately make a report by telephone or email to the Division of Occupational Safety and Health. (Labor Code 6409.1)

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:

DEPARTMENT OF INDUSTRIAL RELATIONS PUBLICATIONS

A Guidebook for Injured Workers, 2016

Notice to Employees -- Injuries Caused by Work

Time of Hire Pamphlet

Workers' Compensation Claim Form (DWC 1) & Notice of Potential Eligibility

WEB SITES

California Department of Industrial Relations, Division of Occupational Safety and Health:

<http://www.dir.ca.gov/dosh>

California Department of Industrial Relations, Division of Workers Compensation:

<http://www.dir.ca.gov/dwc>

(10/95 7/02) 10/16

Washington Unified School District

Administrative Regulation

Ergonomics

AR 4357.2 4157.2, 4257.2

Personnel

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

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

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

1. Worksite evaluation

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

2. Control of exposures which have caused RMIs

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

3. Training

Employees shall be provided training that includes an explanation of:

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

(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

10/97

Washington Unified School District

Board Policy

Employee Security

BP 4358 4158, 4258

Personnel

The Governing Board desires to provide a safe and orderly work environment for all employees. As part of the district's comprehensive safety plan, the Superintendent 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 Superintendent or designee immediately. The Superintendent or designee shall initiate legal and security measures to protect the employee and others in the workplace. In addition, the Superintendent 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 district premises.

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

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

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

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

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

The Superintendent or designee may make available at appropriate locations, including, but not

limited to, district and school offices, gyms, and classrooms, 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 Superintendent 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.

(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 principal immediately
2. Immediately notify the principal, who shall take appropriate action
3. Immediately call 911 and the 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 principal about the possession or seizure of a weapon or dangerous device, the employee shall report the name(s) of persons involved, witnesses, location, and the circumstances of any seizure.

Legal Reference:

EDUCATION CODE

32210-32212 Willful disturbance, public schools or meetings

32225-32226 Communication devices

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/ls/ss>

(2/96 7/01) 3/11

Washington Unified School District

Administrative Regulation

Employee Security

AR 4358 4158, 4258

Personnel

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 Superintendent or designee.

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

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

(cf. 3530 - Risk Management/Insurance)

Notice Regarding Student Offenses Committed While Under School Jurisdiction

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

(cf. 5125 - Student Records)
(cf. 5144.1 - Suspension and Expulsion/Due Process)

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

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

Notice Regarding Student Offenses Committed While Outside School Jurisdiction

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

(cf. 3515.3 - District Police/Security Department)

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

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

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

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

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

Procedures to Maintain Confidentiality of Student Offenses

In order to maintain confidentiality when providing information about student offenses to counselors and teachers of classes/programs to which a student is assigned, the principal or designee shall send the staff member a written notification that one of his/her students has committed an offense that requires his/her review of a student's file in the school office. This notice shall not name or otherwise identify the student. The staff member shall be asked to initial the notification and return it to the principal or designee.

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

Use of Pepper Spray

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

1. The pepper spray shall be used only in self-defense.
2. An employee who uses pepper spray other than in self-defense shall be subject to disciplinary action by the district and, in accordance with law, a fine and/or imprisonment.

(cf. 4118 - Suspension/Disciplinary Action)

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

3. Employees shall ensure that the pepper spray is stored in a secure place and not accessible to students or other individuals. An employee who is negligent in the storage of pepper spray may be subject to disciplinary action.

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

(2/97 11/00) 3/11

Washington Unified School District

Board Policy

Employee Assistance Programs

BP 4359

Personnel

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

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

(cf. 3513.3 - Tobacco-Free Schools)
(cf. 4020 - Drug and Alcohol-Free Workplace)
(cf. 5131.62 - Tobacco)

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

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

(cf. 4032 - Reasonable Accommodation)
(cf. 4115 - Evaluation/Supervision)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4161/4261/4361 - Leaves)
(cf. 4161.1/4261.1 - Personal Illness/Injury Leave)
(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)
(cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)
(cf. 4215 - Evaluation/Supervision)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
(cf. 4315 - Evaluation/Supervision)
(cf. 4361.1 - Personal Illness/Injury Leave)

Legal Reference:

EDUCATION CODE

35160 Authority of governing board

35160.1 Broad authority of school districts

44962 Leaves of absence for certificated employees

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

45190-45209 Resignations and leaves of absence for classified employees

GOVERNMENT CODE

8355 Certification to contracting or granting agency; requisites

HEALTH AND SAFETY CODE

104420 Providing information re: smoking cessation program

UNITED STATES CODE, TITLE 41

8101-8106 Drug-Free Workplace Act

(7/86 3/92) 7/02

Policy Reference UPDATE Service

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Washington Unified School District

Board Policy

Leaves

BP 4361

Personnel

The Governing Board shall provide for paid and unpaid leaves of absence for employees in accordance with law, Board policy, administrative regulation, collective bargaining agreements, and merit system rules, as applicable.

(cf. 4141/4241 - Collective Bargaining Agreement)

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

The Board recognizes the following justifiable reasons for employee absence:

1. Personal illness or injury

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

(cf. 4261.1 - Personal Illness/Injury Leave)

2. Industrial accident or illness

(cf. 4161.11/4261.11/4361.11 - Industrial Accident/Illness Leave)

3. Family care and medical leave

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

4. Military service

(cf. 4161.5/4261.5/4361.5 - Military Leave)

5. Personal necessity and personal emergencies

(cf. 4161.2/4261.2/4361.2 - Personal Leaves)

6. Disability leave for certificated employees in accordance with Education Code 44986

7. Vacations for classified staff and certificated management staff, as applicable

8. Sabbaticals for purposes of study or training related to the employee's job duties

(cf. 4161.3 - Professional Leaves)
(cf. 4261.3 - Professional Leaves)

9. Attendance at work-related meetings and staff development opportunities

(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

10. Compulsory leave

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

Long-Term Leaves

With Board approval, an employee may receive a leave of absence, without pay and without accruing seniority or service credit, for a period of up to one school year. Applications for long-term leave shall be made in writing and shall state the purpose for which leave is requested. All long-term leave agreements shall be in writing and shall state the terms and conditions of the leave, including the conditions governing the employee's return.

At the end of a long-term leave, the employee shall be reinstated to a similar position as that held at the time leave was granted, unless otherwise agreed upon.

The Board shall consider any written request by an employee to return to work prior to the expiration date of the leave.

Administrative and Supervisory Personnel

Certificated administrative and supervisory employees who are not subject to the district's bargaining agreement for certificated employees shall generally be entitled to those leave provisions provided in the bargaining agreement for other certificated employees unless otherwise specified in individual contract, memorandums of understanding, Board policy, administrative regulation, or law.

Classified administrative and supervisory employees who are not subject to the district's bargaining agreement for classified employees shall generally be entitled to those leave provisions provided in the bargaining agreement for other classified employees unless otherwise specified in individual contract, memoranda of understanding, Board policy, administrative regulation, or law.

(cf. 2121 - Superintendent's Contract)
(cf. 4300 - Administrative and Supervisory Personnel)
(cf. 4312.1 - Contracts)

Legal Reference:

EDUCATION CODE

22850-22856 Pension benefits, STRS members on military leave
44018 Compensation for employees on active military duty
44036-44037 Leaves of absence for judicial and official appearances
44043.5 Catastrophic leave
44800 Effect of active military service on status of employees
44842 Failure to provide notice or to report to work
44940 Sex offenses and narcotic offenses; compulsory leave of absence
44962-44988 Leaves of absence (certificated)
45059 Employee ordered to active military/naval duty, computation of salary
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

Policy Reference UPDATE Service

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Washington Unified School District

Administrative Regulation

Leaves

AR 4361

Personnel

Failure to Return to Service After Leave

In the case of a certificated employee who was on leave of absence for 20 or more consecutive working days after April 30 of the previous school year, the district may terminate the employment of such an employee if all of the following circumstances exist: (Education Code 44842)

1. The employee fails to report for duty, without good cause, at the beginning of the school year after having notified the Governing Board of his/her intention to remain in service with the district in accordance with Education Code 44842.
2. The district had specifically notified the employee, at least five days in advance, of the time and place at which the employee was to report to work.
3. The employee did not request or was not granted a leave of absence authorized by the Board.

(cf. 4112.1 - Contracts)

In any such case, the district may terminate the employee's employment on the day following 20 consecutive days of absence. (Education Code 44842)

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

Use of Leaves by Classified Employees

A classified employee may interrupt or terminate vacation leave in order to begin another type of paid leave without a return to active service, as long as the employee provides adequate notice and relevant supporting information regarding the basis for such interruption or termination. (Education Code 45200)

(12/88 10/98) 7/08

Washington Unified School District

Administrative Regulation

Personal Illness/Injury Leave

AR 4361.1

Personnel

Certificated 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)

(cf. 4161/4261/4361 - Leaves)

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

Use of Sick Leave

Certificated 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. 4161.11/4261.11/4361.11 - Industrial Accident/Illness Leave)

6. 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)

7. 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 #6-7, 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)

An employee shall reimburse the district for any unearned sick leave used as of the date of his/her termination.

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

At the beginning of each school year, employees shall be notified of the amount of sick leave they have accumulated.

The district shall not require new employees to waive leave accumulated in a previous district. (Education Code 44979, 44980)

The Superintendent or designee shall notify any certificated employee who leaves the district after at least one school year of employment that if the employee accepts a certificated position in another district, county office of education, or community college district within one year, he/she may request that the district transfer his/her accumulated sick leave to the new employer. (Education Code 44979, 44980)

Additional Leave for Disabled Military Veterans

In addition to any other entitlement for sick leave with pay, a newly hired certificated employee who is a military veteran with a military service-connected disability rated at 30 percent or more by the U.S. Department of Veterans Affairs shall be entitled to sick leave with pay of up to 10 days for the purpose of undergoing medical treatment for his/her military service-connected disability. An eligible employee employed 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 on the first day of employment and shall remain available for the following 12 months of employment. Leave not used during the 12-month period shall not be carried over and shall be forfeited. (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.

Notification of Absence

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

(cf. 4121 - Temporary/Substitute Personnel)

Continued Absence After Available Sick Leave Is Exhausted/Differential Pay

After a certificated employee has exhausted all available sick leave, including all accumulated sick leave, and, due to illness or ~~injury~~ accident, continues to be absent for an additional period of up to five months, he/she shall receive 50 percent of his/her regular salary during the additional period of absence. (Education Code 44983)

Absence Beyond Five-Month Period/Reemployment List

If a certificated employee is not medically able to resume his/her duties after the five-month period provided pursuant to Education Code 44977, the employee shall be placed either in another position or on a reemployment list. Placement on the reemployment list shall be for 24 months for probationary employees or 39 months for permanent employees and shall begin at the expiration of the five-month period. If during this time the employee becomes medically able, he/she shall be returned to employment in a position for which he/she is credentialed and qualified. (Education Code 44978.1)

(cf. 4116 - Probationary/Permanent Status)

Differential Pay for Parental Leave

During each school year, any certificated employee who has exhausted all available sick leave, including accumulated sick leave, and continues to be absent on account of parental leave (baby bonding) pursuant to Government Code 12945.2 shall receive differential pay for 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. Such parental leave shall run concurrently with the parental leave taken pursuant to Government Code 12945.2 and the aggregate amount of parental leave shall not exceed 12 work weeks in a 12-month period. Eligibility for parental leave pursuant to Education Code 44977.5 shall not require 1,250 hours of service with the district during the previous 12 months. (Education Code 44977.5)

Verification Requirements

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

The Superintendent or designee may require verification whenever an employee's absence record shows chronic absenteeism or a pattern of absences immediately before or after weekends and/or holidays or whenever available evidence clearly indicates that an absence is not related to illness or injury.

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

Any district request for additional verification by an employee's physician or a district-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 district 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)

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

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

44977.5 Differential pay during parental leave up to 12 weeks 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

44978.2 Leave for military service connected disability

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
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
234 Absence control policy
245-249 Healthy Workplaces, Healthy Families Act of 2014
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
CODE OF FEDERAL REGULATIONS, TITLE 29
1635.1-1635.12 Genetic Information Nondiscrimination Act of 2008
COURT DECISIONS
Veguez v. Governing Board of Long Beach Unified School District, (2005) 127 Cal.App.4th 406

(7/10 12/14) 3/16

Washington Unified School District

Administrative Regulation

Industrial Accident/Illness Leave

AR 4361.11 4161.11

Personnel

An eligible employee shall be entitled to a leave of absence for an industrial accident or illness arising in the course of his/her assigned duties. (Education Code 44984, 45192)

(cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)

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

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

(cf. 4157.2/4257.2/4357.2 - Ergonomics)

(cf. 4161/4261/4361 - Leaves)

For such leave, the employee shall be granted no more than 60 working days in any one fiscal year for the same industrial accident or illness.

To be eligible for industrial accident or illness leave, a classified employee shall have served in the district continuously for at least three years.

Allowable industrial accident or illness leave shall not be accumulated from year to year. (Education Code 44984, 45192)

When an employee is absent from his/her duties because of an industrial accident or illness: (Education Code 44043, 44044, 44984, 45192)

1. The leave shall start on the first day of absence.
2. During the period of absence, the employee shall be paid such portion of his/her wage or salary that, when added to the award granted under state workers' compensation laws, will not exceed his/her normal wage or salary.
3. The leave shall be reduced by one day for each day of authorized absence, regardless of an award granted under workers' compensation laws.
4. When the leave overlaps into the next fiscal year, the employee is entitled to only the amount of unused leave due the employee for the same illness or injury.

During any paid leave of absence, the employee shall retain any workers' compensation check received on account of an industrial accident or illness. The employee shall notify the

Superintendent or designee that he/she has received such check. The Superintendent or designee shall then issue payment of the employee's normal wage or salary less an amount equivalent to the face amount of the workers' compensation check and other appropriate deductions, including, but not limited to, employee retirement contributions. Employee benefits shall be computed on the basis of the employee's regular wage or salary prior to the deduction of any amounts for temporary disability payments. (Education Code 44044)

Absence for industrial accident or illness shall not be considered a break in service of the employee. An employee using such leave shall retain all status and benefits to which he/she would otherwise be entitled.

(cf. 4116 - Probationary/Permanent Status)
(cf. 4154/4254/4354 - Health and Welfare Benefits)
(cf. 4216 - Probationary/Permanent Status)

When available industrial accident or illness leave has been exhausted, the employee shall be so notified in writing and shall be offered an opportunity to request any additional paid or unpaid leave available to the employee. (Education Code 45192)

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

Upon expiration of allowable leave for an industrial accident or illness, the employee may use personal illness and injury leave provided pursuant to Education Code 44977, 44978, 44983, or 45191, as applicable, provided that such leave, when added to any continuing workers' compensation award, does not result in a payment to the employee of more than his/her full wage or salary. (Education Code 44984, 45192)

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)
(cf. 4261.1 - Personal Illness/Injury Leave)

If a certificated employee is unable to resume the duties of his/her position after exhausting all accumulated sick leave, including the consecutive five-month period provided by Education Code 44977, he/she shall, if not placed in another position, be placed on a reemployment list for a period of 24 months if he/she is a probationary employee or 39 months if he/she is a permanent employee. If the employee becomes medically able to resume duties during the period of reemployment eligibility, he/she shall be returned to employment in a position for which he/she is credentialed and qualified. (Education Code 44978.1)

If a classified employee has exhausted all available leaves of absence, paid or unpaid, and is not medically able to resume the duties of his/her position, he/she shall, if not placed in another position, be placed on a reemployment list for a period of 39 months. If he/she becomes medically able to resume duties during the period of reemployment eligibility, he/she shall be employed in a vacant position in the class of his/her previous assignment over all other candidates except those on a reemployment list established because of lack of work or lack of funds, in which case the employee shall be listed in accordance with seniority regulations. If the

employee is medically released to return to duty but fails to accept an appropriate assignment, he/she shall be dismissed. (Education Code 45192)

(cf. 4217.3 - Layoff/Rehire)

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

Legal Reference:

EDUCATION CODE

44043 Temporary disability

44044 Temporary disability checks; waiver of endorsement to district

44977 Salary deductions during absence from duties

44978 Provisions for certificated employee sick leave

44978.1 Inability of certificated employee to return to duty; placement in another position or on reemployment list

44983 Exception to sick leave

44984 Industrial accident and illness leave, certificated employees

45191 Personal illness and injury leave, classified employees

45192 Industrial accident and illness leave, classified employees

LABOR CODE

3200-6002 Workers' compensation

Management Resources:

WEB SITES

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

(10/98 8/13) 10/15

Washington Unified School District

Administrative Regulation

Personal Leaves

AR 4361.2

Personnel

Personal leaves granted to district employees shall be used as permitted in this administrative regulation, other Board-approved policy or district regulation, or applicable collective bargaining agreement.

For the purpose of any personal leave offered pursuant to state law, a registered domestic partner shall have the same rights, protections, and benefits as a spouse and protections provided to a spouse's child shall also apply to a child of a registered domestic partner. (Family Code 297.5)

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

(cf. 4121 - Temporary/Substitute Personnel)

Bereavement

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

(cf. 4161/4261/4361 - Leaves)

Members of the immediate family include: (Education Code 44985, 45194)

1. The mother, father, grandmother, grandfather, or grandchild of the employee or of the employee's spouse
2. The employee's spouse, son, son-in-law, daughter, daughter-in-law, brother, or sister
3. Any relative living in the employee's immediate household

At the employee's request, bereavement leave may be extended under personal necessity leave provisions as provided in the section "Personal Necessity" below. (Education Code 44981, 45207)

Personal Necessity

Employees may use a maximum of seven days of their accrued personal illness/injury leave (sick leave) during each school year for reasons of personal necessity. (Education Code 44981, 45207)

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

(cf. 4261.1 - Personal Illness/Injury Leave)

Acceptable reasons for the use of personal necessity leave include:

1. Death of a member of the employee's immediate family when the number of days of absence exceeds the limits set by bereavement leave provisions (Education Code 44981, 45207)
2. An accident involving the employee or his/her property or the person or property of a member of the employee's immediate family (Education Code 44981, 45207)
3. Illness, preventive care, or other need of a member of the employee's family, as defined in Labor Code 245.5 (Education Code 44981; Labor Code 246.5)
(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)
4. A classified employee's appearance in any court or before any administrative tribunal as a litigant, party, or witness under subpoena or other order (Education Code 45207)
5. Fire, flood, or other immediate danger to the home of the employee
6. Personal business of a serious nature which the employee cannot disregard

Leave for personal necessity may be allowed for other reasons at the discretion of the Superintendent or designee. However, personal necessity leave shall not be granted for purposes of personal convenience, for the extension of a holiday or vacation, or for matters which can be taken care of outside of working hours. The Superintendent or designee shall have final discretion as to whether or not a request reflects personal necessity.

Advance permission shall not be required of an employee in any case involving the death of a member of the employee's immediate family, an accident involving the employee's person or property or the person or property of a member of his/her immediate family, or the illness, preventive care, or other need of a member of the employee's family. (Education Code 44981, 45207)

For any leave that is planned, or where the need for leave is foreseeable, an employee shall notify the Superintendent or designee in advance. In all other circumstances, the employee shall

notify the Superintendent or designee of the need for the leave as soon as practicable.

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

Legal Duties

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

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

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

A classified employee called for jury duty shall be granted leave with pay up to the amount of the difference between his/her regular earnings and any amount received for jury fees. (Education Code 44037)

A certificated employee who is called for jury duty also shall be granted leave with pay up to the difference between his/her regular earnings and any jury fees he/she received.

An employee shall be granted leave with pay to appear in court as a witness other than a litigant or to respond to an official order from another governmental jurisdiction for reasons not brought about through the connivance or misconduct of the employee. Such an employee shall receive the difference between his/her regular earnings and any witness fees he/she received.

Leaves for Crime Victims

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

1. A violent felony as defined in Penal Code 667.5(c)
2. A serious felony as defined in Penal Code 1192.7(c)
3. A felony provision of law proscribing theft or embezzlement

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

Prior to taking time off, an employee shall give his/her supervisor a copy of the notice of each scheduled proceeding that is provided by the responsible agency, unless advance notice is not

feasible. When advance notice is not feasible or an unscheduled absence occurs, the employee shall, within a reasonable time after the absence, provide documentation evidencing the judicial proceeding from the court or government agency setting the hearing, the district attorney or prosecuting attorney's office, or the victim/witness office that is advocating on behalf of the victim. (Labor Code 230.2)

The district shall keep confidential any records pertaining to the employee's absence from work by reason of this leave. (Labor Code 230.2)

Leaves for Victims of Domestic Violence, Sexual Assault and Stalking

An employee who is a victim of domestic violence, sexual assault, or stalking as defined by law may use vacation, sick leave, personal leave, or compensatory time off that is otherwise available to him/her under the terms of his/her employment to attend to the following activities: (Labor Code 230, 230.1, 246.5)

1. Obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or his/her child
2. Seek medical attention for injuries caused by domestic violence, sexual assault, or stalking
3. Obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking
4. Obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking
5. Participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation

Prior to taking time off, an employee shall give reasonable notice to his/her supervisor, unless advance notice is not feasible. When an unscheduled absence occurs, the employee shall provide, within a reasonable period of time, certification of the absence in the form of any of the following: (Labor Code 230, 230.1)

1. A police report indicating that the employee was a victim of domestic violence, sexual assault, or stalking
2. A court order protecting or separating the employee from the perpetrator of an act of domestic violence, sexual assault, or stalking, or other evidence from the court or prosecuting attorney that the employee has appeared in court
3. Documentation from a domestic violence or sexual assault counselor as defined in Evidence Code 1037.1 or 1035.2, licensed medical professional or health care provider, or counselor that the employee was undergoing treatment for physical or mental injuries or abuse

resulting in victimization from an act of domestic violence, sexual assault, or stalking

The district shall maintain the confidentiality of such an employee to the extent authorized by law. (Labor Code 230, 230.1)

Personal Leave for Child-Related Activities

Any employee who is a parent/guardian of one or more children of an age to attend any of grades K-12 or a program offered by a licensed child care provider may use up to 40 hours of personal leave, vacation, or compensatory time off each school year in order to: (Labor Code 230.8)

1. Find, enroll, or reenroll his/her child in a school or with a licensed child care provider or to participate in activities of the school or child care provider, provided the employee gives reasonable advance notice of the absence. Time off for this purpose shall not exceed eight hours in any calendar month.
2. Address a school or child care emergency, provided the employee gives notice. An emergency exists when the child cannot remain in school or with a child care provider due to one of the following circumstances:
 - a. A request by the school or child care provider that the child be picked up
 - b. An attendance policy, excluding planned holidays, that prohibits the child from attending or requires that the child be picked up from the school or child care provider
 - c. Behavioral or discipline problems
 - d. Closure or unexpected unavailability of the school or child care provider, excluding planned holidays
 - e. A natural disaster, including, but not limited to, fire, earthquake, or flood

(cf. 5148 - Child Care and Development)

For purposes of this leave, parent/guardian includes a parent, guardian, stepparent, foster parent, grandparent, or person who stands in loco parentis to a child. (Labor Code 230.8)

In lieu of using vacation, personal leave, or compensatory time off, eligible employees may take unpaid leave for this purpose.

If two or more parent/guardian of a child are employed at the same work site, this leave shall be allowed for the parent/guardian who first gives notice to the district. Simultaneous absence by another parent/guardian of the child may be granted by the Superintendent or designee. (Labor Code 230.8)

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

Service on Education Boards and Committees

Upon request, a certificated employee shall be granted up to 20 school days of paid leave per school year for service performed within the state on any education board, commission, committee, or group authorized by Education Code 44987.3 provided that all of the following conditions are met: (Education Code 44987.3)

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

Employee Organization Activities

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

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

(cf. 4143/4243 - Negotiations)

Upon request of an employee organization in the district or its state or national affiliate, a reasonable number of unelected classified employees shall be granted a leave of absence without loss of compensation for the purpose of attending important organizational activities authorized by the organization. The employee organization shall provide reasonable notification to the Superintendent or designee when requesting a leave of absence for employees for this purpose. (Education Code 45210)

When leave is granted for any of the above purposes, the employee organization shall reimburse the district within 10 days after receiving the district's certification of payment of compensation to the employee. (Education Code 44987, 45210)

Religious Leave

The Superintendent or designee may grant an employee up to three days of leave per year for religious purposes, provided that the leave is requested in advance and that it does not cause

additional district expenditures, the neglect of assigned duties, or any other unreasonable hardship on the district.

The Superintendent or designee shall deduct the cost of hiring a substitute, when required, from the wages of the employee who takes religious leave.

No employee shall be discriminated against for using this leave or any additional days of unpaid leave granted for religious observances at the discretion of the Superintendent or designee.

Spouse on Leave from Military Deployment

An employee who works an average of 20 hours or more per week and whose spouse is a member of the United States Armed Forces, National Guard, or reserves may take up to 10 days of unpaid leave during a period that his/her spouse is on leave from deployment during a military conflict, as defined in Military and Veterans Code 395.10. (Military and Veterans Code 395.10)

Within two business days of receiving official notice that his/her spouse will be on leave from deployment, the employee shall provide the Superintendent or designee with notice of his/her intention to take the leave. The employee shall submit written documentation certifying that his/her spouse will be on leave from deployment during the time that the leave is requested. (Military and Veterans Code 395.10)

Leave for Emergency Duty

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

Any employee who performs duty as a volunteer firefighter, reserve peace officer, or emergency rescue personnel shall be permitted to take temporary leaves of absence, not to exceed an aggregate total of 14 days per calendar year, for the purpose of engaging in fire, law enforcement, or emergency rescue training. (Labor Code 230.4)

Civil Air Patrol Leave

An employee may take up to 10 days of unpaid leave per calendar year, beyond any leave otherwise available to him/her, to respond to an emergency operational mission of the California Civil Air Patrol, provided that the employee has been employed by the district for at least a 90-day period immediately preceding the leave. Such leaves shall not exceed three days for a single mission, unless an extension is granted by the governmental entity authorizing the mission and is approved by the Superintendent or designee. (Labor Code 1501, 1503)

The employee shall give the district as much advance notice as possible of the intended dates of the leave. The Superintendent or designee may require certification from the proper Civil Air Patrol authority to verify the eligibility of the employee for the leave and may deny the leave if the employee fails to provide the required certification. (Labor Code 1503)

Legal Reference:

EDUCATION CODE

44036-44037 Leaves of absence for judicial and official appearances
44963 Power to grant leaves of absence (certificated)
44981 Leave of absence for personal necessity (certificated)
44985 Leave of absence due to death in immediate family (certificated)
44987 Service as officer of employee organization (certificated)
44987.3 Leave of absence to serve on certain boards, commissions, etc.
45190 Leaves of absence and vacations (classified)
45194 Bereavement leave of absence (classified)
45198 Effect of provisions authorizing leaves of absence
45207 Personal necessity (classified)
45210 Service as officer of employee organization (classified)
45240-45320 Merit system, classified employees

EVIDENCE CODE

1035.2 Sex assault counselor; definition
1037.1 Domestic violence counselor; definition

FAMILY CODE

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

GOVERNMENT CODE

3543.1 Release time for representatives of employee organizations
12945.1-12945.2 California Family Rights Act

LABOR CODE

230-230.2 Leave for victims of domestic violence, sexual assault, or specified felonies
230.3 Leave for emergency personnel
230.4 Leave for volunteer firefighters
230.8 Leave to visit child's school
233 Illness of child, parent, spouse, domestic partner or domestic partner's child
234 Absence control policy
246.5 Paid sick days, purposes for use
1500-1507 Civil Air Patrol leave

MILITARY AND VETERANS CODE

395.10 Leave when spouse on leave from military deployment

PENAL CODE

667.5 Violent felony, defined
1192.7 Serious felony, defined

CALIFORNIA CONSTITUTION

Article 1, Section 8 Religious discrimination

UNITED STATES CODE, TITLE 29

2601-2654 Family and Medical Leave Act

UNITED STATES CODE, TITLE 42

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

COURT DECISIONS

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

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

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

Management Resources:

WEB SITES

California Federation of Teachers: <http://www.cft.org>

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

California Teachers Association: <http://www.cta.org>

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

(11/12 12/14) 3/16

Washington Unified School District

Administrative Regulation

Military Leave

AR 4361.5 4161.5, 4261.5

Personnel

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

(cf. 4161/4261/4361 - Leaves)

An employee who needs to be absent from the district to fulfill his/her military service shall provide advance written or verbal notice to the Superintendent or designee, unless the giving of such notice is precluded by military necessity or is otherwise impossible or unreasonable. (38 USC 4312; 20 CFR 1002.85, 1002.86)

Salary/Compensation

An employee shall receive his/her salary or compensation for the first 30 days of any one absence for military leave or during one fiscal year, under any of the following conditions:

1. Active Military Training or Exercises: The employee is granted a temporary military leave of absence to engage in ordered military duty for purposes of active military training, encampment, naval cruises, special exercises, or like activity as a member of the reserve corps or force of the United States Armed Forces, National Guard, or Naval Militia, provided that: (Military and Veterans Code 389, 395, 395.01)

a. He/she has been employed by the district for at least one year immediately prior to the day the military leave begins.

b. The ordered duty does not exceed 180 days, including time involved in going to and returning from such duty.

2. Active Military Duty: The employee is on military leave, other than a temporary military leave, to engage in active military duty as a member of the reserve corps or force of the United States Armed Forces, the National Guard, or the Naval Militia, provided that he/she has been

employed by the district for at least one year immediately prior to the day the military leave begins. (Military and Veterans Code 389, 395.02)

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

4. Inactive Duty Training: The employee is a member of the reserve corps or force of the United States Armed Forces, National Guard, or Naval Militia who is engaged in temporary inactive duty training, provided that he/she has been employed by the district for at least one year immediately prior to the day the military leave begins and the ordered duty does not exceed 180 days, including time involved in going to and returning from such duty.

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

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

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

During the period of military leave, an employee may, upon his/her own request, use any vacation or similar paid leave accrued before the commencement of the military leave. The district shall not require the employee to use such leave. (38 USC 4316; 20 CFR 1002.153)

Benefits

An employee may elect to continue his/her health plan coverage during the military leave. The maximum period of coverage for the employee and his/her dependents shall be either 24 months from the beginning of the leave or until the day after the employee fails to apply for or return to employment, whichever is less. (38 USC 4317; 20 CFR 1002.164)

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

An employee absent for 30 days or fewer shall not be required to pay more than the employee share for such coverage. An employee absent for 31 days or more may be required to pay not more than 102 percent of the full premium under the plan. (38 USC 4317; 20 CFR 1002.166)
Any employee called into active military duty as a member of the California National Guard or a

United States Military Reserve organization shall receive, for up to 180 days, the difference between the amount of his/her military pay and the amount the employee would have received from the district and all benefits that the employee would have received if he/she had not been called to active military duty, unless the benefits are prohibited or limited by vendor contracts.

Vacation and Sick Leave Accrual

An employee on temporary military leave under the conditions described in item #1 Active Military Training or Exercises, in the section entitled "Salary/Compensation" above, shall continue to accrue the same vacation, sick leave, and holiday privileges to which he/she would otherwise be entitled if not absent. (Military and Veterans Code 395)

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

(cf. 4261.1 - Personal Illness/Injury Leave)

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

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

Pension Plan Service Credit

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

Employment Status

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

(cf. 4116 - Probationary/Permanent Status)

Reinstatement Rights

At the conclusion of the military duty, an employee shall be promptly reinstated in the position held at the beginning of the leave, at the salary to which he/she would otherwise have been entitled, except under the conditions noted below. (Education Code 44800; Military and Veterans

Code 395, 395.2; 38 USC 4304, 4313; 20 CFR 1002.180-1002.181)

(cf. 4030 - Nondiscrimination in Employment)

Any employee who performs active military duty in time of war, national emergency, or United Nations military or police operation has a right to return to his/her position within six months of an honorable discharge or placement on inactive duty. Reinstatement rights shall not be extended to any such employee who fails to return within 12 months after the first date upon which he/she could terminate or could cause to be terminated his/her active service. (Education Code 44800; Military and Veterans Code 395.1)

When an employee has been on military leave for reasons other than war or national emergency, the time frame for reinstatement shall depend on the length of military service as follows: (38 USC 4312; 20 CFR 1002.115, 1002.118)

1. For a leave of 30 days or fewer, the employee shall report for duty no later than the beginning of the first full work day following the completion of military service, provided the employee has a period of eight hours to rest following transportation to his/her residence.
2. For a leave of 31-180 days, the employee shall submit a written or verbal application for reinstatement not later than 14 days after the completion of military service.
3. For a leave of more than 180 days, the employee shall submit a written or verbal application for reinstatement within 90 days after the completion of military service.

In cases where reporting within the periods specified in items #1 and #2 above is impossible or unreasonable through no fault of the employee, he/she shall report as soon as possible after the expiration of the period. (38 USC 4312; 20 CFR 1002.115, 1002.117)

An employee who is hospitalized for, or convalescing from, an illness or injury incurred in or aggravated during the performance of military service shall report for duty or submit an application for reinstatement at the end of the period that is necessary to recover from such illness or injury, but no more than two years after the completion of military service unless circumstances beyond the employee's control make reporting within the two-year period impossible or unreasonable. (38 USC 4312; 20 CFR 1002.116)

(cf. 4032 - Reasonable Accommodation)

Upon receiving an application for reinstatement, the Superintendent or designee shall reinstate the employee as soon as practicable under the circumstances of his/her case, but within a time period not to exceed two weeks, absent unusual circumstances. (20 CFR 1002.181)

If the employee's previous position has been abolished, he/she shall be reinstated in a position of like seniority, status, and pay, if such position exists, or to a comparable vacant position for which he/she is qualified. (Military and Veterans Code 395, 395.1; 38 USC 4313; 20 CFR 1002.192)

An employee failing to apply for reinstatement within the appropriate period does not automatically forfeit his/her rights, but shall be subject to the Board's rules governing unexcused absences. (38 USC 4312)

The Superintendent or designee may elect not to reinstate an employee following military leave if any of the following conditions exists:

1. The district's circumstances have so changed as to make such re-employment impossible or unreasonable, such as a reduction in force that would have included the employee. (38 USC 4312; 20 CFR 1002.139)
2. The accommodation, training, or effort described in 38 USC 4313(a)(3), (a)(4), or (b)(2)(B) would impose an undue hardship on the district as defined in 20 CFR 1002.5 or 1002.198. (38 USC 4312; 20 CFR 1002.139)
3. The employee's position was for a brief, nonrecurrent period and there was no reasonable expectation that such employment will continue indefinitely or for a significant period. (38 USC 4312; 20 CFR 1002.139)
4. The employee's cumulative length of absence and length of all previous military leave while employed with the district exceeds five years, excluding those training and service obligations specified in 38 USC 4312(c). (38 USC 4312; 20 CFR 1002.99-1002.103)
5. The employee was separated from military service with a disqualifying discharge or under other than honorable conditions. (Military and Veterans Code 395.1; 20 USC 4304, 4312; 20 CFR 1002.134-1002.138)

Notices

The Superintendent or designee shall provide employees a notice of the rights, benefits, and obligations of employees granted military leave and of the district under the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 USC 4301-4334. (38 USC 4334)

This requirement may be met by posting the notice where the district customarily places notices for employees. (38 USC 4334)

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

Legal Reference:

EDUCATION CODE

22850-22856 Pension benefits, STRS members on military leave

44018 Compensation for employees on active military duty

44800 Effect of active military service on status of employees

45059 Employee ordered to military/naval duty - computation of salary

GOVERNMENT CODE

18540 Definition of armed forces

18540.3 Recognized military service

20990-21013 Pension benefits, PERS members on military leave

MILITARY AND VETERANS CODE

146 Events justifying calling of militia into active service

389 Definitions; temporary military leave

394 Nondiscrimination based on military service

395-395.9 Military leave

UNITED STATES CODE, TITLE 38

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

CODE OF FEDERAL REGULATIONS, TITLE 20

1002.1-1002.314 Uniformed Services Employment and Reemployment Rights Act of 1994

COURT DECISIONS

Wright v. City of Santa Clara (1989) 213 Cal. App.3d 1503

Bowers v. San Buenaventura (1977) 75 Cal. App.3d 65

ATTORNEY GENERAL OPINIONS

77 Ops.Cal.Atty.Gen. 209 (1994)

69 Ops.Cal.Atty.Gen. 185 (1986)

63 Ops.Cal.Atty.Gen. 924 (1978)

19 Ops.Cal.Atty.Gen. 132 (1952)

18 Ops.Cal.Atty.Gen. 178 (1951)

Management Resources:

U.S. DEPARTMENT OF LABOR PUBLICATIONS

A Non-Technical Resource Guide to the Uniformed Services Employment and Reemployment Rights Act (USERRA), rev. April 2005

NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS

The Uniformed Services Employment and Reemployment Rights Act (USERRA), NSBA

Federal File: Guidance on Federal School Law, 2003

WEB SITES

National Committee for Employer Support of the Guard and Reserve: <http://www.esgr.org>

National School Boards Association: <http://www.nsba.org>

U.S. Department of Labor, USERRA: <http://www.dol.gov/vets/programs/userra>

(3/04 3/05) 7/06

Washington Unified School District

Administrative Regulation

Family Care And Medical Leave

AR 4361.8
Personnel

The district shall not deny any eligible employee his/her right to family care, medical, or pregnancy disability leave (PDL) pursuant to the Family and Medical Leave Act (FMLA), the California Family Rights Act (CFRA), or the Fair Employment and Housing Act (FEHA) or restrain or interfere with the employee's exercise of such right. In addition, the district shall not discharge an employee or discriminate or retaliate against him/her for taking such leave or for his/her opposition to or challenge of any unlawful district practice in relation to any of these laws or for his/her involvement in any related inquiry or proceeding. (Government Code 12945, 12945.2; 2 CCR 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 to whom the employee stands in loco parentis, as long as the child is under 18 years of age or an adult dependent child. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611)

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

Employee disabled by pregnancy means a woman who, in the opinion of her health care provider, is: (2 CCR 11035)

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, or to other persons
2. 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

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 the meaning of Family Code 297-297.5.

(Family Code 297, 297.5, 300; 2 CCR 11087; 29 CFR 825.122)

Eligibility

The district shall grant FMLA or CFRA leave to eligible employees for any of the following reasons: (Government Code 12945.2; 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 (baby bonding)
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 covered active duty (or has been notified of an impending call or order to covered active duty)
5. To care for a covered servicemember with a serious injury or illness if the covered servicemember is the employee's spouse, child, parent, or next of kin, as defined

In addition, the district shall grant PDL to any female employee who is disabled by pregnancy, childbirth, or other 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 or CFRA leave during any 12-month period, except in the case of leave to care for a covered servicemember as provided under "Military Caregiver Leave" below. To the extent allowed by law, CFRA and FMLA leaves shall run concurrently. (Government Code 12945.2; 29 USC 2612)

This 12-month period shall be measured forward from the date the employee's first family care and medical leave begins. (29 CFR 825.200)

In addition, for each pregnancy, any female 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 11042)

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 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 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 district, 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; 2 CCR 11088; 29 USC 2612)

Use/Substitution of Paid Leave

An employee shall use his/her accrued vacation leave, other accrued time off, and any other paid time off negotiated with the district for any otherwise unpaid FMLA or CFRA leave not involving his/her own serious health condition. For PDL, CFRA, or FMLA leave due to an employee's own serious health condition, the employee shall use accrued sick leave and may use accrued vacation leave and other paid time off at his/her option. (Government Code 12945, 12945.2; 2 CCR 11044; 29 USC 2612)

The district and 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 Work or 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 work or leave schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. However, the district shall limit leave increments to the shortest period of time that the district's payroll system uses to account for absences or use of leave provided it is not to be greater than one hour. (2 CCR 11042, 11090; 29 USC 2612)

The basic minimum duration of leave for the birth or 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. (2 CCR 11090; 29 USC 2612)

The district may require an employee to transfer temporarily to an available alternative position if the employee is pregnant and provides medical certification from her health care provider of a medical need for intermittent leave or leave on a reduced work or leave schedule or if the employee's need for the intermittent leave or leave on a reduced work or leave schedule is foreseeable based on his/her planned medical treatment or that of a family member. 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. (2 CCR 11041, 11090; 29 USC 2612)

(cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)

Request for Leave

The district 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 district 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 Superintendent 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 district 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 the 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 in circumstances, a medical emergency, or other good cause, the employee shall provide the district with notice as soon as practicable. Failure of an employee to provide required notice may result in a denial of leave. (2 CCR 11050, 11091)

In all instances, the employee shall consult with the Superintendent 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 Superintendent or designee shall request that the employee provide certification by a health care provider of the need for leave. Upon receiving the district's request, the employee shall provide the certification within 15 days, unless either the Superintendent or designee provides additional time or it is not practicable under the particular circumstances, despite the employee's diligent, good faith efforts. (2 CCR 11091; 29 CFR 825.305)

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, such as by providing psychological comfort, arranging for third party care, or directly providing or participating in the medical care 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 district to determine whether the employee's leave request is FMLA/CFRA-eligible, the Superintendent or designee shall notify the employee within five business days whether the leave is FMLA/CFRA-eligible. The Superintendent or designee may also retroactively designate leave as FMLA/CFRA leave as long as appropriate notice is given to the employee and there is no harm or injury to the employee. (2 CCR 11091; 29 CFR 825.301)

If the Superintendent 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 a district-approved health care provider, at district expense. If the second opinion is contrary to the first, the Superintendent 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 district, again at district expense. The opinion of the third health care provider shall be final and binding. (Government Code 12945.2; 2 CCR 11091; 29 USC 2613)

For PDL, the Superintendent 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 Superintendent or designee shall request the medical certification within two business days after the leave commences. The Superintendent or designee may request certification at some later date if he/she has reason to question the appropriateness of the leave or its duration. (2 CCR 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 Superintendent 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. (2 CCR 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. (2 CCR 11050)

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

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 the health care provider that he/she is able to resume work.

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

Rights to Reinstatement

Upon granting an employee's request for PDL or FMLA/CFRA leave, the Superintendent or designee shall guarantee to reinstate the employee in the same or a comparable position when the leave ends. (Government Code 12945.2; 2 CCR 11043, 11089; 29 USC 2614)

However, the district may refuse to reinstate an employee returning from FMLA or CFRA leave to the same or a comparable position if all of the following apply: (Government Code 12945.2; 2

CCR 11089; 29 USC 2614)

1. The employee is a salaried "key employee" who is among the highest paid 10 percent of district employees who are employed within 75 miles of the employee's worksite.
2. The refusal is necessary to prevent substantial and grievous economic injury to district operations.
3. The district informs the employee of its intent to refuse reinstatement at the time it determines that the refusal is necessary, and the employee fails to immediately return to service.

(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 district 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. (2 CCR 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 district 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. (Government Code 12945.2; 2 CCR 11092; 29 USC 2614)

For up to a maximum of four months for PDL and 12 work weeks for other family care and medical leave, the district 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 district for premiums paid during the leave if he/she fails to return to district 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 circumstances beyond his/her control. (Government Code 12945.2; 2 CCR 11044, 11092; 29 USC 2614; 29 CFR 825.213)

(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 would apply to an unpaid leave taken for any other purpose. However, for purposes of pension and retirement plans, the district shall not make plan payments for an employee during any unpaid portion the leave period and the leave period shall not be counted

for purposes of time accrued under the plan. (Government Code 12945.2; 2 CCR 11044, 11092)

Military Family Leave Resulting from Qualifying Exigencies

An eligible employee may take up to 12 work weeks of unpaid FMLA leave, during each 12-month period established by the district in the section entitled "Terms of Leave" above, 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 an 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 of 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 child care or attend school activities arising from the covered active duty or call to covered active duty, such as arranging for alternative child care, 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
6. Spend time (up to 15 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 district agree is a qualifying exigency

The employee shall provide the Superintendent 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 leave for qualifying exigencies shall provide the Superintendent 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 Superintendent 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 district'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 district shall grant an eligible employee up to a total of 26 work weeks of leave during a single 12-month period, measured forward from the first date the leave is taken, to care for a covered servicemember with a serious illness or injury. In order to be eligible for such military caregiver leave, the 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
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 servicemember means the biological, adopted, or foster child, stepchild, legal ward, or a child of any age for whom the covered servicemember stood in loco parentis. (29 CFR 825.127)

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

Next of kin means the nearest blood relative to the covered servicemember, or as designated in writing by the covered servicemember. (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 and was aggravated by the member's service in the line of duty while on 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
 - 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 Superintendent 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 district 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, the district's rule regarding an employee's use of

his/her accrued vacation leave and other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

Notifications

The Superintendent or designee shall provide the following notifications regarding state and federal law related to PDL or FMLA/CFRA leave:

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 district premises, or electronically, and shall be included in employee handbooks. (2 CCR 11049, 11095; 29 USC 2619)

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

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

2. Eligibility Notice: When an employee requests leave, including PDL, or when the Superintendent or designee acquires knowledge that an employee's leave may be for an FMLA/CFRA qualifying reason, the Superintendent or designee shall, within five business days, provide notification to the employee of his/her eligibility to take such leave. (2 CCR 11049, 11091; 29 CFR 825.300)

3. Rights and Responsibilities Notice: Each time the eligibility notice is provided to an employee, the Superintendent 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 applicable: (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 use paid leave, whether the district will require use of paid leave, conditions related to any use of paid leave, 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. The employee's status as a "key employee" if applicable, 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 district 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 Superintendent 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 Superintendent 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. (2 CCR 11091; 29 CFR 825.300)

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)

If the district requires paid leave to be used during an otherwise unpaid family care and medical leave, the notice shall so specify. If the district requires an employee to present a release to return to work certification that addresses the employee's ability to perform the essential functions of the job, the notice shall also specify that requirement. (2 CCR 11091, 11097; 29 CFR 825.300)

Any time the information provided in the designation notice changes, the Superintendent 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 Superintendent or designee shall maintain records pertaining to an individual employee's use of family care and medical leave in accordance with law. (Government Code 12946; 29 USC 2616; 42 USC 2000ff-1; 29 CFR 825.500)

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, childbirth 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

Management Resources:

FEDERAL REGISTER

The Family and Medical Leave Act; Final Rule; February 6, 2013. Vol. 78, No. 25, pages 8903-8947

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>

(3/10 8/13) 7/15

Washington Unified School District

Board Policy

Catastrophic Leave Program

BP 4361.9 4161.9, 4261.9

Personnel

When a catastrophic illness or injury incapacitates an employee or a member of his/her family for an extended period of time and the employee has exhausted all paid leaves of absence, other employees may donate accrued vacation and/or sick leave credits to that employee under the specific requirements of the district's catastrophic leave program.

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

(cf. 4161/4261/4361 - Leaves)

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

(cf. 4261.1 - Personal Illness/Injury Leave)

Legal Reference:

EDUCATION CODE

44043.5 Catastrophic leave

(3/92) 10/98

Washington Unified School District

Administrative Regulation

Catastrophic Leave Program

AR 4361.9 4161.9, 4261.9

Personnel

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 vacation or sick leave credits. (Education Code 44043.5)

In making such a request, the employee shall provide verification of the catastrophic injury or illness. (Education Code 44043.5)

Verification 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 10 days.

All transfers of eligible leave credit shall be irrevocable. (Education Code 44043.5)

The Superintendent 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 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