

**CERTIFICATED PERSONNEL**Temporary and Substitute Personnel

The Superintendent recognizes that substitute and temporary personnel perform an essential role in promoting student achievement. The Superintendent desires to employ highly qualified, appropriately credentialed employees to fill such positions.

The Superintendent or designee shall ensure that all substitute and temporary employees are assigned in accordance with law and the authorizations specified in their credentials.

Temporary employees shall be hired by the Superintendent when short-term employees are needed on other than an on-call, day-to-day basis. Temporary personnel may be hired on a pro-rated full-time equivalency basis or hired hourly depending upon the nature of the assignment.

The Superintendent or designee shall prepare a list of credentialed teachers seeking substitute employment and the areas such teachers are qualified to teach. Only teachers on the list, which may be amended during the year, shall be employed by the Superintendent on an as needed, day-to-day basis to replace absent regular teachers.

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

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

Permanent or probationary certificated employees who were laid off pursuant to Education Code 44955 and who have a preferred right of reappointment shall be given priority for substitute service in the order of their original employment.

Salary and Benefits

The 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 the district (Education Code 44909). Temporary employees shall not participate in the health and welfare plans or other fringe benefits of the district. Any temporary or substitute employee who works 30 or more days within a year of his/her employment shall be entitled to one hour of paid sick leave for every 30 hours worked. Such employee may begin to use accrued paid sick days on the 90th day of his/her employment, after which he/she may use the sick days as they are accrued. Accrued paid sick days shall

carry over to the following year of employment, up to a maximum of 48 hours (Labor Code 246).

### Classification

The Superintendent may classify as a temporary employee a teacher who is employed for at least one semester and up to one complete school year based on the need for additional certificated employees when regular employees are absent due to leaves or long-term illness. Any person whose service begins in the second semester before March 15 may be classified as a temporary employee even if employed for less than a semester. The Superintendent shall determine the number of persons who shall be employed, which shall not exceed the identified need based on the absence of regular employees.

The Superintendent 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 school 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 school term.
2. Teach in special day or evening classes for adults or in schools of migratory population for not more than four months in any school term.
3. Serve in a limited assignment supervising student athletic activities provided such assignments have first been made available to teachers presently employed by the Office of Education.
4. Serve in a position for a period not to exceed 20 working days in order to prevent the stoppage of Office of Education business during an emergency when persons are not immediately available for probationary classification.
5. Serve only for the first semester because the Office of Education expects a reduction in student enrollment during the second semester due to midyear graduations.

For purposes of classifying employees pursuant to item#1 or 2 above, the school year shall not be divided into more than two school terms.

Any employee hired to provide services in a categorically funded program or project may be employed for a period less than a full school year. He/she may be classified as a temporary employee if the period of employment will end at the expiration of that program or project.

### Release from Employment/Dismissal

The Superintendent may dismiss a substitute employee at any time at his/her

discretion.

The Superintendent may release a temporary employee at his/her discretion if the employee has served less than 75 percent of the number of days the regular schools of the Office of Education are maintained. After serving 75 percent of the number of days that Office of Education schools are maintained during one school year, a temporary employee may be released as long as her/she is notified, before the last day of June, of the Office of Education's decision not to reelect him/her for the following school year.

#### Reemployment as a Probationary Employee

Unless released from employment pursuant to Education Code 44954, any person employed for one complete school year as a temporary employee shall, if reemployed for the following school year in a vacant position requiring certification qualifications, be classified as a second year probationary employee. With the exception of on-call, day-to-day substitutes, if a temporary or substitute employee performs the duties normally required of certificated employees for at least 75 percent of the number of days school is in session during the regular school year, employment as a temporary or substitute employee shall be credited as one year's employment as a probationary employee for purposes of acquiring permanent status.

If a temporary or substitute employee meets the 75% criteria above but works only partial days, the employee has reemployment rights up to the full time equivalent (FTE) served under the temporary or substitute assignment.

Vacant position means a position in which the employee is qualified to serve and which is not filled by a permanent or probationary employee. It shall not include a position which would be filled by a permanent or probationary employee except for the fact that such employee is on leave.

A temporary employee hired pursuant to item #1 or #2 in the section "Classification" above shall be classified as a probationary employee if the duties continue beyond the time limits of the assignment.

A person employed pursuant to item #5 in the section "Classification" above who is then continued in employment beyond the first semester shall be classified as a probationary employee for the entire school year and shall be reemployed to fill any vacant positions in the Office of Education for which he/she is certified. Preference for available positions shall be determined by the Superintendent as prescribed by Education Code 44845 and 44846.

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 school years, for at least 75 percent of

each year, shall receive first priority if the Office of Education 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.

In the event that there are no vacancies, which shall be defined as openings not created by probationary or permanent employees who have been granted a leave of absence, substitute teachers and temporary employees who qualify for re-employment as probationary employees shall be re-employed as substitute employees or temporary employees.

*Legal Reference:*

*EDUCATION CODE*

- 22455.5 Provision of retirement plan information to potential members*
- 22515 Irrevocable election to join retirement plan*
- 37200 School calendar*
- 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*
- 44845 Date of employment*
- 44846 Criteria for reemployment preferences*
- 44909 Employees providing services through categorically funded programs*
- 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*
- 44955 Layoff of permanent and probationary 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*

*GOVERNMENT CODE*

- 3540.1 Educational Employment Relations Act, definitions*

*LABOR CODE*

- 246 Healthy Workplace, Healthy Families Act of 2014*

*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*
- 5590 Temporary athletic team coach*
- 80025-80025.5 Emergency substitute teaching permits*

*COURT DECISIONS*

- McIntyre v. Sonoma Valley Unified School District (2012) 206 Cal.App.4th 170*
- Stockton Teachers Association CTA/NEA v. Stockton Unified School District (2012) 204 Cal.App.4th 446*
- Neily v. Manhattan Beach Unified School District, (2011) 192 Cal.App.4th 187*
- California Teachers Association v. Vallejo City Unified School District, (2007) 149 Cal.App.4th 135*
- Bakersfield Elementary Teachers Assn. v. Bakersfield City School District, (2006) 145 Cal.App.4th 1260, 1277*

Policy

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**HUMBOLDT COUNTY OFFICE OF EDUCATION**

Eureka, California

**Personnel**

**Superintendent's Policy 4120(f)**

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