

TEMPORARY/SUBSTITUTE PERSONNEL

Hiring

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

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

(cf. 4117.14 - Employment of Retired Teachers)

Classification

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

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

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

1. Serve from day-to-day during the first three months of any term to teach temporary classes which shall not exist after that time, or perform any other duties which do not last longer than the first three months of any term (Education Code 44919)
2. Serve in a position for a period not to exceed 20 working days in order to prevent the stoppage of County Office business during an emergency when persons are not immediately available for probationary classification (Education Code 44919)

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

TEMPORARY/SUBSTITUTE PERSONNEL (continued)

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

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

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

(cf. 4113 - Assignment)

(cf. 4115 - Evaluation/Supervision)

(cf. 4131 - Staff Development)

Qualifications

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

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

(cf. 4112.2 - Certification)

(cf. 4112.3/4212.3/4312.3 - Oath or Affirmation)

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

(cf. 4112.5/4312.5 - Criminal Record Check)

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

Qualifications for Special Education

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

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

TEMPORARY/SUBSTITUTE PERSONNEL (continued)

In placing substitute teachers in special education classrooms, the County Office shall give first priority to substitute teachers with the appropriate special education credential(s), second priority to substitute teachers with any other special education credential, and third priority to substitute teachers with a regular teaching credential. (Education Code 56062)

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

Salary/Benefits

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

Granting Probationary Status

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

(cf. 4116 - Probationary/Permanent Status)

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

Release from Employment/Dismissal

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

The County Superintendent may release a temporary employee at its discretion if the employee has served less than 75 percent of the number of days the regular schools of the County Office are maintained.

TEMPORARY/SUBSTITUTE PERSONNEL (continued)

After serving during one school year 75 percent of the number of days the regular schools of the County Office are maintained, a temporary employee may be released as long as the employee is notified before the end of the school year of the County Superintendent's decision not to reelect him/her for the following school year. (Education Code 44954)

Reemployment Rights

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

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

Legal Reference: (see next page)

TEMPORARY/SUBSTITUTE PERSONNEL (continued)

Legal Reference:

EDUCATION CODE

- 1294.1 *County community and juvenile schools, substitute and temporary employees*
- 44252.5 *State basic skills assessment required for certificated personnel*
- 44300 *Emergency teaching or specialist permits*
- 44830 *Employment of certificated persons; requirements of proficiency in basic skills*
- 44839.5 *Employment of retirant*
- 44846 *Criteria for reemployment preferences*
- 44914 *Substitute and probationary employment computation for classification as permanent employee*
- 44915 *Classification of probationary employees*
- 44916 *Time of classification; statement of employment status*
- 44917 *Classification of substitute employees*
- 44918 *Substitute or temporary employee deemed probationary employee; reemployment rights*
- 44919 *Classification of temporary employees*
- 44920 *Employment of certain temporary employees; classifications*
- 44921 *Employment of temporary employees; reemployment rights (unified and high school districts)*
- 44953 *Dismissal of substitute employees*
- 44954 *Release of temporary employees*
- 44956 *Rights of laid-off permanent employees to substitute positions*
- 44957 *Rights of laid-off probationary employees to substitute positions*
- 44977 *Salary schedule for substitute employees*
- 45030 *Substitutes*
- 45041 *Computation of salary*
- 45042 *Alternative method of computation for less than one school year*
- 45043 *Compensation for employment beginning in the second semester*
- 56060-56063 *Substitute teachers in special education*

CODE OF REGULATIONS, TITLE 5

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

COURT DECISIONS

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

Management Resources:

WEB SITES

- CTC: <http://www.ctc.ca.gov>
- CSBA: <http://www.csba.org>

STAFF DEVELOPMENT

The Tuolumne County Superintendent of Schools Office believes that, in order to maximize student learning and achievement, certificated staff members must be continuously learning and improving their skills. The County Superintendent or designee shall develop a program of ongoing professional development which includes opportunities for teachers and certificated teaching assistants to enhance their instructional and classroom management skills and become informed about changes in pedagogy and subject matter.

(cf. 6111 - School Calendar)

The County Office staff development program may include, but is not limited to:

1. Mastery of discipline-based knowledge, including academic content in the core curriculum and academic standards

(cf. 6011 - Academic Standards)

(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)

(cf. 6142.3 - Civic Education)

(cf. 6142.5 - Environmental Education)

(cf. 6142.6 - Visual and Performing Arts Education)

(cf. 6142.7 - Physical Education)

(cf. 6142.8 - Comprehensive Health Education)

(cf. 6142.91 - Reading/Language Arts Instruction)

(cf. 6142.92 - Mathematics Instruction)

(cf. 6142.93 - Science Instruction)

2. Effective, subject-specific teaching methods, strategies, and skills

3. The use of technologies to enhance instruction

(cf. 0440 - District Technology Plan)

4. Sensitivity to and ability to meet the needs of diverse student populations, including, but not limited to, students of various racial and ethnic groups, students with disabilities, English language learners, economically disadvantaged students, gifted and talented students, and at-risk students

(cf. 4112.22 - Staff Teaching Students of Limited English Proficiency)

(cf. 4112.23 - Special Education Staff)

(cf. 5149 - At-Risk Students)

(cf. 6141.5 - Advanced Placement)

(cf. 6171 - Title I Programs)

(cf. 6172 - Gifted and Talented Student Program)

(cf. 6173 - Education for Homeless Children)

(cf. 6173.1 - Education for Foster Youth)

(cf. 6174 - Education for English Language Learners)

(cf. 6175 - Migrant Education Program)

STAFF DEVELOPMENT (continued)

5. Understanding of how academic and career technical instruction can be integrated and implemented to increase student learning

(cf. 6030 - Integrated Academic and Vocational Instruction)

6. Knowledge of strategies that enable parents/guardians to participate fully and effectively in their children's education

(cf. 1240 - Volunteer Assistance)

(cf. 5020 - Parent Rights and Responsibilities)

(cf. 6020 - Parent Involvement)

7. Effective classroom management skills and strategies for establishing a climate that promotes respect, fairness, and discipline, including conflict resolution, intolerance, and hatred prevention

(cf. 5137 - Positive School Climate)

(cf. 5138 - Conflict Resolution/Peer Mediation)

(cf. 5145.9 - Hate-Motivated Behavior)

8. Ability to relate to students, understand their various stages of growth and development, and motivate them to learn

9. Ability to interpret and use data and assessment results to guide instruction

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

(cf. 6162.5 - Student Assessment)

10. Topics related to student health, safety, and welfare

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3515.5 - Sex Offender Notification)

(cf. 5030 - Student Wellness)

(cf. 5131.6 - Alcohol and Other Drugs)

(cf. 5131.63 - Steroids)

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

(cf. 5141.4 - Child Abuse Prevention and Reporting)

(cf. 5141.52 - Suicide Prevention)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

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

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

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

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

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

STAFF DEVELOPMENT (continued)

As necessary, teachers shall receive professional development which is designed to help them meet the requirements of federal law for teachers of core academic subjects.

(cf. 4112.2 - Certification)

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

The County Superintendent or designee may, in conjunction with individual teachers, develop an individualized program of professional growth which contributes to competence, performance, or effectiveness in teaching and classroom assignments.

(cf. 4112.21 - Interns)

(cf. 4131.1 - Beginning Teacher Support/Induction)

(cf. 4138 - Mentor Teachers)

The County Office staff evaluation process may be used to recommend additional staff development for individual employees.

(cf. 4115 - Evaluation/Supervision)

(cf. 4139 - Peer Assistance and Review)

The County Superintendent or designee shall involve teachers, site and County Office administrators, and others, as appropriate, in the development of the County Office staff development program. He/she shall ensure that the County Office staff development program is aligned with County Office priorities for student achievement, program improvement objectives, and LEA plans.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

(cf. 0420 - School Plans/Site Councils)

(cf. 0420.1 - School-Based Program Coordination)

(cf. 0520 - Intervention for Underperforming Schools)

(cf. 0520.1 - High Priority Schools Grant Program)

(cf. 0520.2 - Title I Program Improvement Schools)

(cf. 0520.3 - Title I Program Improvement Districts)

(cf. 0520.4 - Quality Education Investment Schools)

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

(cf. 3350 - Travel Expenses)

The County Superintendent or designee shall provide a means for continual evaluation of the benefit of staff development activities to both staff and students and shall regularly report to the County Board regarding the effectiveness of the staff development program. Based on the Superintendent's report, the County Office may revise the program as necessary in order to ensure that the staff development program supports the County Office priorities for student achievement.

STAFF DEVELOPMENT (continued)

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

Legal Reference:

EDUCATION CODE

41520-41522 *Teacher Credentialing Block Grant, including beginning teacher support*

41530-41532 *Professional Development Block Grant*

44032 *Travel expense payment*

44259.5 *Standards for teacher preparation*

44277 *Professional growth programs for individual teachers*

44279.1-44279.7 *Beginning Teacher Support and Assessment Program (BTSA)*

44560-44562 *Certificated Staff Mentoring Program*

44570-44578 *Inservice training, secondary education*

44580-44591 *Inservice training, elementary teachers*

44630-44643 *Professional Development and Program Improvement Act of 1968*

44700-44705 *Classroom teacher instructional improvement program*

44735 *Teaching as a Priority; teacher recruitment and retention in high-priority schools*

44755-44757.5 *Inservice training in reading instruction, grades K-3*

48980 *Notification of parents/guardians: schedule of minimum days*

52800-52870 *School-Based Program Coordination Act*

56240-56245 *Staff development; service to persons with disabilities*

99200-99206 *Subject matter projects*

99220-99227 *California Professional Development Institutes*

99230-99242 *Mathematics and Reading Professional Development Program*

REPEALED EDUCATION CODE FOR CATEGORICAL PROGRAMS

44579-44579.6 *Instructional Time and Staff Development Reform Program*

GOVERNMENT CODE

3543.2 *Scope of representation of employee organization*

CODE OF REGULATIONS, TITLE 5

6100-6125 *Teacher qualifications, No Child Left Behind Act*

11980-11986 *Mathematics and Reading Professional Development Program*

13025-13044 *Professional development and program improvement*

UNITED STATES CODE, TITLE 20

6319 *Highly qualified teachers*

6601-6702 *Preparing, Training and Recruiting High Quality Teachers and Principals*

7801 *Definitions, highly qualified teacher*

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

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

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

NCLB Teacher Requirements Resource Guide, March 2004

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

California Standards for the Teaching Profession, 1997

WEB SITES

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

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

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

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

Policy

adopted: May 30, 2008

TUOLUMNE COUNTY SUPERINTENDENT OF SCHOOLS

Sonora, California

STAFF DEVELOPMENT

The Tuolumne County Superintendent of Schools or designee shall ensure that certificated staff members have opportunities to learn both from outside sources and from each other. These opportunities may include, but are not limited to:

1. Visits to other classrooms and other schools to observe and analyze teaching
2. Attendance at professional education conferences or committee meetings
3. Classes/workshops offered by the County Office, state projects, private organizations, or other appropriate agencies
4. Courses in regionally accredited institutions of higher education, including courses delivered through online technologies
5. Participation in professional development networks that promote inquiry and allow staff to analyze and evaluate each other's work
6. Peer conferences and/or joint staff preparation time
7. Participation in curriculum development projects

(cf. 6141 - Curriculum Development and Evaluation)

8. Participation in educational research or innovation efforts
9. Assistance from or service as a mentor teacher or consulting teacher

(cf. 4112.21 - Interns)

(cf. 4131.1 - Beginning Teacher Support/Induction)

(cf. 4138 - Mentor Teachers)

(cf. 4139 - Peer Assistance and Review)

10. Service in a leadership role in a professional organization
11. Discussions and/or internships with business and community agencies for the purpose of identifying the skills, knowledge, and aptitudes necessary for specific career paths and developing meaningful career-related, work-based learning experiences

(cf. 1700 - Relations Between Private Industry and the Schools)

12. Travel, study, and research in subject-matter content and effective educational practices

(cf. 4161.3 - Professional Leaves)

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

STAFF DEVELOPMENT (continued)

The County Superintendent or designee shall approve the participation of individual staff members in County Office -provided or external staff development activities which may require release time, leave of absence, or other County Office resources.

All Personnel

BP 4132

4232

PUBLICATION OR CREATION OF MATERIALS

4332

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

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

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

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

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

Legal Reference:

EDUCATION CODE

32360 Copyrights; use of funds

32361 Copyrights; use of employee work time

35170 Authority to secure copyrights

35182 Marketing or licensing noneducational mainframe electronic data-processing software

60076 Royalties or other compensation

LABOR CODE

2870-2872 Inventions made by an employee

UNITED STATES CODE, TITLE 17

201 Copyright Law

201(a) Copyright Law

All Personnel

BP 4135

4235

SOLICITING AND SELLING

4335

Employees shall not solicit Tuolumne County Superintendent of Schools Office 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 a County Office program or other charitable organizations shall be conducted in accordance with applicable County Office policy and administrative regulation.

(cf. 1325 - Advertising and Promotion)

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

(cf. 4137 - Tutoring)

(cf. 5022 - Student and Family Privacy Rights)

Staff members shall respect the confidentiality of County Office employees and students and shall not use their status as County Office 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 County Office. Employees engaged in planning, organizing or leading tours as private, non-County Office -sponsored businesses shall make it clear that they do not represent the County Office. 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

All Personnel

BP 4136

4236

NONSCHOOL EMPLOYMENT

4336

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

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

(cf. 1321 - Solicitation of Funds from and by Students)
(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4135/4235/4335 - Soliciting and Selling)
(cf. 4137 - Tutoring)

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

(cf. 4132/4232/4332 - Publication or Creation of Materials)
(cf. 6161.1 - Selection and Evaluation of Instructional Materials)
(cf. 9270 - Conflict of Interest)

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

(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)

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

Policy
adopted: May 30, 2008

TUOLUMNE COUNTY SUPERINTENDENT OF SCHOOLS
Sonora, California

TUTORING

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

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

(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4135 - Soliciting and Selling)

Legal Reference:

GOVERNMENT CODE
1126 Incompatible activities of employees

BARGAINING UNITS

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

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

(cf. 4141/4241 - Collective Bargaining Agreement)
(cf. 4143/4243 - Negotiations/Consultation)

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

Legal Reference:

GOVERNMENT CODE
3540-3549.3 *Educational Employment Relations Act*

COLLECTIVE BARGAINING AGREEMENT

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

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

(cf. 4140/4240 - Bargaining Units)
(cf. 4143/4243 - Negotiations/Consultation)

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

35160.1 Broad authority of school districts

GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act

CODE OF REGULATIONS, TITLE 8

31001-32997 Regulations of employee relations boards

CONCERTED ACTION/WORK STOPPAGE

The Tuolumne County Superintendent of Schools Office recognizes the importance of maintaining positive relations with employees, employee organizations, parents/guardians and community members throughout the collective bargaining process. In the event of an impasse in negotiations, the County Office shall make a good faith effort to reach an agreement with the employee organization through participation in state mediation and factfinding procedures.

(cf. 4141/4241 - Collective Bargaining Agreement)

(cf. 4143/4243 - Negotiations/Consultation)

During any threatened or actual withholding of services, the County Office shall keep parents/guardians and community informed about the status of County Office negotiations, the educational program and safety measures that have been taken by the County Office.

When feasible, the Tuolumne County Superintendent of Schools desires to maintain operations during any work stoppage. The County Superintendent or designee shall take steps necessary in order to help ensure the safety of students, staff and County Office property during a work stoppage. Such steps shall be reported to the County Superintendent as soon as possible.

The County Superintendent recognizes that preparation is necessary to reduce disruption during a work stoppage and to ensure that students receive the education to which they are entitled. The County Superintendent or designee shall develop a written plan which shall delineate actions to be taken in the event of a strike or threatened strike. The plan shall include specific responsibilities of the County Office staff, plans to maintain County Office operations, appropriate student instruction and supervision, as well as communication and safety issues.

(cf. 0450 - Comprehensive Safety Plan)

(cf. 1100 - Communications with the Public)

(cf. 1112 - Media Relations)

(cf. 9000 - Role of the Board)

The County Superintendent believes that employees shall be held accountable for their behavior during any labor dispute. The County Superintendent may take disciplinary action against employees, taking into account the seriousness of the behavior and the County Office efforts to rebuild relations following the withholding of services by employees.

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4218 - Suspension/Disciplinary Action)

Legal Reference: (see next page)

CONCERTED ACTION/WORK STOPPAGE (continued)

Legal Reference:

EDUCATION CODE

35204 Contract with attorney in private practice

35205 Contract for legal services

37200-37202 Instructional days

GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act, especially:

3543.5-3543.6 Unfair labor practices

3548-3548.8 Impasse procedures

INSURANCE CODE

10116 Employee continuation of insurance coverage

UNITED STATES CODE, TITLE 29

1161-1169 Continuation coverage and additional standards for group health plan

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

Fresno Unified School District, 1982, PERB Dec. No. 208, 6 PERC 13110

Konocti Unified School District, 1982, PERB Dec. No. 217, 6 PERC 13152

Management Resources:

CSBA PUBLICATIONS

Before the Strike: Planning Ahead in Difficult Negotiations, 1996

CONCERTED ACTION/WORK STOPPAGE

Maintenance of County Office Operations

At the discretion of the Tuolumne County Superintendent of Schools or designee, employees reporting for duty may be temporarily assigned to other duties. In addition, the County Superintendent or designee may hire qualified substitute and/or temporary employees as needed to maintain Tuolumne County Superintendent of Schools Office operations and shall recommend to the County Superintendent an appropriate rate of pay for such employees for the period of the work stoppage.

(cf. 4113 - Assignment)

(cf. 4121 - Temporary/Substitute Personnel)

Days of instruction lost due to a work stoppage may be made up following the end of the normal school year.

(cf. 6111 - School Calendar)

Strike Plan

The County Superintendent or designee may establish a committee to develop a plan in the event of a work stoppage. This committee may include cabinet-level staff, legal counsel, the County Office negotiator and parents/ guardians.

The strike plan shall address, at a minimum, the following elements:

1. Roles and responsibilities during a work stoppage, including roles of the County Superintendent, cabinet-level staff, legal counsel, program administrators, certificated or classified staff when they are not participating in the strike, substitutes and other employees
2. Criteria for maintaining operations during a work stoppage including potential costs, availability of qualified substitutes or other staffing, the ability to maintain the quality of the educational program and other essential services, and the ability to ensure the safety of students and staff
3. Maintenance of the educational program, including availability of lesson plans and instructional materials, alternatives for handling special education and other programs as appropriate
4. Internal communications among County Office staff and the County Superintendent during a work stoppage
5. Plans for obtaining, paying and communicating with temporary or substitute employees

CONCERTED ACTION/WORK STOPPAGE (continued)

6. Status of County Office-paid benefits, including health care, insurance, vacation and sick leave benefits

(cf. 4154/4254/4354 - Health and Welfare Benefits)
(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)
(cf. 4161.2/4261.2/4361.3 - Personal Leaves)
(cf. 4261.1 - Personal Illness/Injury Leave)

7. Communications with parents/guardians, the media, business partners, public officials and other community members that identify key messages, strategies and County Office spokespersons

(cf. 1100 - Communications with the Public)
(cf. 1112 - Media Relations)
(cf. 4143.1/4243.1 - Public Notice - Personnel Negotiations)

8. Equipment and supply needs

9. Desirability and feasibility of conducting extracurricular activities during a work stoppage including an analysis of the number of events and activities that would be affected, the availability of staffing, the degree of student and/or community participation and the ability to provide adequate security at events

(cf. 6145 - Extracurricular and Cocurricular Activities)

10. Contingency plans for transportation

(cf. 3541 - Transportation Routes and Services)

11. Contingency plans for the provision of food services

(cf. 3550 - Food Service/Child Nutrition Program)

12. Identification of outside resources who may be called upon to help with program operations

13. Coordination with law enforcement and other agencies

(cf. 1020 - Youth Services)
(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)
(cf. 1700 - Relations Between Private Industry and the Schools)

14. Appropriate safeguards for the safety of students, working employees, substitutes, volunteers, and parent/guardians

CONCERTED ACTION/WORK STOPPAGE (continued)

(cf. 0450 - Comprehensive Safety Plan)

15. Provisions for safe, effective board meetings
16. Cost estimates for the various strategies to be implemented during a work stoppage
17. Legal remedies available to enjoin the work stoppage if possible or to file unfair labor practice charges against the employee organization
18. Continuation of negotiations during a work stoppage

(cf. 4143/4243 - Negotiations/Consultation)

19. Plans for resuming normal County Office operations, rebuilding relations and disciplining employees if necessary after the work stoppage

Activities of Employees

The Office Superintendent shall not impose or threaten to impose reprisals, discriminate or threaten to discriminate, or otherwise interfere with, restrain or coerce employees for the exercise of their rights. (Government Code 3543.5-3543.6)

Employees engaging in a work stoppage shall not prevent access to school site or program facilities by other employees, substitutes or students; use or threaten physical violence or bodily injury; trespass; distribute malicious or defamatory leaflets or materials; or otherwise coerce or intimidate individuals in the conduct of school business.

During an actual or threatened work stoppage, an employee shall not retain in his/her possession any County Office property, including but not limited to student attendance and grading records, lesson plans, keys, equipment and supplies.

(cf. 3512 - Equipment)

Employees shall not use students to distribute messages that promote or explain the position of any employee organization that is contemplating or engaged in a work stoppage. In addition, employees shall not use classroom or other duty time to promote an employee organization's position in negotiations or in a work stoppage.

When students raise questions related to a work stoppage, teachers shall approach the subject in accordance with the County Office policy on controversial issues and shall not allow such discussions to interfere with their regular teaching responsibilities.

(cf. 6144 - Controversial Issues)

CONCERTED ACTION/WORK STOPPAGE (continued)

Salary and Benefits

Employees withholding services shall not receive salary or unemployment benefits during the period of the work stoppage.

Any employee withholding services may be subject to the loss of payroll deduction privileges.

The County Office may not pay contributions to health care benefits if employees fail to work the minimum number of hours per month as specified in the collective bargaining agreement, County Office policy or administrative regulation. However, the County Office shall offer employees the option of paying their own coverage under COBRA. (29 USC 1161-1169)

If the County Office determines that it will withhold its contributions to employees' life and disability insurance, employees shall be offered an opportunity to retain these coverages by paying the contributions themselves. (Insurance Code 10116)

Employees whose vacation leave has been authorized prior to the work stoppage shall receive vacation pay for the authorized period.

If an employee is on a paid sick or disability leave when the work stoppage begins, he/she shall be entitled to continued payment as long as he/she remains ill or disabled and is otherwise eligible according to County Office policy and collective bargaining agreements.

The County Superintendent or designee may determine that credit shall not be applied toward probationary service, salary schedule advancement, permanent status, vacation earnings, retirement credit or sick leave accrual during the period of time that employees withhold services.

NEGOTIATIONS/CONSULTATION

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

(cf. 4140/4240 - Bargaining Units)

The County Superintendent recognizes his/her responsibility to represent the public's interests in the collective bargaining process. The County Superintendent shall keep the public informed about the progress of negotiations and the ways in which negotiations affect Tuolumne County Superintendent of Schools Office goals.

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

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

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

(cf. 0200 - Goals for the School District)

(cf. 3100 - Budget)

(cf. 4141/4241 - Collective Bargaining Agreement)

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

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

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

(cf. 9010 - Public Statements)

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

(cf. 9321 - Closed Session Purposes and Agendas)

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

NEGOTIATIONS/CONSULTATION (continued)

Consultation

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

(cf. 6010 - Goals and Objectives)

(cf. 6141 - Curriculum Development and Evaluation)

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

(cf. 9310 - Board Policies)

Legal Reference:

GOVERNMENT CODE

3540-3549.3 *Educational Employment Relations Act*

PUBLIC NOTICE - PERSONNEL NEGOTIATIONS

Because the Tuolumne County Superintendent of Schools has a responsibility to represent the public's interest in negotiations with employee organizations, the County Superintendent is committed to keeping the public informed about issues being negotiated, and providing members of the public an opportunity to express their views.

(cf. 1112 - Media Relations)
(cf. 4141/4241 - Collective Bargaining Agreement)
(cf. 4143/4243 - Negotiations/Consultation)
(cf. 9000 - Role of the Board)
(cf. 9010 - Public Statements)
(cf. 9011 - Disclosure of Confidential/Privileged Information)

Public Notice/Sunshining of Initial Proposals

All initial contract proposals of the County Superintendent and an employee organization which relate to matters within the scope of representation shall be presented at a public meeting and shall thereafter be public records.

(cf. 1340 - Access to District Records)
(cf. 9321 - Closed Session Purposes and Agendas)
(cf. 9321.1 - Closed Session Actions and Reports)

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

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

New subjects of meeting and negotiating arising after the presentation of initial proposals shall be made public within 24 hours. (Government Code 3547)

Public Disclosure of Proposed Agreement

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

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

(cf. 3460 - Financial Reports and Accountability)

PUBLIC NOTICE - PERSONNEL NEGOTIATIONS (continued)

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

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

Legal Reference:

EDUCATION CODE

42130-42134 *Financial reports and certifications*

GOVERNMENT CODE

3540.2 *Meeting and negotiating in public educational employment*

3547 *Proposals relating to representation; informing public*

3547.5 *Major provisions of agreement with exclusive representative*

CODE OF REGULATIONS, TITLE 8

32075 *PERB regional office defined*

Management Resources:

CSBA PUBLICATIONS

Collective Bargaining DVD-ROM

Maximizing School Board Governance: Collective Bargaining

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

CALIFORNIA DEPARTMENT OF EDUCATION MANAGEMENT ADVISORIES

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

WEB SITES

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

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

Fiscal Crisis and Management Assistance Team: <http://www.fcmat.org>

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

School Services of California: <http://www.sscal.com>

PUBLIC NOTICE - PERSONNEL NEGOTIATIONS

Public Disclosure of Proposed Agreement

The Tuolumne County Superintendent of Schools or designee shall prepare a summary of the proposed agreement which shall include, but may not necessarily be limited to:

1. Major provisions of the agreement that affect compensation, such as:
 - a. Direct increases in salaries and percentage change in on-schedule salaries
 - b. Changes in health and welfare benefits
 - c. Changes in health and welfare benefit dollar contributions by the County Office
 - d. Changes in step and column or longevity provisions
 - e. Changes in overtime, differential, callback, and standby pay provisions
 - f. Changes in staffing ratios
 - g. One-time bonuses or off-the-schedule increases
2. Other provisions that will result in increased costs to the County Office even if they do not involve an increase in employee compensation, such as class-size reduction or increased number of staff development days
3. Costs of the proposed agreement, for the current and subsequent fiscal years, categorized for salaries, benefits, other compensation, and other noncompensation costs, including percentage increase of total compensation (salaries, benefits, and other compensation provisions) for the average represented employee as a result of the agreement and the approximate cost to the County Office of providing a one percent increase in total compensation
4. Proposed source(s) of funding for the current and subsequent fiscal years including the assumptions used to determine available resources to meet the obligations of the proposed agreement
5. Other major provisions that do not directly affect the County Office costs, such as binding arbitration or grievance procedures

All Personnel

BP 4154(a)
4254
4354

HEALTH AND WELFARE BENEFITS

The Tuolumne County Superintendent of Schools Office shall provide health and welfare benefits for certificated and classified employees in bargaining units in accordance with state and federal law and subject to negotiated employee agreements.

(cf. 4140/4240 - Bargaining Units)
(cf. 4141/4241 - Collective Bargaining Agreement)

Certificated management, supervisory and confidential 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. Classified management, supervisory and confidential employees who are not in bargaining units shall receive the same health and welfare benefits as those specified in the collective bargaining agreement for classified employees.

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

To the extent that benefits are granted to spouses of employees, domestic partners registered in accordance with Family Code 297 shall have the same benefits. (Family Code 297.5)

The Tuolumne County Superintendent of Schools or designee shall maintain the confidentiality of employee health records in accordance with law.

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

Legal Reference: (see next page)

HEALTH AND WELFARE BENEFITS (continued)

Legal Reference:

EDUCATION CODE

1350 Retiree benefit fund

7000-7008 Health and welfare benefits, retired certificated employees

35208 Liability insurance

35214 Liability insurance (self-insurance)

44041-44042 Payroll deductions for collection of premiums

44986 Leave of absence, state disability benefits

45136 Benefits for classified employees

FAMILY CODE

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

GOVERNMENT CODE

22750-22944 Public Employees' Medical and Hospital Care Act, especially:

22931 Application of education code provisions relating to inclusion of certain retirees in local health and welfare benefit plans

53200-53210 Group insurance

HEALTH AND SAFETY CODE

1366.20-1366.29 Cal-COBRA program, health insurance

1373.621 Continuation coverage, age 60 or older after five years with district

1374.58 Coverage for registered domestic partners, health service plans and health insurers

INSURANCE CODE

10116.5 Continuation coverage, age 60 or older after five years with district

10128.50-10128.59 Cal-COBRA program, disability insurance

12670-12692.5 Conversion coverage

LABOR CODE

2800.2 Notification of conversion and continuation coverage

UNEMPLOYMENT INSURANCE CODE

2613 Education program; notice of rights and benefits

UNITED STATES CODE, TITLE 26

4980B COBRA continuation coverage

UNITED STATES CODE, TITLE 29

1161-1168 COBRA continuation coverage

UNITED STATES CODE, TITLE 42

1395-1395g Medicare benefits

CODE OF FEDERAL REGULATIONS, TITLE 26

54.4980B-1-54.4980B-10 COBRA continuation coverage

CODE OF FEDERAL REGULATIONS, TITLE 45

164.500-164.534 Health Insurance Portability and Accountability Act (HIPAA)

Management Resources:

WEB SITES

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

California Employment Development Department: <http://www.edd.ca.gov>

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