

CONCEPTS AND ROLES

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

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

(cf. 4131 - Staff Development)
(cf. 4141/4241 - Collective Bargaining Agreement)
(cf. 4143/4243 - Negotiations/Consultation)
(cf. 4144/4244/4344 - Complaints)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)
(cf. 9000 - Role of the Board)

The Superintendent has primary responsibility for overseeing the County Office's personnel system. To support this effort, the County Superintendent shall approve a framework for sound hiring practices. Designated staff shall nominate all personnel for employment, and the County Board shall approve only those persons so recommended.

(cf. 4030 - Nondiscrimination in Employment)
(cf. 4111 - Recruitment and Selection)
(cf. 4211 - Recruitment and Selection)
(cf. 4311 - Recruitment and Selection)

The County Superintendent or designee shall assign and supervise the work of all employees and shall evaluate their work in accordance with effective accountability systems approved by the County Board.

(cf. 4115 - Evaluation/Supervision)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4215 - Evaluation/Supervision)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
(cf. 4315 - Evaluation/Supervision)

CONCEPTS AND ROLES (continued)

The County Superintendent recognizes that every employee has a stake in the County Office's successful operation. The County Superintendent encourages all County Office employees to express their ideas, concerns and proposals related to the improvement of working conditions and the total educational program.

Legal Reference:

EDUCATION CODE

1040-1047 Duties and responsibilities of county boards

1290-1302 Staff county offices

1310-1319 Classified county school employees

1700-1940 County school service fund programs and services

35020 Duties of employees fixed by governing board

35035 Powers and duties of superintendent

35160 Powers of governing board

GOVERNMENT CODE

3540-3549.3 Public education employer-employee relations

DRUG AND ALCOHOL-FREE WORKPLACE

The Tuolumne County Superintendent of Schools believes that the maintenance of drug- and alcohol-free workplaces is essential to school/program site and County Office operations.

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

(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)

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

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

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

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

(cf. 4112 - Appointment and Conditions of Employment)

(cf. 4212 - Appointment and Conditions of Employment)

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

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

DRUG AND ALCOHOL-FREE WORKPLACE (continued)

(cf. 4117.4 - Dismissal)

(cf. 4118 - Suspension/Disciplinary Action)

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

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

1. The dangers of drug and alcohol abuse in the workplace
2. The County Office policy of maintaining drug- and alcohol-free workplaces
3. Any available drug and alcohol counseling, rehabilitation, and employee assistance programs

(cf. 4159/4259/4359 - Employee Assistance Programs)

4. The penalties that may be imposed on employees for drug and alcohol abuse violations

Legal Reference:

EDUCATION CODE

44011 *Controlled substance offense*

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

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

44940 *Compulsory leave of absence for certificated persons*

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

45123 *Employment after conviction of controlled substance offense*

45304 *Compulsory leave of absence for classified persons*

GOVERNMENT CODE

8350-8357 *Drug-free workplace*

UNITED STATES CODE, TITLE 20

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

UNITED STATES CODE, TITLE 21

812 *Schedule of controlled substances*

UNITED STATES CODE, TITLE 41

701-707 *Drug-Free Workplace Act*

CODE OF FEDERAL REGULATIONS, TITLE 21

1308.01-1308.49 *Schedule of controlled substances*

NONDISCRIMINATION IN EMPLOYMENT

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

(cf. 4031 - Complaints Concerning Discrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

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

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

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

(cf. 4117.4 - Dismissal)

(cf. 4118 - Suspension/Disciplinary Action)

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

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

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

The County Office's policy and administrative regulation shall be posted in all school/program sites and offices including staff lounges and student government meeting rooms. (5 CCR 4960)

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

Director of Human Resources
175 S. Fairview Lane
Sonora, CA 95370
209-536-2011

NONDISCRIMINATION IN EMPLOYMENT (continued)

Other Remedies

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

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

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

Legal Reference: (see next page)

NONDISCRIMINATION IN EMPLOYMENT (continued)

Legal Reference:

CIVIL CODE

51.7 *Freedom from violence or intimidation*

GOVERNMENT CODE

11135 *Unlawful discrimination*

12900-12996 *Fair Employment and Housing Act*

PENAL CODE

422.56 *Definitions, hate crimes*

CODE OF REGULATIONS, TITLE 2

7287.6 *Terms, conditions and privileges of employment*

CODE OF REGULATIONS, TITLE 5

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

UNITED STATES CODE, TITLE 20

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

UNITED STATES CODE, TITLE 29

794 *Section 504 of the Rehabilitation Act of 1973*

UNITED STATES CODE, TITLE 42

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

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

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

12101-12213 *Americans with Disabilities Act*

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 *Americans with Disabilities Act*

CODE OF FEDERAL REGULATIONS, TITLE 34

100.6 *Compliance information*

104.8 *Notice*

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

106.9 *Dissemination of policy*

COURT DECISIONS

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

Shepard v. Loyola Marymount (2002) 102 CalApp.4th 837

Management Resources:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

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

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

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

Notice of Non-Discrimination, January, 1999

WEB SITES

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

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

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

NONDISCRIMINATION IN EMPLOYMENT

Unlawful discrimination or harassment of an individual includes:

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

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

(cf. 4031 - Complaints Concerning Discrimination in Employment)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

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

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

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT

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

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

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

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

1. The complaint should be initiated promptly after a complainant knew, or should have known, of the alleged discrimination.
2. All parties involved in allegations of discrimination shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made. The parties also shall be notified of their right to appeal the decision to the next level.
3. When a complaint is brought against the individual responsible for the complaint process at any level, the complainant may address the complaint directly to the next appropriate level.
4. Meetings related to a complaint shall be held at times the County Office determines appropriate to the circumstances.
5. For the protection of all the parties involved, complaint proceedings shall be kept confidential insofar as appropriate.
6. All documents, communications and records dealing with the investigation of the complaint shall be placed in a confidential County Office personnel complaint file and not in the employee's individual personnel file.

(cf. 1340 - Access to District Records)

(cf. 3580 - District Records)

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

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

7. Time limits specified in these procedures may be revised only by written agreement of all parties involved. If the County Office fails to respond within a specified or adjusted time limit, a complainant may proceed to the next level. If a complainant fails to take the complaint to the next step within the prescribed time, the complaint shall be considered settled at the preceding step.

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT (continued)

Level I

The complainant shall first meet informally with his/her supervisor or the administrator of the school/program site where the alleged discriminatory act occurred. A complaint regarding discrimination away from the school/program site should be discussed informally with the complainant's supervisor. If the complainant's concerns are not clear or cannot be resolved through informal discussion, the supervisor or other administrator shall prepare, within 10 working days, a written summary of his/her meeting(s) with the complainant. This report shall be made available to the nondiscrimination coordinator (coordinator) designated by the Tuolumne County Superintendent in BP 4030 - Nondiscrimination in Employment.

Level II

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

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

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

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT (continued)

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

Level III

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

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

Other Remedies

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

Legal Reference: (see next page)

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT (continued)

Legal Reference:

EDUCATION CODE

200-262.4 *Prohibition of discrimination*

GOVERNMENT CODE

12920-12921 *Nondiscrimination*

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

UNITED STATES CODE, TITLE 29

621-634 *Age Discrimination in Employment Act*

794 *Section 504 of the Rehabilitation Act of 1973*

UNITED STATES CODE, TITLE 42

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

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

2001h-2-2001h-6 *Title IX, 1972 Education Act Amendments*

12101-12213 *Americans with Disabilities Act*

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 *Americans with Disabilities Act*

Management Resources:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

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

OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

Protecting Students from Harassment and Hate Crime, January, 1999

WEB SITES

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

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

REASONABLE ACCOMMODATION

Definitions

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

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

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

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

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

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

Qualified individual with a disability means an individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the employment position and who, with or without reasonable accommodation, can perform the essential functions of such position. (29 CFR 1630.2)

REASONABLE ACCOMMODATION (continued)

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

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

Requests for Reasonable Accommodation

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

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4031 - Complaints Concerning Discrimination in Employment)

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

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

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

REASONABLE ACCOMMODATION (continued)

When the disability and/or the need for accommodation is not obvious, the coordinator may ask the employee to supply reasonable documentation about his/her disability. In requesting this documentation, the coordinator shall specify the types of information that are being sought about the employee's condition, the employee's functional limitations and the need for reasonable accommodation. The employee may be asked to sign a limited release allowing the County Office to submit a list of specific questions to the health care or vocational professional.

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

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

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

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

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

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

REASONABLE ACCOMMODATION (continued)

Reasonable Accommodation Committee

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

1. A County Office administrator
2. A site administrator
3. A medical advisor or rehabilitation specialist
4. A certificated employee
5. A classified employee
6. County Office legal counsel

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

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

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

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

Appeal Process

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

REASONABLE ACCOMMODATION (continued)

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

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

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

Legal Reference:

CIVIL CODE

51 Unruh Civil Rights Act

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act

UNITED STATES CODE, TITLE 29

701-794e Vocational Rehabilitation Act

UNITED STATES CODE, TITLE 42

12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act, especially:

35.107 Designation of employee

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

CODE OF FEDERAL REGULATIONS, TITLE 29

1630.2 Direct threat

COURT DECISIONS

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

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

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

Management Resources:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

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

WEB SITES

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

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

EMPLOYEE USE OF TECHNOLOGY

The Tuolumne County Superintendent of Schools Office recognizes that technological resources can enhance employee performance by offering effective tools to assist in providing a quality instructional program, facilitating communications with parents/guardians, students, and the community, supporting County Office and school/program site operations, and improving access to and exchange of information. The County Board expects all employees to learn to use the available technological resources that will assist them in the performance of their job responsibilities. As needed, employees shall receive professional development in the appropriate use of these resources.

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

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

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

Employees shall be notified that computer files and electronic communications, including email and voice mail, are not private. Technological resources shall not be used to transmit confidential information about students, employees, or County Office operations without authority.

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

Online/Internet Services

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

To ensure proper use, the County Superintendent or designee may monitor employee usage of technological resources, including the accessing of email and stored files. Monitoring may occur at any time without advance notice or consent. When passwords are used, they must be known to the County Superintendent or designee so that he/she may have system access.

EMPLOYEE USE OF TECHNOLOGY (continued)

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

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

The County Superintendent or designee shall provide copies of related policies, regulations, and guidelines to all employees who use the County Office's technological resources. Employees shall be required to acknowledge in writing that they have read and understood the County Office's Acceptable Use Agreement.

In the event that the use of an electronic resource affects the working conditions of one or more employees, the Superintendent or designee shall notify the employees' exclusive representative.

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

Use of Cellular Phone or Mobile Communications Device

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

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

(cf. 3513.1 - Cellular Phone Reimbursement)
(cf. 3542 - School Bus Drivers)
(cf. 4156.3/4256.3/4356.3 - Employee Property Reimbursement)

Legal Reference: (see next page)

EMPLOYEE USE OF TECHNOLOGY (continued)

Legal Reference:

EDUCATION CODE

51870-51874 *Education technology*

52270-52272 *Education technology and professional development grants*

52295.10-52295.55 *Implementation of Enhancing Education Through Technology grant program*

GOVERNMENT CODE

3543.1 *Rights of employee organizations*

PENAL CODE

502 *Computer crimes, remedies*

632 *Eavesdropping on or recording confidential communications*

VEHICLE CODE

23123 *Wireless telephones in vehicles*

23125 *Wireless telephones in school buses*

UNITED STATES CODE, TITLE 20

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

6777 *Internet safety*

UNITED STATES CODE, TITLE 47

254 *Universal service discounts (E-rate)*

CODE OF FEDERAL REGULATIONS, TITLE 47

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

Management Resources:

WEB SITES

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

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

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

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

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

EMPLOYEE USE OF TECHNOLOGY

On-Line/Internet Services: User Obligations and Responsibilities

Employees are authorized to use Tuolumne County Superintendent of Schools Office equipment to access the Internet or on-line services in accordance with County Office policy and the user obligations and responsibilities specified below.

1. The employee in whose name an on-line services account is issued is responsible for its proper use at all times. Employees shall keep account information, home addresses and telephone numbers private. They shall use the system only under their own account number.

2. Employees shall use the system responsibly and primarily for work-related purposes.

(cf. 6162.7 - Use of Technology in Instruction)

3. Employees shall not access, post, submit, publish or display harmful or inappropriate matter that is threatening, obscene, disruptive or sexually explicit, or that could be construed as harassment or disparagement of others based on their race/ethnicity, national origin, gender, sexual orientation, age, disability, religion or political beliefs.

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4031 - Complaints Concerning Discrimination in Employment)

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

4. Employees shall not intentionally upload, download or create computer viruses and/or maliciously attempt to harm or destroy County Office equipment or materials or the data of any other user, including so-called "hacking."

5. Employees shall not read other users' electronic mail or files. They shall not attempt to interfere with other users' ability to send or receive electronic mail, nor shall they attempt to read, delete, copy, modify or forge other users' mail.

6. Users shall report any security problem or misuse of the services to the Superintendent or designee.

(cf. 6163.4 - Student Use of Technology)

7. Employees shall be required to read and sign an Acknowledgement of Acceptable Use Agreement at the time of hire.

CERTIFICATED PERSONNEL

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

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

(cf. 4115 - Evaluation/Supervision)
(cf. 4141/4241 - Collective Bargaining Agreement)

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

(cf. 4131 - Staff Development)

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

Legal Reference:

EDUCATION CODE

90 *Definition, certificated and certified*

1700-1940 *County school service fund programs and services*

90 *Definition, certificated and certified*

44006 *Certificated person*

44490-44497 *Mentor teacher program*

GOVERNMENT CODE

3543.2 *Scope of representation*

All Personnel

BP 4111(a)

4211

RECRUITMENT AND SELECTION

4311

The Tuolumne County Superintendent of Schools Office desires to employ the most highly qualified and appropriate person available for each open position in order to improve student achievement and efficiency in County Office operations.

(cf. 4000 - Concepts and Roles)

(cf. 4100 - Certificated Personnel)

(cf. 4200 - Classified Personnel)

(cf. 4300 - Management, Supervisory and Confidential Personnel)

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

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

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

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

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4031 - Complaints Concerning Discrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

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

For each position, the interview committee shall present to the County Superintendent one candidate who meets all qualifications established for the position. The final employment decision rests with the County Superintendent.

(cf. 4112 - Appointment and Conditions of Employment)

(cf. 4112.2 - Certification)

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

(cf. 4212 - Appointment and Conditions of Employment)

(cf. 4312.1 - Contracts)

Legal Reference: (see next page)

RECRUITMENT AND SELECTION (continued)

Legal Reference:

EDUCATION CODE

200-262.4 *Prohibition of discrimination on the basis of sex*
44066 *Limitations on certification requirement*
44259 *Teaching credential; exception; designated subjects; minimum requirements*
44735 *Incentive grants for recruiting teachers for low-performing schools*
44740-44741 *Personnel Management Assistance Teams*
44750-44754.5 *Regional teacher recruitment centers*
44830-44831 *Employment of certificated persons*
44858 *Age or marital status in certificated positions*
44859 *Prohibition against certain rules and regulations re residency*
45103-45138 *Employment (classified employees)*
49406 *Examination for tuberculosis*
52051 *Academic Performance Index*

GOVERNMENT CODE

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

UNITED STATES CODE, TITLE 8

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

UNITED STATES CODE, TITLE 42

2000d-2000d-7 *Title VI, Civil Rights Act of 1964*
2000e-2000e-17 *Title VII, Civil Rights Act of 1964 as amended*
2000h-2-2000h-6 *Title IX, 1972 Education Act Amendments*
12101-12213 *Americans with Disabilities Act*

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 *Americans with Disabilities Act*

Management Resources:

CSBA PUBLICATIONS

Maximizing School Board Leadership: Human Resources, 1996

WEB SITES

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

All Personnel

BP 4111.2

4211.2

LEGAL STATUS REQUIREMENT

4311.2

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

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

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4111 - Recruitment and Selection)

(cf. 4211 - Recruitment and Selection)

(cf. 4311 - Recruitment and Selection)

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

Legal Reference:

UNITED STATES CODE, TITLE 8

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

CODE OF FEDERAL REGULATIONS, TITLE 8

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

Management Resources:

WEB SITES

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

All Personnel

AR 4111.2

4211.2

LEGAL STATUS REQUIREMENT

4311.2

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

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

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

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

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

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

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

CONTRACTS

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

(cf. 4121 - Temporary/Substitute Personnel)

Employee Notification

By May 15 of each year, each classroom teacher shall notify the Tuolumne County Superintendent of Schools or designee of his/her intent to return to a teaching position for the next school year. (Education Code 44832)

An employee on leave of absence shall notify the County Office no later than May 15 of each year of his/her intent to remain in service the following year in accordance with law, County Office policy and administrative regulation.

(cf. 4161/4261 - Leaves)

Legal Reference:

EDUCATION CODE

44832 Teachers; notice of intent to return

44842 Failure to provide notice or to report to work

44843 Notice of employment (to county superintendent)

44916 Time of classification; statement of employment status

44929.20 Continuing contract-districts w/less than 250 ADA

44955 Reduction in number of employees

CERTIFICATION

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

- (cf. 4111 - Recruitment and Selection)*
- (cf. 4112.21 - Interns)*
- (cf. 4112.22 - Staff Teaching Students of Limited English Proficiency)*
- (cf. 4112.23 - Special Education Staff)*
- (cf. 4113 - Assignment)*
- (cf. 4116 - Probationary/Permanent Status)*
- (cf. 4121 - Temporary/Substitute Personnel)*
- (cf. 4131.1 – Beginning Teacher Support/Induction)*
- (cf. 5148 - Child Care and Development)*

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

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

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

National Board for Professional Teaching Standards Certification

The Tuolumne County Superintendent of Schools Office encourages County Office teachers to voluntarily seek additional certification from the National Board for Professional Teaching Standards which demonstrates advanced knowledge and teaching skills.

Legal Reference: (see next page)

CERTIFICATION (continued)

Legal Reference:

EDUCATION CODE

8360-8370 *Qualifications of child care personnel*
32340-32341 *Unlawful issuance of a credential*
35186 *Complaints regarding teacher vacancy or misassignment*
41520-41522 *Teacher Credentialing Block Grant*
42647 *Drawing of warrants*
44066 *Limitations on certification requirements*
44200-44405 *Teacher credentialing, especially:*
44225.6 *CTC annual report on availability of teachers*
44251 *Period of credentials*
44252 *Standards and procedures for issuance; proficiency testing of basic skills*
44252.5 *State basic skills assessment required for certificated personnel*
44258.9 *Monitoring of teacher assignments by county superintendent*
44259 *Minimum requirements for teaching credential*
44259.5 *Standards for teachers of all students, including English language learners*
44270.3-44270.4 *Out-of-state credentials, administrative services*
44274.2-44274.4 *Out-of-state credentials*
44277 *Requirements for maintaining valid credentials*
44279.1-44279.7 *Beginning Teacher Support and Assessment Program (BTSA)*
44320.2 *Teachers Performance Assessment*
44325-44329 *District interns*
44330-44355 *Certificates and credentials*
44395-44399 *National Board for Professional Teaching Standards*
44464 *Period of validity of internship credential*
44468 *Early completion of internship program*
44500-44508 *Peer Assistance and Review Program for Teachers*
44662 *Performance evaluation; Stull Act review*
44735 *Teaching as a priority block grant*
44830-44929 *Employment of certificated persons; requirement of proficiency in basic skills*
56060-56063 *Substitute teachers in special education*

90530 *Recruitment Centers*

CODE OF REGULATIONS, TITLE 5

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

UNITED STATES CODE, TITLE 20

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

CODE OF FEDERAL REGULATIONS, TITLE 34

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

COURT DECISIONS

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

Management Resources: (see next page)

CERTIFICATION (continued)

Management Resources:

CSBA POLICY ADVISORIES

Teacher Credentialing Commission Eliminates Emergency Permits, August 2003

COMMISSION ON TEACHER CREDENTIALING CODED CORRESPONDENCE

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

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

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

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

California Standards for the Teaching Profession, July 1997

U.S. DEPARTMENT OF EDUCATION GUIDANCE

Improving Teacher Quality State Grants, December 19, 2002

WEB SITES

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

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

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

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

CERTIFICATION

Registration

Each person employed by the Tuolumne County Superintendent of Schools Office for a position requiring certification qualifications shall, within 30 days after beginning employment, register with the County Office a valid credential authorizing the person to work in that position. Certificated employees also shall register renewed credentials within 30 days after the renewal.

Basic Skills Proficiency Test

Prior to being hired, all certificated persons, whether hired on a permanent, temporary, or substitute basis, shall pass a basic skills proficiency test in reading, writing, and mathematics, unless specifically exempted from this requirement by law or by fulfilling an alternative indicator of basic proficiency authorized by law. (Education Code 44252, 44252.6, 44830)

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

(cf. 4121 - Temporary/Substitute Personnel)

Out-of-State/Country Credentials

The County Office may employ an out-of-state applicant who has met the requirements for a preliminary or professional clear credential from the Commission on Teacher Credentialing (CTC) pursuant to Education Code 44252, 44274.2, and 44275.4.

(cf. 4112.5/4312.5 - Criminal Record Check)
(cf. 4131.1 - Beginning Teacher Support/Induction)

Short-Term and Provisional Internship Permits

Whenever there is a need to fill a classroom immediately based on an unforeseen need, the County Office may request that the CTC issue a short-term staff permit to an applicant who meets the qualifications specified in 5 CCR 80021.

The County Office may request that the CTC issue a provisional internship permit to an applicant who meets the qualifications specified in 5 CCR 80021.1 whenever a suitable credentialed teacher cannot be found after a diligent search.

Holders of either of the above permits shall be authorized to provide the same service as a holder of a teaching credential. (5 CCR 80021, 80021.1)

CERTIFICATION (continued)

Emergency Substitute Teaching Permits

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

1. A person with a 30-day emergency substitute permit shall not serve as a substitute for more than 30 days for any one teacher during the school/program site year. (5 CCR 80025)
2. A person with an emergency career substitute teaching permit shall not serve as a substitute for more than 60 days for any one teacher during the school year. (5 CCR 80025.1)
3. A person with an emergency substitute permit for prospective teachers shall not serve as a substitute for more than 30 days for any one teacher during the school/program site year and not more than 90 days total during the school year. (5 CCR 80025.2)
4. A person authorized for day-to-day substitute teaching shall not serve as a special education substitute for more than 20 days for any one teacher during the school year. (5 CCR 80025.4)

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

INTERNS

The Tuolumne County Superintendent of Schools Office may employ interns to fulfill the County Office's need for additional instructional resources and to assist future teachers in meeting state credentialing requirements by linking teaching theory with practice. The Tuolumne County Superintendent of Schools or designee shall ensure that such persons possess appropriate internship credentials from the Commission on Teacher Credentialing (CTC).

(cf. 4112.2 - Certification)

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

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

(cf. 4113 - Assignment)

Any intern hired to teach core academic subjects, as defined in law, shall be required to meet the definition of a "highly qualified" teacher adopted by the State Board of Education. (20 USC 6319, 7801; 5 CCR 6100-6112)

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

Terms of employment for interns shall be consistent with law and the County Office's collective bargaining agreement, as applicable.

(cf. 4116 - Probationary/Permanent Status)

Interns shall receive support and assistance to enhance their instructional skills and knowledge, and may be assigned a mentor teacher, when state funding is available for the mentor teacher program, at the school/program site where the intern is employed.

(cf. 4131 - Staff Development)

(cf. 4131.1 - Beginning Teacher Support/Induction)

(cf. 4138 - Mentor Teachers)

Interns shall be provided with ongoing feedback regarding their performance and shall be formally evaluated at least once every year in accordance with County Board policy and the County Office's collective bargaining agreement.

(cf. 4115 - Evaluation/Supervision)

Legal Reference: (see next page)

INTERNS (continued)

Legal Reference:

EDUCATION CODE

300-340 English language education for immigrant children
44253.3-44253.4 Certificate to provide services to limited-English-proficient students
44253.10 Qualifications to provide specially designed academic instruction in English to limited-English-proficient students
44259 Minimum requirements for teaching credential
44279.1-44279.7 Beginning Teacher Support and Assessment System
44314 Diversified or liberal arts program
44321 CTC approval of internship programs
44325-44329 District interns
44380-44386 Alternative certification
44387 Increased funding for internship programs
44450-44468 Teacher Education Internship Act of 1967 (university interns)
44560-44562 Certificated Staff Mentoring Program
44830.3 Employing district interns
44885.5 District interns classified as probationary employees
52055.605 Identification of high priority schools, High Priority Schools Grant Program

CODE OF REGULATIONS, TITLE 5

6100-6126 No Child Left Behind teacher requirements
13000-13017 New Careers Program
80021.1 Provisional internship permit
80055 Internship credential

UNITED STATES CODE, TITLE 20

6319 Highly qualified teachers
7801 Definitions, highly qualified teacher

Management Resources:

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

CTC Credential Handbook, revised 1997

California Standards for the Teaching Profession, 1997

Standards of Program Quality and Effectiveness for District Intern Programs, revised 1996

U.S. DEPARTMENT OF EDUCATION GUIDANCE

Improving Teacher Quality State Grants, revised January 16, 2004

WEB SITES

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

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

STAFF TEACHING STUDENTS OF LIMITED ENGLISH PROFICIENCY

Definitions

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

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

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

Teacher Qualifications

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

(cf. 4112.2 - Certification)

(cf. 4112.21 - Interns)

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

(cf. 4113 - Assignment)

(cf. 4131 - Staff Development)

(cf. 4222 - Teacher Aides/Paraprofessionals)

(cf. 6174 - Education for English Language Learners)

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

Legal Reference: (see next page)

STAFF TEACHING STUDENTS OF LIMITED ENGLISH PROFICIENCY
(continued)

Legal Reference:

EDUCATION CODE

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

CODE OF REGULATIONS, TITLE 5

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

UNITED STATES CODE, TITLE 20

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

CODE OF FEDERAL REGULATIONS, TITLE 34

200.55-200.57 Highly qualified teachers

COURT DECISIONS

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

Management Resources:

CDE PROGRAM ADVISORIES

0300.97 Programs for English learners

CTC PUBLICATIONS

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

CL-622 Serving English Learners, February 2004

CTC CODED CORRESPONDENCE

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

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

U.S. DEPARTMENT OF EDUCATION GUIDANCE

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

WEB SITES

California Association for Bilingual Education: <http://www.bilingualeducation.org>
California Department of Education, English Learners: <http://www.cde.ca.gov/sp/el>
California Teachers of English to Speakers of Other Languages: <http://www.catesol.org>
Commission on Teacher Credentialing: <http://www.ctc.ca.gov>
U.S. Department of Education: <http://www.ed.gov>

All Personnel

AR 4112.3(a)
4212.3
4312.3

OATH OR AFFIRMATION

All Tuolumne County Superintendent of Schools Office 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 County Office. 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 County Office 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 Tuolumne County Superintendent of Schools 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/program administrator or other person authorized in Education Code 60 shall administer the oath or affirmation when a County Office employee is hired.

In the case of intermittent, temporary, emergency or successive employments, the County 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 County 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 County Superintendent or designee shall ascertain and certify that the employee has taken the oath or affirmation. (Government Code 3107)

Legal Reference: (see next page)

AR 4112.3(b)
4212.3
4313.3

OATH OR AFFIRMATION (continued)

Legal Reference:

EDUCATION CODE

60 Persons authorized to administer and certify oaths

44334 Oath or affirmation required for credential

44354 Administration of oath required for credential

GOVERNMENT CODE

3100-3109 Oath or affirmation of allegiance

CALIFORNIA CONSTITUTION

Article 20, Section 3 Oath of office

COURT DECISIONS

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

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

All Personnel

E 4112.3

4212.3

OATH OR AFFIRMATION

4312.3

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)

All Personnel

AR 4112.4(a)

4212.4

HEALTH EXAMINATIONS

4312.4

Tuberculosis Tests

No applicant shall be initially employed in a classified or certificated position unless he/she has submitted to an intradermal or other tuberculin test licensed by the Food and Drug Administration within the past 60 days and, if that test was positive, has subsequently obtained an X-ray of the lungs. The applicant shall submit to the district a certificate signed by the examining licensed physician indicating that he/she is free of active tuberculosis. (Education Code 49406; 5 CCR 5503)

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

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

Once hired by the Tuolumne County Superintendent of Schools Office, employees who test negative on the initial intradermal or other tuberculin test shall undergo a tuberculosis examination at least once every four years, or more often if so directed by the County Office upon recommendation of the county health officer, for as long as the employee's test remains negative. An employee with a documented positive test for tuberculosis infection shall no longer be required to submit to the examination and shall be referred to the county health officer within 30 days of the examination to determine the need for follow-up care. (Education Code 49406)

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

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

The Tuolumne County Superintendent of Schools or designee may exempt from the tuberculosis testing requirement classified employees who are employed for less than a school/program site year if their functions do not require frequent or prolonged contact with students. (Education Code 49406)

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

HEALTH EXAMINATIONS (continued)

Medical Certification for Communicable Diseases for Certificated Employees

When a new employee in a position requiring certification has not previously been employed in such a position in California or a retirant has not previously been employed as a retirant, he/she shall have a medical certificate on file with the County Office stating that he/she is free from any disabling disease which would render him/her unfit to instruct or associate with children. The certificate shall be completed by a licensed physician and returned to the County Office by the physician. The medical examination referred to in the certificate must have been conducted within six months of the time when the certificate is filed. (Education Code 44839, 44839.5; 5 CCR 5503)

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

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

The County Board may require a certificated employee or retirant to undergo a periodic medical examination by a physician to determine that the employee is free from any communicable disease making him/her unfit to instruct or associate with children. This periodic medical examination shall be at district expense. (Education Code 44839, 44839.5)

Mental Examination for Certificated Employees

A certificated employee may be suspended or transferred to other duties if the County Board has reasonable cause to believe that the employee is suffering from mental illness of such a degree as to render him/her incompetent to perform his/her duties. In such a case, the district shall follow the process specified in Education Code 44942 and the district's collective bargaining agreement, including the opportunity for the employee to be examined by a panel of psychiatrists or psychologists.

(cf. 4032 - Reasonable Accommodation)

(cf. 4118 - Suspension/Disciplinary Action)

Legal Reference: (see next page)

AR 4112.4(c)
4212.4
4312.4

HEALTH EXAMINATIONS (continued)

Legal Reference:

EDUCATION CODE

44839 *Medical certificate; periodic medical examination*

44839.5 *Requirements for employment of retirant*

44932 *Grounds for dismissal of permanent employee*

44942 *Suspension or transfer of certificated employee on ground of mental illness, psychiatric examination; mandatory sick leave*

45122 *Physical examinations*

49406 *Examination for tuberculosis*

CODE OF REGULATIONS, TITLE 5

5502 *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

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>

All Personnel

BP 4112.42(a)
4212.42
4312.42

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS

The Tuolumne County Superintendent of Schools Office desires to ensure that County Office-provided transportation is safe for students, staff, and the public. To that end, the Tuolumne County Superintendent of Schools or designee establish a drug and alcohol testing program for all County Office drivers and other employees who hold a commercial driver's license and/or transport students in a County Office owned vehicle which is necessary to perform duties related to their employment with the County Office. This program shall be designed to fulfill the requirements of state and federal law.

(cf. 3540 - Transportation)
(cf. 3543 - Transportation Safety and Emergencies)

The County Office testing program 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)

The County Superintendent or designee shall contract for testing services and shall ensure that testing contractors and procedures are certified by the U.S. Department of Health and Human Services to conduct drug specimen analysis and to conform to the requirements of federal law.

(cf. 3542 - School Bus Drivers)
(cf. 4020 - Drug and Alcohol-Free Workplace)

No driver may operate a County Office vehicle when his/her blood alcohol content is found to be .01 percent or greater. A driver shall not consume alcohol while on duty or for four hours prior to on-duty time and up to eight hours following an accident or until he/she undergoes a post-accident test, whichever occurs first. A driver shall not report for duty or remain on duty that requires performing safety-sensitive functions when the driver uses a controlled substance, unless so instructed by a physician. (49 CFR 382.205, 382.207, 382.209; Vehicle Code 34520.3; 13 CCR 1213.1)

Any driver who tests positive for alcohol or drugs or who refuses to submit to a test shall be removed from safety-sensitive functions and may be subject to disciplinary action up to and including dismissal in accordance with law, administrative regulations, and the County Office collective bargaining agreement.

(cf. 4117.4 - Dismissal)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

The County Superintendent or designee shall ensure that each driver receives an explanation of the federal regulations and the County Office policy and procedure in accordance with law. In addition, each driver shall sign a statement certifying that he/she has received a copy of the above materials. Representatives of employee organizations shall be notified of the availability of this information. (49 CFR 382.601)

BP 4112.42(b)
4212.42
4312.42

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

(cf. 4112.9 - Employee Notifications)

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

VEHICLE CODE

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 49

31306 Alcohol and controlled substances testing

41501-41507 Transportation Employee Testing Act

CODE OF FEDERAL REGULATIONS, TITLE 49

40.1-40.413 Part 40, Procedures for transportation workplace drug and alcohol testing programs

382.101-382.605 Controlled substance and alcohol use and testing; especially:

382.205 On-duty use

382.207 Pre-duty use

382.209 Use following an accident

Management Resources:

WEB SITES

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

U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance:

<http://www.dot.gov/ost/dapc>

Certificated Personnel

AR 4112.5(a)
4312.5

CRIMINAL RECORD CHECK

Applicants for Employment

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

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

(cf. 4112 - Appointment and Conditions of Employment)

(cf. 4112.2 - Certification)

However, a certificated employee may be hired by the County Office, without obtaining a criminal record summary, if that employee became a permanent employee of another school district as of October 1, 1997. (Education Code 44830.1)

(cf. 4121 - Temporary/Substitute Personnel)

Temporary Certificate of Clearance

Before issuing a temporary certificate of clearance to an applicant whose credential is being processed, the County Superintendent or designee shall obtain a criminal record summary from the Department of Justice. The County Superintendent or designee shall not issue a temporary certificate of clearance if the applicant has been convicted of a violent or serious felony, unless the applicant has obtained a certificate of rehabilitation and pardon. (Education Code 44332, 44332.5, 44332.6)

The County Superintendent or designee may issue a temporary certificate of clearance without obtaining a criminal record summary to an employee currently and continuously employed by a district within the county who is serving under a valid credential and has applied for a renewal of that credential or for an additional credential. (Education Code 44332.6)

The County Superintendent or designee may issue a temporary certificate of clearance to a person who has been convicted of a serious felony that is not also a violent felony, if that person can prove to the sentencing court of the offense in question, by clear and convincing evidence, that he/she has been rehabilitated for the purposes of school employment for at least one year. (Education Code 44332.6)

CRIMINAL RECORD CHECK (continued)

Subsequent Arrest Notification

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

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

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

Current Employees

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

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

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

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

Legal Reference: (see next page)

CRIMINAL RECORD CHECK (continued)

Legal Reference:

EDUCATION CODE

44010 Sex offense

44332 Temporary certificate

44332.5 Registering certificates by certain districts

44332.6 Criminal record check, county board of education

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

44830.1 Certificated employees, conviction of a violent or serious felony

44830.2 Certificated employees; interagency agreement

44836 Conviction of a sex offense

45122.1 Classified employees, conviction of a violent or serious felony

45125 Use of personal identification cards to ascertain conviction of crime

45125.01 Classified employees; interagency agreements

45125.5 Automated records check

45126 Duty of Department of Justice to furnish information

PENAL CODE

667.5 Prior prison terms, enhancement of prison terms

1192.7 Plea bargaining limitation

11105.2 Subsequent arrest notification

CODE OF REGULATIONS, TITLE 11

703 Release of criminal offender record information

708 Destruction of criminal offender record information

Management Resources:

WEB SITES

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

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