

WILLITS UNIFIED SCHOOL DISTRICT
SUPERINTENDENT'S OFFICE

TO: Board of Trustees
FROM: Mark Westerburg, Superintendent
DATE: October 3, 2018
RE: Board Policy Revision- AR 3230 - Federal Grant Funds

Priority:
Communication

Objective:
To conduct a second/final read of the revised policy

Background:
(AR revised)
Regulation updated to clarify that any federal formula or discretionary grant funds awarded to the district, including a federally funded child nutrition program according to **NEW LAW (SB 544)**, must comply with the federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Regulation also reflects **NEW FEDERAL REGULATION (82 Fed. Reg. 22609)** which delays, until July 1, 2018, the date by which districts must comply with the procurement standards in the Uniform Guidance.

Funding/Source:
None

Recommendation:
Administration recommends the board conduct a second/final read of the revised policy

Federal Grant Funds

Allowable Costs

To ensure the lawful expenditure of any federal formula or discretionary grant funds awarded to the district, the Superintendent or designee shall comply with the requirements of the Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (the "Uniform Guidance"), as contained in 2 CFR 200.0-200.521 and Appendices I-XII.

Allowable Costs

Prior to obligating or spending any federal grant funds, the Superintendent or designee shall determine whether a proposed purchase is an allowable expenditure of federal funds in accordance with 2 CFR 200.400-200.475 and the terms and conditions of the federal grant award. He/she shall also determine whether the expense is a direct or indirect cost as defined in 2 CFR 200.413 and 200.414 and, if the purchase will benefit other programs not included in the grant award, the appropriate share to be allocated to the federal grant.

(cf. 3350 - Travel Expenses)

The Superintendent or designee shall review and approve all transactions involving federal grant funds and shall ensure the proper coding of expenditures consistent with the California School Accounting Manual.

(cf. 3300 - Expenditures and Purchases)

(cf. 3314 - Payment for Goods and Services)

Period of Performance

All obligations of federal funds shall occur on or between the beginning and ending dates of the grant project and shall be paid no later than 90 days after the end of the funding period, unless specifically authorized by the grant award to be carried over beyond the initial term of the grant. (2 CFR 200.77, 200.308, 200.309, 200.343)

Procurement

When procuring goods and services with a federal grant, On or before July 1, 2017, or such later date as may be approved in the Uniform Guidance, the Superintendent or designee shall comply with the standards contained specified in 2 CFR 200.317-200.326 and Appendix II of Part 200, when procuring goods and services needed to carry out a federal grant as well as any more restrictive or with any applicable state law or s and district policyies that is more restrictive concerning the procurement of goods and services.

As appropriate to encourage greater economy and efficiency, the Superintendent or designee shall avoid acquisition of unnecessary or duplicative items, give consideration to consolidating or breaking out

procurements, analyze lease versus purchase alternatives, consider entering into an interagency agreement for procurement of common or shared goods and services, and/or use federal excess or surplus property. (2 CFR 200.318)

The procurement of goods or services with federal funds shall be conducted in a manner that provides full and open competition in accordance with state laws and district regulations and the following requirements:

1. Any purchase of supplies or services that does not exceed the "micro-purchase" threshold specified in 48 CFR 2.101 may be awarded without soliciting competitive quotes, provided that the district considers the price to be reasonable and maintains written evidence of this reasonableness in the record of all micro-purchases. (2 CFR 200.67, 200.320)

2. For any purchase that exceeds the micro-purchase threshold but is less than the bid limit required by Public Contract Code 20111, the Superintendent or designee shall utilize "small-purchase" procedures that include obtaining price or rate quotes from an adequate number of qualified sources. (2 CFR 200.320)

3. Contracts for goods or services over the bid limits required by Public Contract Code 20111 shall be awarded pursuant to California law and AR 3311 - Bids, unless exempt from bidding under the law.

(cf. 3311 - Bids)

4. If a purchase is exempt from bidding and the district's solicitation is by a request for proposals, the award may be made by either a fixed-price or cost-reimbursement type contract awarded to the entity whose proposal is most advantageous to the program, with price and other factors considered. (2 CFR 200.320)

(cf. 3312 - Contracts)

5. Procurement by noncompetitive proposals (sole sourcing) may be used only when the item is available from a single source, the need or emergency will not permit a delay resulting from competitive solicitation, the awarding agency expressly authorizes sole sourcing in response to the district's request, and/or competition is determined inadequate after solicitation of a number of sources. (2 CFR 200.320)

6. Time and materials type contracts may be used only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost is the sum of the actual cost of materials and direct labor hours charged at fixed hourly rates that reflect wages, general administrative expenses, and profit. (200.328)

For any purchase of \$25,000 or more, the Superintendent or designee shall verify that any vendor which is used to procure goods or services is not excluded or disqualified by the federal government. (2 CFR 180.220, 200.213)

All solicitations shall incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description shall avoid detailed product specifications to the extent possible, but may include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, shall set forth those minimum essential

characteristics and standards to which it must conform if it is to satisfy its intended use. When it is impractical or not economical to make a clear and accurate description of the technical requirements, a brand name or equivalent description may be used to define the performance or other salient requirements of procurement, clearly stating the specific features of the named brand which must be met by offers. In addition, every solicitation shall identify all requirements which the offer must fulfill and any other factors to be used in evaluating bids or proposals. (2 CFR 200.319)

The Superintendent or designee shall maintain sufficient records to document the procurement, including, but not limited to, the rationale for the method of procurement, selection of the contract type, contractor selection or rejection, and the basis for the contract price. (2 CFR 200.318)

The Superintendent or designee shall ensure that all contracts for purchases using federal grant funds contain the applicable contract provisions described in Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards. (2 CFR 200.326)

Capital Expenditures

The Superintendent or designee shall obtain prior written approval from the awarding agency before using federal funds to make capital expenditures, including the acquisition of land, facilities, equipment, and intellectual property and expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life. (2 CFR 200.12, 200.13, 200.20, 200.33, 200.48, 200.58, 200.89, 200.313, 200.439)

Conflict of Interest

No Board of Trustees member, district employee, or district representative shall participate in the selection, award, or administration of a contract supported by federal funds if he/she has a real or apparent conflict of interest, such as when he/she or a member of his/her immediate family, his/her partner, or an organization which employs or is about to employ any of them has a financial interest in or a tangible personal benefit from a firm considered for a contract. Such persons are prohibited from soliciting or accepting gratuities, favors, or anything of monetary value from contractors or subcontractors unless the gift is an unsolicited item of nominal value. (2 CFR 200.318)

Employees engaged in the selection, award, and administration of contracts shall also comply with BB 9270 - Conflict of Interest.

(cf. 9270 - Conflict of Interest)

Cash Management

The Superintendent or designee shall ensure the district's compliance with 2 CFR 200.305 pertaining to payments and cash management, including compliance with applicable methods and procedures that minimize the time elapsing between the transfer of funds to the district and the district's disbursement of funds. (2 CFR 200.305)

When authorized by law, the district may receive advance payments of federal grant funds, limited to the minimum amounts needed and timed in accordance with the actual immediate cash requirements of the district for carrying out the purpose of the program or project. Except under specified conditions, the district shall maintain the advance payments in an interest-bearing account. The district shall remit

interest earned on the advanced payment to the awarding agency on an annual basis, but may retain interest amounts specified in 2 CFR 200.305 for administrative expenses. (2 CFR 200.305)

When required by the awarding agency, the district shall instead submit a request for reimbursement of actual expenses incurred. The district may also request reimbursement as an alternative to receiving advance payments. (2 CFR 200.305)

The Superintendent or designee shall maintain source documentation supporting the expenditure of federal funds, such as invoices, time sheets, payroll stubs, or other appropriate documentation.

Personnel

All district employees who are paid in full or in part with federal funds, including employees whose salary is paid with state or local funds but is used to meet a required match or in-kind contribution to a federal program, shall document the amount of time they spend on grant activities. (2 CFR 200.430)

Records

Except as otherwise provided in 2 CFR 200.333, or where state law or district policy requires a longer retention period, financial records, supporting documents, statistical records, and all other district records related to a federal award shall be retained for a period of three years from the date of submission of the final expenditure report or, for a federal award that is renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report. (2 CFR 200.333)

(cf. 1340 - Access to District Records)

(cf. 3580 - District Records)

Audits

Whenever the district expends \$750,000 or more in federal grant funds during a fiscal year, it shall arrange for either a single audit or a program-specific audit in accordance with 2 CFR 200.507 or 200.514. (2 CFR 200.501)

The Superintendent or designee shall ensure that the audit meets the requirements specified in 2 CFR 200.500-200.521.

Specified records pertaining to the audit of federal funds expended by the district shall be transmitted to the clearinghouse designated by the federal Office of Management and Budget and shall be made available for public inspection. Such records shall be transmitted within 30 days after receipt of the auditor's report or within nine months after the end of the audit period, whichever is sooner, unless a longer period is agreed to in advance by the federal agency or a different period is specified in a program-specific audit guide. (2 CFR 200.512)

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Regulation WILLITS UNIFIED SCHOOL DISTRICT

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In the event that the audit identifies any deficiency, the Superintendent or designee shall promptly act to either correct the identified deficiency, produce recommended improvements, or demonstrate that the audit finding is invalid or does not warrant action. (2 CFR 200.26, 200.508, 200.511)

Regulation WILLITS UNIFIED SCHOOL DISTRICT

approved: May 3, 2017 Willits, California

WILLITS UNIFIED SCHOOL DISTRICT
SUPERINTENDENT'S OFFICE

TO: Board of Trustees
FROM: Mark Westerburg, Superintendent
DATE: October 3, 2018
RE: Board Policy Revision- AR 3514.2 - Integrated Pest Management

Priority:

Communication

Objective:

To conduct a second/final read of the revised policy

Background:

(AR revised)

Regulation updated to clarify the applicability of integrated pest management requirements to child care facilities, delete an outdated date by which the annual training requirement became effective, and add requirement for pesticide-specific training. Regulation also reflects **NEW STATE REGULATION** (Register 2017, No. 45) which prohibits growers from making certain agricultural pesticide applications within one-quarter mile of a school site between 6:00 a.m. and 6:00 p.m. on weekdays and requires such growers to annually notify the principal regarding pesticides it expects to use during the year.

Funding/Source:

None

Recommendation:

Administration recommends the board conduct a second/final read of the revised policy

Integrated Pest Management

Definition

Integrated Pest Management (IPM) means a strategy that focuses on long-term prevention or suppression of pest problems through a combination of techniques such as monitoring for pest presence and establishing treatment threshold levels, using nonchemical practices to make the habitat less conducive to pest development, improving sanitation, and employing mechanical and physical controls. ~~Pesticides that pose the least possible hazard and are effective in a manner that minimizes risks to people, property, and the environment are used only after careful monitoring indicates they are needed according to pre-established guidelines and treatment thresholds.~~ (Food and Agricultural Code 13181)(Education Code 17609; Food and Agricultural Code 13181)

(cf. 3510 - Green School Operations)

School site means any facility used as a child day care facility or for kindergarten, elementary, or secondary school purposes and includes the buildings or structures, playgrounds, athletic fields, vehicles, or any other area of property visited or used by students. (Education Code 17609)

Program Components Procedures

The Superintendent or designee shall designate an employee at the district office and/or school site staff person to develop, implement, and coordinate an IPM strategy program that incorporates effective, least toxic pest management practices. ~~The district's program shall include the following elements:~~

The IPM coordinator shall prepare and annually update a districtwide or school site IPM plan based on the template provided by the California Department of Pesticide Regulation (DPR).

The IPM plan shall include the name of the district and/or school IPM coordinator, the pesticides expected to be applied at the school site by district employees and/or pest control applicators, and a date that the plan shall be reviewed and, if necessary, updated. (Education Code 17611.5)

The district shall use pesticides that pose the least possible hazard and are effective in a manner that minimizes risks to people, property, and the environment. Such pesticides shall only be used after careful monitoring indicates they are needed according to pre-established guidelines and treatment thresholds. (Food and Agricultural Code 13181)

The IPM plan and this administrative regulation shall not apply to reduced-risk pesticides, including self-contained baits or traps, gels or pastes used for crack and crevice treatments, antimicrobials, and pesticides exempt from registration by law. (Education Code 17610.5; 3 CCR 6147)

The district's program shall include, but not necessarily be limited to, the following components:

1. Identifying and Carefully monitoring and identifying the pest population levels and identifying practices that could affect pest populations. Strategies for managing the pest shall be influenced by the pest species and whether that species poses a threat to people, property, or the environment.
2. Setting action threshold levels to determine when pest populations or vegetation at a specific location might cause unacceptable health or economic hazard that would indicate corrective action should be taken.
3. Modifying or eliminating pest habitats to deter pest populations and minimize pest infestations.
4. Considering a full range of possible alternative cost-effective treatments. Such alternative treatments may include taking no action or controlling the pest by physical, horticultural, or biological methods. Cost or staffing considerations alone will not be adequate justification for use of chemical control agents.
5. Selecting nonchemical pest management methods over chemical methods whenever such methods are effective in providing the desired control or, when it is determined that chemical methods must be used, giving preference to those chemicals that pose the least hazard to people and the environment.

No pesticide that is prohibited by DPR or the U.S. Environmental Protection Agency, as listed on the DPR web site, shall be used at a school site. (Education Code 17610.1)

~~6. Ensuring that persons applying pesticides follow label precautions and are trained in the principles and practices of IPM.~~

~~(cf. 4231 - Staff Development)~~

~~67. Limiting pesticide purchases to amounts needed for the year. Pesticides shall be stored at a secure location that is not accessible to students and unauthorized staff. They shall be stored and disposed of in accordance with state regulations and product label directions, registered with the U.S. Environmental Protection Agency (EPA) as well as any disposal requirements indicated on the product label.~~

~~(cf. 3514- Environmental Safety)~~

~~(cf. 3514.1 - Hazardous Substances)~~

7. Informing parents/guardians and employees regarding pesticide use as described in the sections "Notifications" and "Warning Signs" below.

86. Ensuring that persons applying pesticides follow label precautions and are sufficiently trained in the principles and practices of IPM as described in the section "Training" below.

Prohibited Pesticides

The IPM Coordinator shall not use a pesticide on a school site if that pesticide has been granted a conditional or interim registration or an experimental use permit by the California Department of Pesticide Regulation (DPR) or if the pesticide is subject to an experimental registration issued by the EPA and either of the following conditions exists: (Education Code 17610.1)

~~1. The pesticide contains a new active ingredient.~~

~~2. The pesticide is for new use.~~

~~In addition, the IPM Coordinator shall not use a pesticide on a school site if DPR cancels or suspends registration or requires that the pesticide be phased out from use. (Education Code 17610.1)~~

Training

The IPM coordinator and any employee or contractor who may be designated to apply a pesticide at a school site shall annually complete a DPR-approved training course on IPM and the safe use of pesticides in relation to the unique nature of school sites and children's health. (Education Code 17614; Food and Agricultural Code 13186.5)

(cf. 4231 - Staff Development)

Any district employee who handles pesticides shall also receive pesticide-specific safety training prior to applying pesticides and annually thereafter in accordance with 3 CCR 6724

Notifications

~~The IPM Coordinator shall annually notify staff and parents/guardians of students enrolled at a school site, shall be notified, in writing, regarding pesticide products expected to be applied at the school site facility in the upcoming year. The notification shall include at least the following: (Education Code 17612)~~

~~1. The Internet address (<http://www.schoolipm.info>) used to access information on pesticides and pesticide use reduction developed by the DPR pursuant to Food and Agricultural Code 13184.~~

12. The name of each pesticide product expected to be applied in the upcoming year and the active ingredient(s) in it.

24. The Internet address (<http://www.schoolipm.info>) used to access information on pesticides and pesticide use reduction developed by the DPR pursuant to Food and Agricultural Code 13184.

3. If the school has posted its IPM plan, the Internet address where the plan may be found

4. The opportunity to view a copy of the IPM plan in the school office

53. An opportunity for interested persons to register to receive prior notification of each individual pesticide application of a pesticide at the school site. ~~The IPM Coordinator shall notify such registered persons of individual pesticide applications at least 72 hours prior to the application. The notice shall include the product name, the active ingredient(s) in the product, and the intended date of application.~~

64. Other information deemed necessary by the Superintendent or IPM Coordinator.

(cf. 1312.4 - Williams Uniform Complaint Procedures)

(cf. [3517](#) - Facilities Inspection)

(cf. [4112.9/4212.9/4312.9](#) - Employee Notifications)

(cf. [5145.6](#) - Parental Notifications)

Whenever a person registers to receive notice of individual pesticide application pursuant to item #5 above, the IPM coordinator shall notify such registered persons of individual pesticide applications at least 72 hours prior to the application. The notice shall include the product name, the active ingredient(s) in the product, and the intended date of application. (Education Code 17612)

If a pesticide product not included in the annual notification is subsequently intended for use at a school site, the IPM Coordinator shall provide written notification of its intended use to staff ~~and parents~~ and parents/guardians of students enrolled at the school, at least 72 hours prior to the application. (Education Code [17612](#))

If a school chooses to use a pesticide not exempted pursuant to Education Code 17610.5, it shall post the school or district IPM plan on the school's web site or, if the school does not have a web site, then on the district web site. If neither the school nor district has a web site, then the IPM plan shall be included with the annual notification sent to staff and parents/guardians pursuant to Education Code 17612 as described above. When not required, the IPM coordinator may post or distribute the IPM plan at his/her discretion. (Education Code 17611.5)

Whenever the IPM Coordinator deems that the immediate use of a pesticide is necessary to protect the health and safety of students, staff, or other persons at the school site, he/she shall make every effort to provide the required notifications prior to the application of the pesticide. (Education Code [17612](#))

(cf. ~~[3514](#) - Environmental Safety~~)

~~Posting of~~ Warning Signs

The IPM Coordinator shall post a warning sign at each area of the school site where pesticides will be applied that shall be visible to all persons entering the treated area. The sign shall be posted at least 24 hours prior to the application and until 72 hours after the application. The warning sign shall display the following information: (Education Code [17612](#))

1. The term "Warning/Pesticide Treated Area"
2. The product name, manufacturer's name, and the EPA's product registration number
3. Intended areas and dates of application
4. Reason for the pesticide application

When advance posting is not possible due to an emergency condition requiring immediate use of a pesticide to protect the health and safety of students, staff, or other persons or the school site, the warning sign shall be posted immediately upon application and shall remain posted until 72 hours after the application. (Education Code [17609](#), [17612](#))

Records

At the end of each calendar year, the IPM coordinator shall submit to DPR, on a form provided by DPR, a copy of the records of all pesticide use at the school site for that year, excluding any pesticides exempted by law and any pesticide use reported by the pest control operator pursuant to Food and Agricultural Code 13186. The IPM coordinator may submit more frequent reports at his/her discretion. (Education Code 17611)

Each school site shall maintain records of all pesticide use at the school for four years, and shall make the information available to the public, upon request, in accordance with the California Public Records Act. A school may meet this requirement ~~Such records may be maintained~~ by retaining a copy of the warning sign posted for each pesticide application with a recording on that copy of the amount of the pesticide used. (Education Code [17611](#))

(cf. [1340](#) - Access to District Records)

(cf. [3580](#) - District Records)

Pesticide Use near School Site

Upon receiving notification pursuant to 3 CCR 6692 that a grower expects to use agricultural pesticides within one-quarter mile of a school site Monday through Friday from 6:00 a.m. to 6:00 p.m., the principal or designee shall notify the Superintendent or designee, IPM coordinator, staff at the school site, and parents/guardians of students enrolled at the school.

The principal or designee may communicate with any grower within one-quarter mile of the school to request that the grower not apply pesticides during evenings or weekends when school activities are scheduled.

Legal Reference:

EDUCATION CODE

[17366](#) Legislative intent (fitness of buildings for occupancy)

[17608-17613](#) Healthy Schools Act of 2000

[48980](#) Notice at beginning of term

[48980.3](#) Notification of pesticides

BUSINESS AND PROFESSIONS CODE

[8593.2](#) Licensed pest control operators; training requirements

FOOD AND AGRICULTURAL CODE

11401-12408 Pest control operations and agricultural chemicals

13180-13188 Healthy Schools Act of 2000

GOVERNMENT CODE

3543.2 Scope of representation; right to negotiate safety conditions

6250-6270 California Public Records Act

CODE OF REGULATIONS, TITLE 3

6147 Pesticides exempted from registration requirements

6690-6692 Pesticide use near school sites

6724 Training of employees handling pesticides

CODE OF REGULATIONS, TITLE 8

340-340.2 Employer's obligation to provide safety information

UNITED STATES CODE, TITLE 7

136-136y Insecticide, Fungicide and Rodenticide Act

Management Resources:

CALIFORNIA DEPARTMENT OF PESTICIDE REGULATION PUBLICATIONS

California School IPM Model Program Guidebook

Healthy Schools Act Requirements for Public K-12 Schools

School District Integrated Pest Management Plan Template

U.S. ENVIRONMENTAL PROTECTION AGENCY

Pest Control in the School Environment: Implementing Adopting Integrated Pest Management, (IPM),
May 2017-1993

WEB SITES

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

California Department of Pesticide Regulation, School IPM: <http://schoolipm.info>

U.S. Environmental Protection Agency, Integrated Pest Management at
Schools: <http://www.epa.gov/pesticides/ipm>

Regulation WILLITS UNIFIED SCHOOL DISTRICT

approved: August 7, 2013 Willits, California

revised:

Integrated Pest Management

Definition

Integrated Pest Management (IPM) means a strategy that focuses on long-term prevention or suppression of pest problems through a combination of techniques such as monitoring for pest presence and establishing treatment threshold levels, using nonchemical practices to make the habitat less conducive to pest development, improving sanitation, and employing mechanical and physical controls. (Education Code 17609; Food and Agricultural Code 13181)

(cf. 3510 - Green School Operations)

School site means any facility used as a child day care facility or for kindergarten, elementary, or secondary school purposes and includes the buildings or structures, playgrounds, athletic fields, vehicles, or any other area of property visited or used by students. (Education Code 17609)

Program Components

The Superintendent or designee shall designate an employee at the district office and/or school site to develop, implement, and coordinate an IPM strategy that incorporates effective, least toxic pest management practices.

The IPM coordinator shall prepare and annually update a districtwide or school site IPM plan based on the template provided by the California Department of Pesticide Regulation (DPR).

The IPM plan shall include the name of the district and/or school IPM coordinator, the pesticides expected to be applied at the school site by district employees and/or pest control applicators, and a date that the plan shall be reviewed and, if necessary, updated. (Education Code 17611.5)

The district shall use pesticides that pose the least possible hazard and are effective in a manner that minimizes risks to people, property, and the environment. Such pesticides shall only be used after careful monitoring indicates they are needed according to pre-established guidelines and treatment thresholds. (Food and Agricultural Code 13181)

The IPM plan and this administrative regulation shall not apply to reduced-risk pesticides, including self-contained baits or traps, gels or pastes used for crack and crevice treatments, antimicrobials, and pesticides exempt from registration by law. (Education Code 17610.5; 3 CCR 6147)

The district's program shall include, but not necessarily be limited to, the following components:

1. Identifying and monitoring pest population levels and identifying practices that could affect pest populations. Strategies for managing the pest shall be influenced by the pest species and whether that species poses a threat to people, property, or the environment.
2. Setting action threshold levels to determine when pest populations or vegetation at a specific location might cause unacceptable health or economic hazard that would indicate corrective action should be taken.
3. Modifying or eliminating pest habitats to deter pest populations and minimize pest infestations.
4. Considering a full range of possible alternative cost-effective treatments. Such alternative treatments may include taking no action or controlling the pest by physical, horticultural, or biological methods. Cost or staffing considerations alone will not be adequate justification for use of chemical control agents.
5. Selecting nonchemical pest management methods over chemical methods whenever such methods are effective in providing the desired control or, when it is determined that chemical methods must be used, giving preference to those chemicals that pose the least hazard to people and the environment.

No pesticide that is prohibited by DPR or the U.S. Environmental Protection Agency, as listed on the DPR web site, shall be used at a school site. (Education Code 17610.1)

6. Limiting pesticide purchases to amounts needed for the year. Pesticides shall be stored at a secure location that is not accessible to students and unauthorized staff. They shall be stored and disposed of in accordance with state regulations and product label directions.

(cf. 3514- Environmental Safety)

(cf. 3514.1 - Hazardous Substances)

7. Informing parents/guardians and employees regarding pesticide use as described in the sections "Notifications" and "Warning Signs" below.

8. Ensuring that persons applying pesticides follow label precautions and are sufficiently trained in the principles and practices of IPM as described in the section "Training" below.

Training

The IPM coordinator and any employee or contractor who may be designated to apply a pesticide at a school site shall annually complete a DPR-approved training course on IPM and the safe use of pesticides in relation to the unique nature of school sites and children's health. (Education Code 17614; Food and Agricultural Code 13186.5)

(cf. 4231 - Staff Development)

Any district employee who handles pesticides shall also receive pesticide-specific safety training prior to applying pesticides and annually thereafter in accordance with 3 CCR 6724

Notifications

Staff and parents/guardians of students enrolled at a school site, shall be notified, in writing, regarding pesticide products expected to be applied at the school site in the upcoming year. The notification shall include at least the following: (Education Code [17612](#))

1. The name of each pesticide product expected to be applied in the upcoming year and the active ingredient(s) in it.
2. The Internet address (<http://www.schoolipm.info>) used to access information on pesticides and pesticide use reduction developed by the DPR pursuant to Food and Agricultural Code [13184](#).
3. If the school has posted its IPM plan, the Internet address where the plan may be found
4. The opportunity to view a copy of the IPM plan in the school office
5. An opportunity for interested persons to register to receive prior notification of each application of a pesticide at the school site.
6. Other information deemed necessary by the Superintendent or IPM Coordinator.

(cf. [1312.4](#) - Williams Uniform Complaint Procedures)

(cf. [3517](#) - Facilities Inspection)

(cf. [4112.9/4212.9/4312.9](#) - Employee Notifications)

(cf. [5145.6](#) - Parental Notifications)

Whenever a person registers to receive notice of individual pesticide application pursuant to item #5 above, the IPM coordinator shall notify such registered persons of individual pesticide applications at least 72 hours prior to the application. The notice shall include the product name, the active ingredient(s) in the product, and the intended date of application. (Education Code [17612](#))

If a pesticide product not included in the annual notification is subsequently intended for use at a school site, the IPM Coordinator shall provide written notification of its intended use to staff and parents/guardians of students enrolled at the school, at least 72 hours prior to the application. (Education Code [17612](#))

If a school chooses to use a pesticide not exempted pursuant to Education Code [17610.5](#), it shall post the school or district IPM plan on the school's web site or, if the school does not have a web site, then on the district web site. If neither the school nor district has a web site, then the IPM plan shall be included with the annual notification sent to staff and parents/guardians pursuant to Education Code [17612](#) as described above. When not required, the IPM coordinator may post or distribute the IPM plan at his/her discretion. (Education Code [17611.5](#))

Whenever the IPM Coordinator deems that the immediate use of a pesticide is necessary to protect the health and safety of students, staff, or other persons at the school site, he/she shall make every effort to provide the required notifications prior to the application of the pesticide. (Education Code [17612](#))

Warning Signs

The IPM Coordinator shall post a warning sign at each area of the school site where pesticides will be applied that shall be visible to all persons entering the treated area. The sign shall be posted at least 24 hours prior to the application and until 72 hours after the application. The warning sign shall display the following information: (Education Code [17612](#))

1. The term "Warning/Pesticide Treated Area"
2. The product name, manufacturer's name, and the EPA's product registration number
3. Intended areas and dates of application
4. Reason for the pesticide application

When advance posting is not possible due to an emergency condition requiring immediate use of a pesticide to protect the health and safety of students, staff, or other persons or the school site, the warning sign shall be posted immediately upon application and shall remain posted until 72 hours after the application. (Education Code [17609](#), [17612](#))

Records

At the end of each calendar year, the IPM coordinator shall submit to DPR, on a form provided by DPR, a copy of the records of all pesticide use at the school site for that year, excluding any pesticides exempted by law and any pesticide use reported by the pest control operator pursuant to Food and Agricultural Code 13186. The IPM coordinator may submit more frequent reports at his/her discretion. (Education Code [17611](#))

Each school site shall maintain records of all pesticide use at the school for four years, and shall make the information available to the public, upon request, in accordance with the California Public Records Act. A school may meet this requirement by retaining a copy of the warning sign posted for each pesticide application with a recording on that copy of the amount of the pesticide used. (Education Code [17611](#))

(cf. [1340](#) - Access to District Records)

(cf. [3580](#) - District Records)

Pesticide Use near School Site

Upon receiving notification pursuant to 3 CCR 6692 that a grower expects to use agricultural pesticides within one-quarter mile of a school site Monday through Friday from 6:00 a.m. to 6:00 p.m., the principal or designee shall notify the Superintendent or designee, IPM coordinator, staff at the school site, and parents/guardians of students enrolled at the school.

The principal or designee may communicate with any grower within one-quarter mile of the school to request that the grower not apply pesticides during evenings or weekends when school activities are scheduled.

Legal Reference:

EDUCATION CODE

[17366](#) Legislative intent (fitness of buildings for occupancy)

[17608-17613](#) Healthy Schools Act of 2000

[48980](#) Notice at beginning of term

[48980.3](#) Notification of pesticides

BUSINESS AND PROFESSIONS CODE

8593.2 Licensed pest control operators; training requirements

FOOD AND AGRICULTURAL CODE

[11401-12408](#) Pest control operations and agricultural chemicals

[13180-13188](#) Healthy Schools Act of 2000

GOVERNMENT CODE

[3543.2](#) Scope of representation; right to negotiate safety conditions

[6250-6270](#) California Public Records Act

CODE OF REGULATIONS, TITLE 3

6147 Pesticides exempted from registration requirements

6690-6692 Pesticide use near school sites

6724 Training of employees handling pesticides

CODE OF REGULATIONS, TITLE 8

[340-340.2](#) Employer's obligation to provide safety information

UNITED STATES CODE, TITLE 7

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Pest Control in the School Environment: Implementing Integrated Pest Management, (IPM), May 2017

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

California Department of Pesticide Regulation, School IPM: <http://schoolipm.info>

U.S. Environmental Protection Agency, Integrated Pest Management at Schools: <http://www.epa.gov/pesticides/ipm>

Regulation WILLITS UNIFIED SCHOOL DISTRICT

approved: August 7, 2013 Willits, California

revised:

**WILLITS UNIFIED SCHOOL DISTRICT
SUPERINTENDENT'S OFFICE**

TO: Board of Trustees
FROM: Mark Westerburg, Superintendent
DATE: October 3, 2018
RE: Board Policy Revision- BP 4111/4211/4311 - Recruitment and Selection

Priority:

Communication

Objective:

To conduct a second/final read of the revised policy

Background:

(BP revised)

Policy updated to expand discussion of possible recruitment incentives, including subsidized housing programs for teachers and other employees and **NEW LAW (AB 99)** which establishes the California Educator Development grant program to assist districts with attracting and supporting the preparation and continued learning of teachers, principals, and other school leaders. Policy also reflects **NEW LAW (AB 168)** which prohibits districts from seeking salary history information about an applicant and from relying on salary history information as a factor in determining whether to offer employment or the salary to offer an applicant, unless the salary information is disclosable under state or federal law or the applicant voluntarily discloses the information without prompting.

Funding/Source:

None

Recommendation:

Administration recommends the board conduct a second/final read of the revised policy

Recruitment And Selection

~~Cautionary Notice: AB 97 (Ch. 47, Statutes of 2013) repealed Education Code 42605, which provided temporary flexibility for specified "Tier 3" categorical programs, and instead redirects the funding for those categorical programs into the Local Control Funding Formula (LCFF) (Education Code ~~42238.01-42251~~). The supplemental and concentration grant portions of the LCFF may be used for any schoolwide or districtwide educational purpose in accordance with state regulations to be adopted by January 31, 2014, with a goal of increasing or improving services for English learners, foster youth, and students eligible for free and reduced-price meals. Certain requirements related to Tier 3 categorical program(s) in the following policy or regulation are no longer applicable.~~

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

(cf. 0000- Vision)

(cf. 0100 - Goals for the School District)

(cf. 4000 - Concepts and Roles)

(cf. 4100 - Certificated Personnel)

(cf. 4200 - Classified Personnel)

(cf. 4300 - Administrative and Supervisory Personnel)

~~(cf. 9000 - Role of the Board)~~

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

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

(cf. 4030 - Nondiscrimination in Employment)

~~(cf. 4031 - Complaints Concerning Discrimination in Employment)~~

(cf. 4032 - Reasonable Accommodation)

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

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

The district's selection procedures shall include screening processes, interviews, observations, ~~and~~ recommendations from previous employers, and observations when appropriate, as necessary to identify the best possible candidate for a position.

(cf. 4112.61/4212.61/4312.61- Employment References)

The Superintendent or designee may establish an interview committee, as appropriate, to rank candidates and recommend finalists. During job interviews, applicants may be asked to describe or demonstrate how they will be able to perform the duties of the job. 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.~~

(cf. 3230- Representatives and Deliberative Groups)

No inquiry shall be made with regard to any category of discrimination prohibited by state or federal nondiscrimination laws.

The Superintendent or designee shall not inquire, orally or in writing, in regard to an applicant's salary history information, including compensation and benefits. He/she shall also not rely on salary history information as a factor in determining whether to offer employment to an applicant or the salary to offer. However, the Superintendent salary information that is disclosable under state or federal law or that the applicant discloses voluntarily and without prompting. Upon request, the Superintendent or designee shall provide the applicant the pay scale for the position to which he/she is applying. (Labor Code 432.3)

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

(cf. 4112 - Appointment and Conditions of Employment)

(cf. 4112.2 - Certification)

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

(cf. 4112.22 - Staff Teaching English Learners)

(cf. 4112.23 - Special Education Staff)

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

(cf. 4212 - Appointment and Conditions of Employment)

(cf. 4312.1 - Contracts)

Incentives

With Board approval and in accordance with district needs, the district may provide incentives to

recruit teachers, administrators, or other employees, such as signing bonuses, assistance with beginning teacher induction and/or credential costs, mentoring, additional compensation, and/or subsidized housing.

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

35035 Responsibilities of superintendent

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 Teacher recruitment resource center

44830-44831 Employment of certificated persons

44858 Age or marital status in certificated positions

44859 Prohibition against certain rules and regulations re residency

45103-45139 Employment (classified employees)

49406 Examination for tuberculosis

52051 Academic Performance Index

GOVERNMENT CODE

815.2 Liability of public entities and public employees

6250-6276.48 Public Records Act

12900-12996 Fair Employment and Housing Act, including:

12940-12956 Discrimination prohibited; unlawful practices

HEALTH AND SAFETY CODE

53570-53574 Teacher Housing Act of 2016

LABOR CODE

432.3 Salary information

UNITED STATES CODE, TITLE 5

552 Freedom of Information Act

UNITED STATES CODE, TITLE 8

1324a Unlawful employment of aliens

1324b Unfair immigration related practices

UNITED STATES CODE, TITLE 20

1681-1688 Title IX prohibition against discrimination

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

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

COURT DECISIONS

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

Management Resources:

CALIFORNIA COUNTY SUPERINTENDENTS EDUCATIONAL SERVICES ASSOCIATION PUBLICATIONS

Teacher Recruitment in California: An Analysis of Effective Strategies, Research Brief, Veritas Research and Evaluation Group, October 2017

WEB SITES

California County Superintendents Educational Services Association: <http://ccsesa.org/recruit>

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

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

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

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

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

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

Policy WILLITS UNIFIED SCHOOL DISTRICT

adopted: August 7, 2013 Willits, California

revised:

Recruitment And Selection

The Governing Board is committed to employing suitable, qualified individuals to carry out the district's vision, mission and goals.

(cf. 0000- Vision)

(cf. 0100 - Goals for the School District)

(cf. 4000 - Concepts and Roles)

(cf. 4100 - Certificated Personnel)

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

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

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(cf. [4112](#) - Appointment and Conditions of Employment)

(cf. [4112.2](#) - Certification)

(cf. 4112.22 - Staff Teaching English Learners)

(cf. 4112.23 - Special Education Staff)

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

(cf. [4212](#) - Appointment and Conditions of Employment)

(cf. [4312.1](#) - Contracts)

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With Board approval and in accordance with district needs, the district may provide incentives to recruit teachers, administrators, or other employees, such as signing bonuses, assistance with beginning teacher induction and/or credential costs, mentoring, additional compensation, and/or subsidized housing.

Legal Reference:

EDUCATION CODE

[200-262.4](#) Prohibition of discrimination

35035 Responsibilities of superintendent

[44066](#) Limitations on certification requirement

[44259](#) Teaching credential; exception; designated subjects; minimum requirements

[44750](#) Teacher recruitment resource center

44830-44831 Employment of certificated persons

44858 Age or marital status in certificated positions

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45103-45139 Employment (classified employees)

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6250-6276.48 Public Records Act

12900-12996 Fair Employment and Housing Act, including:

12940-12956 Discrimination prohibited; unlawful practices

HEALTH AND SAFETY CODE

53570-53574 *Teacher Housing Act of 2016*

LABOR CODE

432.3 *Salary information*

UNITED STATES CODE, TITLE 5

552 *Freedom of Information Act*

UNITED STATES CODE, TITLE 8

1324a Unlawful employment of aliens

1324b Unfair immigration related practices

UNITED STATES CODE, TITLE 20

1681-1688 *Title IX prohibition against discrimination*

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

12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 34

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

COURT DECISIONS

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

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

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

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

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

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

Policy WILLITS UNIFIED SCHOOL DISTRICT

adopted: August 7, 2013 Willits, California

revised:

WILLITS UNIFIED SCHOOL DISTRICT
SUPERINTENDENT'S OFFICE

TO: Board of Trustees
FROM: Mark Westerburg, Superintendent
DATE: October 3, 2018
RE: Board Policy Revision- BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment

Priority:

Communication

Objective:

To conduct a second/final read of the revised policy

Background:

(BP/AR revised)

Policy updated to provide a strong statement of the board's commitment to provide a safe work environment that is free of sexual harassment and intimidation and to align the process for filing complaints of sexual harassment with AR 4030 - Nondiscrimination in Employment. Regulation updated to reflect **NEW LAW (SB 396)** which requires districts to post a Department of Fair Employment and Housing poster on transgender rights and, if the district has 50 or more employees, to provide training to supervisors regarding harassment based on gender identity, gender expression, and sexual orientation.

Funding/Source:

None

Recommendation:

Administration recommends the board conduct a second/final read of the revised policy

Sexual Harassment

~~The Governing Board of Trustees is committed to providing a safe work environment that is free of prohibits sexual harassment and intimidation. The board prohibits sexual harassment against district employees and job applicants. The Board also prohibits and retaliatory behavior or action against district employees or other any persons who complain, testifies or otherwise participates in the complaint process established for the purpose of pursuant to this policy, and administrative regulation.~~

Sexual harassment includes, but is not limited to, harassment that is based on the gender, gender identity, gender expression, or sexual orientation of the victim.

This policy shall apply to all district employees and to other persons on district property or with some employment relationship with the district, such as interns, volunteers, contractors, and job applicants.

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

(cf. 4030 - Nondiscrimination in Employment)

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

(cf. 4117.7/4317.7 - Employment Status Reports)

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

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

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

1. Providing training to employees in accordance with law and administrative regulation
2. Publicizing and disseminating the district's sexual harassment policy to staff employees and others to whom the policy may apply

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

3. Ensuring prompt, thorough, and fair investigation of complaints
4. Taking timely and appropriate corrective/remedial action(s), which may require interim separation of the complainant and the alleged harasser and subsequent monitoring of developments

~~All complaints and allegations of sexual harassment shall be kept confidential to the extent necessary to carry out the investigation or to take other subsequent necessary actions. (5 CCR 4964)~~

The Superintendent or designee shall periodically evaluate the effectiveness of the district's strategies to prevent and address harassment. Such evaluation may involve conducting regular

anonymous employee surveys to assess whether harassment is occurring or is perceived to be tolerated, partnering with researchers or other agencies with the needed expertise to evaluate the district's prevention strategies, and using any other effective tool for receiving feedback on systems and/or processes. As necessary, changes shall be made to the harassment policy, complaint procedures, or training.

Sexual Harassment Reports and Complaints

~~Any district employee or job applicant who feels that he/she has been sexually harassed in the performance of his/her district responsibilities or who has knowledge of any incident of sexual harassment by or against another employee, a job applicant or a student, shall immediately report the incident to his/her direct supervisor, the principal, district's coordinator for nondiscrimination, the administrator or Superintendent, or, if available, a complaint hotline or an ombudsman. A supervisor or administrator who receives a harassment complaint shall promptly notify the coordinator.~~

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

Complaints of sexual harassment shall be filed and investigated in accordance with the complaint procedure specified in AR 40304 - Complaints Concerning Nondiscrimination Discrimination in Employment. An employee may bypass his/her supervisor in filing a complaint where the supervisor is the subject of the complaint.

All complaints and allegations of sexual harassment shall be kept confidential to the extent necessary to carry out the investigation or to take other subsequent necessary actions. (2CCR 11023)

~~(cf. 4031 - Complaints Concerning Discrimination in Employment)~~

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

~~(cf. 4117.4 - Dismissal)~~

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

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

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act, especially:

12940 Prohibited discrimination

12950 ~~Sexual harassment; distribution of information~~

12950.1 Sexual harassment training

LABOR CODE

1101 Political activities of employees

1102.1 Discrimination: sexual orientation

CODE OF REGULATIONS, TITLE 2

11009 *Employment discrimination*

11021 *Retaliation*

11023 *Harassment and discrimination prevention and correction*

11024 *Sexual harassment training and education*

11034 *Terms, conditions, and privileges of employment*

7287.8 *Retaliation*

7288.0 ~~Sexual harassment training and education~~

CODE OF REGULATIONS, TITLE 5

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

UNITED STATES CODE, TITLE 20

1681-1688 *Title IX prohibition against discrimination*

UNITED STATES CODE, TITLE 42

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

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

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

CODE OF FEDERAL REGULATIONS, TITLE 34

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

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

COURT DECISIONS

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

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

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

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

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

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

Management Resources:

~~OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL~~

~~Protecting Students from Harassment and Hate Crime, January, 1999~~

U.S. EQUAL EMPLOYMENT OPPORUTNITY COMMISSION PUBLICATIONS

Promising Practices for Preventing Harassment, November 2017

WEB SITES

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

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

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

Policy WILLITS UNIFIED SCHOOL DISTRICT

adopted: August 7, 2013 Willits, California

revised:

Sexual Harassment

The Governing Board is committed to providing a safe work environment that is free of harassment and intimidation. The board prohibits sexual harassment against district employees and retaliatory behavior or action against any person who complain, testifies or otherwise participates in the complaint process established for the purpose of this policy.

Sexual harassment includes, but is not limited to, harassment that is based on the gender, gender identity, gender expression, or sexual orientation of the victim.

This policy shall apply to all district employees and to other persons on district property or with some employment relationship with the district, such as interns, volunteers, contractors, and job applicants.

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

(cf. [4030](#) - Nondiscrimination in Employment)

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

(cf. 4117.7/4317.7 - Employment Status Reports)

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

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

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

1. Providing training to employees in accordance with law and administrative regulation
2. Publicizing and disseminating the district's sexual harassment policy to employees and others to whom the policy may apply

(cf. [4112.9/4212.9/4312.9](#) - Employee Notifications)

3. Ensuring prompt, thorough, and fair investigation of complaints
4. Taking timely and appropriate corrective/remedial action(s), which may require interim separation of the complainant and the alleged harasser and subsequent monitoring of developments

The Superintendent or designee shall periodically evaluate the effectiveness of the district's strategies to prevent and address harassment. Such evaluation may involve conducting regular anonymous employee surveys to assess whether harassment is occurring or is perceived to be tolerated, partnering with researchers or other agencies with the needed expertise to evaluate the district's prevention strategies, and using any other effective tool for receiving feedback on systems and/or processes. As necessary, changes shall be made to the harassment policy, complaint procedures, or training.

Sexual Harassment Reports and Complaints

Any district employee who feels that he/she has been sexually harassed in the performance of his/her district responsibilities or who has knowledge of any incident of sexual harassment by or against another employee, shall immediately report the incident to his/her direct supervisor, the district's coordinator for nondiscrimination, the Superintendent, or, if available, a complaint hotline or an ombudsman. A supervisor or administrator who receives a harassment complaint shall promptly notify the coordinator.

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

All complaints and allegations of sexual harassment shall be kept confidential to the extent necessary to carry out the investigation or to take other subsequent necessary actions. (2CCR 11023)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act, especially:

12940 Prohibited discrimination

12950 Sexual harassment; distribution of information

12950.1 Sexual harassment training

LABOR CODE

1101 Political activities of employees

1102.1 Discrimination: sexual orientation

CODE OF REGULATIONS, TITLE 2

11009 Employment discrimination

11021 Retaliation

11023 Harassment and discrimination prevention and correction

11024 Sexual harassment training and education

11034 Terms, conditions, and privileges of employment

CODE OF REGULATIONS, TITLE 5

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

UNITED STATES CODE, TITLE 20
1681-1688 Title IX prohibition against discrimination

UNITED STATES CODE, TITLE 42

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

CODE OF FEDERAL REGULATIONS, TITLE 34

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

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

COURT DECISIONS

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Management Resources:

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

Policy WILLITS UNIFIED SCHOOL DISTRICT

adopted: August 7, 2013 Willits, California

revised:

Sexual Harassment

Definitions

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

Definitions

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature made against another person of the same or opposite sex in the work or educational setting when: (Education Code 212.5;- Government Code 12940; 2CCR 11034)~~5 CCR 4916~~)

1. Submission to the conduct is made explicitly or implicitly a term or condition of the individual's employment.
2. Submission to or rejection of ~~the such conduct by the individual~~ is used as the basis for an employment decision affecting the individual. ~~him/her~~.
3. ~~The conduct has the purpose or effect of having a negative impact upon the individual's work or has the purpose or effect of creating an intimidating, hostile, or offensive work environment. The conduct is sufficiently severe, persistent, pervasive, or objectively offensive so as to create a hostile or abusive working environment or to limit the individual's ability to participate in or benefit from an education program or activity.~~
34. Submission to or rejection of the conduct ~~by the other individual~~ is used as the basis for any decision affecting the individual ~~him/her~~ regarding benefits, services, honors, programs, or activities available at or through the district.

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

~~Other~~ Examples of actions that might constitute sexual harassment in the work or educational setting, whether committed by a supervisor, a co-worker, or a non-employee, include, in the work or educational setting, include, but are not limited to:

1. Unwelcome verbal conduct such as sexual flirtations or propositions; graphic comments about an individual's body; overly personal conversations or pressure for sexual activity; sexual jokes or stories; unwelcome sexual slurs, epithets, threats, innuendoes, derogatory comments, sexually degrading descriptions, or the spreading of sexual rumors
2. Unwelcome visual conduct such as drawings, pictures, graffiti, or gestures; sexually explicit emails; displaying sexually suggestive objects

3. Unwelcome physical conduct such as massaging, grabbing, fondling, stroking, or brushing the body; touching an individual's body or clothes in a sexual way; cornering, blocking, leaning over, or impeding normal movements

~~Prohibited sexual harassment may also include any act of retaliation against an individual who reports a violation of the district's sexual harassment policy or who participates in the investigation of a sexual harassment complaint.~~

Training

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

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

Every two years, the Superintendent or designee shall ensure that supervisory employees receive at least two hours of classroom or other effective interactive training and education regarding sexual harassment. All newly hired or promoted supervisory employees shall receive training within six months of their assumption of the ~~new supervisory~~ position. (Government Code [12950.1](#))

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

(cf. 4300 - Administrative and Supervisory Personnel)

The district's sexual harassment training and education program for supervisory employees shall be aimed at assisting them in preventing and effectively responding to incidents of sexual harassment, as well as implementing mechanisms to promptly address and correct wrongful behavior. ~~include information and practical guidance regarding the federal and state laws on the prohibition against and the prevention and correction of sexual harassment, and the remedies available to the victims of sexual harassment in employment. The training shall also include, but is not limited to, the following: all of the content specified in 2 CCR 7288.0 and practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation.~~ (Government Code [12950.1](#); 2 CCR [11024 7288.0](#))

~~In addition, the Superintendent or designee shall ensure that all employees receive periodic training regarding the district's sexual harassment policy, particularly the procedures for filing complaints and employees' duty to use the district's complaint procedures.~~

1. Information and practical guidance regarding federal and state laws on the prohibition, prevention, and correction of sexual harassment, the remedies available to sexual harassment victims in civil actions, and potential district and/or individual exposure or liability
2. The types of conduct that constitute sexual harassment and practical examples which illustrate sexual harassment, discrimination, and retaliation using training modalities such as role plays, case studies, and group discussions, based on factual scenarios taken from case law, news and media accounts, and hypotheticals based on workplace situations and other sources
3. A supervisor's obligation to report sexual harassment, discrimination, and retaliation of which he/she becomes aware and what to do if the supervisor himself/herself is personally accused of harassment
4. Strategies for preventing harassment, discrimination, and retaliation and appropriate steps to ensure that remedial measures are taken to correct harassing behavior, including an effective process for investigation of a complaint
5. The essential elements of the district's anti-harassment policy, including the limited confidentiality of the complaint process and resources for victims of unlawful sexual harassment, such as to whom they should report any alleged sexual harassment, and how to use the policy if a harassment complaint is filed
6. A copy of the district's sexual harassment policy and administrative regulation, which each participant shall acknowledge in writing that he/she has received
7. The definition and prevention of abusive conduct that addresses the use of derogatory remarks, insults, or epithets, other verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, and the gratuitous sabotage or undermining of a person's work performance
8. Practical examples of harassment based on gender identity, gender expression, and sexual orientation

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

Notifications

A copy of the Board policy and this administrative regulation shall: (Education Code [231.5](#))

1. Be displayed in a prominent location in the main administrative building, district office, or other area of the school where notices of district rules, regulations, procedures, and standards of conduct are posted

2. Be provided to every district employee ~~each faculty member, all members of the administrative staff, and all members of the support staff~~ at the beginning of the first quarter or semester of the school year or whenever a new employee is hired .

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

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

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

1. The illegality of sexual harassment
2. The definition of sexual harassment under applicable state and federal law
3. A description of sexual harassment, with examples
4. The district's complaint process available to the employee

(cf. ~~4031 - Complaints Concerning Discrimination in Employment~~)

5. The legal remedies and complaint process available through DFEH and the Equal Employment Opportunity Commission (EEOC)

6. Directions on how to contact DFEH and the EEOC

7. The protection against retaliation provided by 2 CCR 11021 7287.8 for opposing harassment prohibited by law or for filing a complaint with or otherwise participating in an investigation, proceeding, or hearing conducted by DFEH and the EEOC

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

Regulation WILLITS UNIFIED SCHOOL DISTRICT

approved: August 7, 2013 Willits, California

revised:

Sexual Harassment

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

Definitions

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature made against another person of the same or opposite sex in the work or educational setting when: (Education Code [212.5](#); Government Code 12940: 2CCR 11034))

1. Submission to the conduct is made explicitly or implicitly a term or condition of the individual's employment.
2. Submission to or rejection of the conduct is used as the basis for an employment decision affecting the individual. .
3. Submission to or rejection of the conduct is used as the basis for any decision affecting the individual regarding benefits, services, honors, programs, or activities available at or through the district.

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

Examples of actions that might constitute sexual harassment in the work or educational setting, , whether committed by a supervisor, a co-worker, or a non-employee, include, but are not limited to:

1. Unwelcome verbal conduct such as sexual flirtations or propositions; graphic comments about an individual's body; overly personal conversations or pressure for sexual activity; sexual jokes or stories; unwelcome sexual slurs, epithets, threats, innuendoes, derogatory comments, sexually degrading descriptions, or the spreading of sexual rumors
2. Unwelcome visual conduct such as drawings, pictures, graffiti, or gestures; sexually explicit emails; displaying sexually suggestive objects
3. Unwelcome physical conduct such as massaging, grabbing, fondling, stroking, or brushing the body; touching an individual's body or clothes in a sexual way; cornering, blocking, leaning over, or impeding normal movements

Training

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

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

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

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

(cf. 4300 - Administrative and Supervisory Personnel)

The district's sexual harassment training and education program for supervisory employees shall be aimed at assisting them in preventing and effectively responding to incidents of sexual harassment, as well as implementing mechanisms to promptly address and correct wrongful behavior. The training shall include, but is not limited to, the following: (Government Code 12950.1; 2 CCR 11024)

1. Information and practical guidance regarding federal and state laws on the prohibition, prevention, and correction of sexual harassment, the remedies available to sexual harassment victims in civil actions, and potential district and/or individual exposure or liability
2. The types of conduct that constitute sexual harassment and practical examples which illustrate sexual harassment, discrimination, and retaliation using training modalities such as role plays, case studies, and group discussions, based on factual scenarios taken from case law, news and media accounts, and hypotheticals based on workplace situations and other sources
3. A supervisor's obligation to report sexual harassment, discrimination, and retaliation of which he/she becomes aware and what to do if the supervisor himself/herself is personally accused of harassment

4. Strategies for preventing harassment, discrimination, and retaliation and appropriate steps to ensure that remedial measures are taken to correct harassing behavior, including an effective process for investigation of a complaint
5. The essential elements of the district's anti-harassment policy, including the limited confidentiality of the complaint process and resources for victims of unlawful sexual harassment, such as to whom they should report any alleged sexual harassment, and how to use the policy if a harassment complaint is filed
6. A copy of the district's sexual harassment policy and administrative regulation, which each participant shall acknowledge in writing that he/she has received
7. The definition and prevention of abusive conduct that addresses the use of derogatory remarks, insults, or epithets, other verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, and the gratuitous sabotage or undermining of a person's work performance
8. Practical examples of harassment based on gender identity, gender expression, and sexual orientation

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

Notifications

A copy of the Board policy and this administrative regulation shall: (Education Code [231.5](#))

1. Be displayed in a prominent location in the main administrative building, district office, or other area of the school where notices of district rules, regulations, procedures, and standards of conduct are posted
2. Be provided to every district employee at the beginning of the first quarter or semester of the school year or whenever a new employee is hired

(cf. [4112.9/4212.9/4312.9](#) - Employee Notifications)

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

All employees shall receive a copy of an information sheet prepared by the California Department of Fair Employment and Housing (DFEH) or the district that contains, at a minimum, components on:
(Government Code [12950](#))

1. The illegality of sexual harassment
2. The definition of sexual harassment under applicable state and federal law
3. A description of sexual harassment, with examples

4. The district's complaint process available to the employee
5. The legal remedies and complaint process available through DFEH and the Equal Employment Opportunity Commission (EEOC)
6. Directions on how to contact DFEH and the EEOC
7. The protection against retaliation provided by 2 CCR 11021 for opposing harassment prohibited by law or for filing a complaint with or otherwise participating in an investigation, proceeding, or hearing conducted by DFEH and the EEOC

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

Regulation WILLITS UNIFIED SCHOOL DISTRICT

approved: August 7, 2013 Willits, California

revised:

**WILLITS UNIFIED SCHOOL DISTRICT
SUPERINTENDENT'S OFFICE**

TO: Board of Trustees
FROM: Mark Westerburg, Superintendent
DATE: October 3, 2018
RE: Board Policy Revision- AR 4161.1/4361.1 - Personal Illness/Injury Leave

Priority:

Communication

Objective:

To conduct a second/final read of the revised policy

Background:

(AR revised)

Regulation updated to reflect **NEW LAW (SB 63)** which extends the requirement to grant parental leave to an eligible employee for the purpose of bonding with a child after the birth, adoption, or foster care placement of the child to any district that employs 20-49 employees within 75 miles of the worksite where the employee requesting the leave is employed. Regulation also updated to reflect **NEW LAW (SB 731)** which entitles an employee who is a military veteran or current member of the California National Guard or federal reserve component to 10 days of additional sick leave for the purpose of undergoing medical treatment for a qualifying military service-connected disability, effective on either the date the U.S. Department of Veterans Affairs rates the employee's disability or on the first day the employee begins or returns to employment after active duty, whichever is later

Funding/Source:

None

Recommendation:

Administration recommends the board conduct a second/final read of the revised policy

Personal Illness/Injury Leave

Certificated employees employed five school days per week are entitled to 10 days' leave of absence with full pay for personal illness or injury (sick leave) per school year of service. Employees who work less than five school days per week (part-time employees) shall be granted sick leave in proportion to the time they work. However, any part-time employee who is entitled to less than three days of paid sick leave per year due to the amount of time worked shall be granted sick leave pursuant to Labor Code 246, if he/she is eligible. (Education Code 44978; Labor Code 245-249)

(cf. 4161/4261/4361 - Leaves)

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

Use of Sick Leave

Certificated employees may use sick leave for absences due to:

1. Accident or illness, whether or not the absence arises out of or in the course of employment; quarantine which results from contact with other persons having a contagious disease during the employee's performance of his/her duties; or temporary inability to perform assigned duties because of illness, accident, or quarantine (Education Code 44964)

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

2. Pregnancy, miscarriage, childbirth, and related recovery (Education Code 44965, 44978)

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

3. Personal necessity (Education Code 44981)

(cf. 4161.2/4261.2/4361.2 - Personal Leaves)

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

5. Industrial accidents or illnesses when leave granted specifically for that purpose has been exhausted (Education Code 44984)

(cf. 4161.11/4261.11/4361.11 - Industrial Accident/Illness Leave)

6. Need of the employee to bond with a child within one year of the child's birth, adoption, or foster care placement (parental leave) (Education Code 44977.5; Government Code 12945.2, 12945.6; 29 USC 2612; 29 CFR 825.112)

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

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

For the purposes specified in items ~~#6-7-8~~, an employee may use, in any calendar year, the amount of sick leave he/she would accrue during six months at his/her current rate of entitlement. (Labor Code 233)

An employee may take sick leave at any time during the school year, even if credit for sick leave has not yet been accrued. (Education Code 44978)

An employee shall reimburse the district for any unearned sick leave used as of the date of his/her termination.

Unused days of sick leave shall be accumulated from year to year without limitation. (Education Code 44978)

At the beginning of each school year, employees shall be notified of the amount of sick leave they have accumulated.

The district shall not require new employees to waive leave accumulated in a previous district. (Education Code 44979, 44980)

The Superintendent or designee shall notify any certificated employee who leaves the district after at least one school year of employment that if the employee accepts a certificated position in another district, county office of education, or community college district within one year, he/she may request that the district transfer his/her accumulated sick leave to the new employer. (Education Code 44979, 44980)

Additional Leave for Disabled Military Veterans

In addition to any other entitlement for sick leave with pay, a ~~newly hired~~ certificated employee who is a former active duty member of the U.S. Armed Forces or a former or current member of the California National Guard or a federal reserve component shall be entitled to sick leave ~~military veteran with a military service-connected disability rated at 30 percent or more by the U.S. Department of Veterans Affairs shall be entitled to sick leave~~ with pay of up to 10 days for the purpose of undergoing medical treatment, including mental health treatment, for his/her a military service-connected disability rated at 30 percent or more by the U.S. Department of Veterans Affairs. An eligible employee ~~employee~~ who works less than five days per week shall be entitled to such leave in proportion to the time he/she works. (Education Code 44978.2)

The amount of leave shall be credited to the employee on the date the employee receives confirmation of the submission of his/her disability application to the U. S. Department of Veterans Affairs or on the first day the of employment begins or returns to employment after active duty, whichever is later, and shall remain available for the following 12 months of employment. Leave not used during the 12-month period shall not be carried over and shall be forfeited. (Education Code 44978.2) When the employee receives his/her disability rating decision, he/she shall report that information to the Superintendent or designee. If the disability rating decision makes the employee eligible for the leave, the time used before the decision shall be counted toward the 10-day maximum leave. If the disability rating decision makes the employee ineligible for the leave, the district may change the sick

leave time used before the disability rating decision to an alternative leave balance. (Education Code 44978.2)

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

Leave for military-service connected disability shall be available for 12 months following the first date that the leave was credited. Leave not used during the 12-month period shall not be carried over and shall be forfeited. (Education Code 44978.2)

Notification of Absence

An employee shall notify the district of his/her need to be absent as soon as such need is known, so that substitute services may be secured. This notification shall include an estimate of the expected duration of absence. If the absence becomes longer than estimated, the employee shall so notify the district. If the duration of absence becomes shorter than estimated, the employee shall notify the district not later than three o'clock in the afternoon of the day preceding the day on which he/she intends to return to work. If the employee fails to notify the district and the failure results in a substitute being secured, the cost of the substitute shall be deducted from the employee's pay.

(cf. [4121](#) - Temporary/Substitute Personnel)

Continued Absence After Available Sick Leave Is Exhausted/Differential Pay

During each school year, when a certificated employee has exhausted all available sick leave, including all accumulated sick leave, and, due to illness or accident, continues to be absent from his/her duties for an additional period of up to five school months, the employee shall receive his/her regular salary minus the actual cost of a substitute to fill the position. If the district has made every reasonable effort to secure the services of a substitute and has been unable to do so, the amount that would have been paid to a substitute shall be deducted from the employee's salary. (Education Code [44977](#))

An employee shall not be provided more than one five-month period per illness or accident. However, if the school year ends before the five-month period is exhausted, the employee may take the balance of the five-month period in a subsequent school year. (Education Code [44977](#))

Absence Beyond Five-Month Period/Reemployment List

If a certificated employee is not medically able to resume his/her duties after the five-month period provided pursuant to Education Code [44977](#), the employee shall be placed either in another position or on a reemployment list. Placement on the reemployment list shall be for 24 months for probationary employees or 39 months for permanent employees and shall begin at the expiration of the five-month period. If during this time the employee becomes medically able, he/she shall be returned to employment in a position for which he/she is credentialed and qualified. (Education Code [44978.1](#))

(cf. [4116](#) - Probationary/Permanent Status)

~~Differential Pay for Parental Leave~~

During each school year, ~~any~~ certificated employee may use who has exhausted all available sick leave, including accumulated sick leave, for the purpose and continues to be absent on account of parental leave for a period up to 12 work weeks. (baby bonding) pursuant to Government Code 12945.2 shall receive differential pay for up to 12 work weeks. The 12-week period shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of such parental leave. (Education Code 44977.5)

~~Such parental leave shall run concurrently with the parental leave taken pursuant to Government Code 12945.2 and the aggregate amount of parental leave shall not exceed 12 work weeks in a 12 month period.~~ Eligibility for parental leave pursuant to Education Code 44977.5 shall not require 1,250 hours of service with the district during the previous 12 months. (Education Code 44977.5)

An employee who has exhausted all available sick leave, including accumulated sick leave, and continues to be absent on account of parental leave shall receive differential pay for the remainder of the 12 work weeks. (Education Code 44977.5)

Parental leave taken pursuant to Education Code 44977.5 shall run concurrently with the parental leave taken pursuant to Government Code 12945.2 or 12945.6, and the aggregate amount of parental leave shall not exceed 12 work weeks in a 12 month period. (Education Code 44977.5; Government Code 12945.2, 12945.6)

Verification Requirements

After any absence due to illness or injury, the employee shall verify the absence by submitting a completed and signed district absence form to his/her immediate supervisor.

The Superintendent or designee may require verification whenever an employee's absence record shows chronic absenteeism or a pattern of absences immediately before or after weekends and/or holidays or whenever available evidence clearly indicates that an absence is not related to illness or injury.

In addition, the Superintendent or designee may require an employee to visit a physician selected by the district, at district expense, in order to receive a report on the medical condition of the employee. The report shall include a statement as to the employee's need for further leave of absence and a prognosis as to when the employee will be able to return to work. If the report concludes that the employee's condition does not warrant continued absence, the Superintendent or designee may, after giving notice to the employee, deny further leave.

Any district request for additional verification by an employee's physician or a district-selected physician shall be in writing and shall specify that the report to be submitted to the district should not contain the employee's genetic information.

Any genetic information received by the district on behalf of an employee shall be treated as a confidential medical record, maintained in a file separate from the employee's personnel file, and shall not be disclosed except in accordance with 29 CFR 1635.9.

Before returning to work, an employee who has been absent for surgery, hospitalization, or extended medical treatment may be asked to submit a letter from his/her physician stating that he/she is able to return to duty and stipulating any necessary restrictions or limitations.

(cf. 4032 - Reasonable Accommodation)

(cf. [4113.4/4213.4/4313.4](#) - Temporary Modified/Light-Duty Assignment)

Healthy Workplaces, Healthy Families Act Requirements

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

To ensure the district's compliance with Labor Code [245-249](#), the Superintendent or designee shall:

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

(cf. [4112.9/4212.9/4312.9](#) - Employee Notifications)

4. Keep a record documenting the hours worked and paid sick days accrued and used by each eligible employee for three years

Legal Reference:

EDUCATION CODE

44964 Power to grant leave of absence in case of illness, accident, or quarantine

44965 Granting of leaves of absence for pregnancy and childbirth

44976 Transfer of leave rights when school is transferred to another district

44977 Salary deduction during absence from duties up to five months after sick leave is exhausted

44977.5 Differential pay during parental leave up to 12 weeks after sick leave is exhausted

44978 Provisions for sick leave of certificated employees

44978.1 Inability to return to duty; placement in another position or on reemployment list

44978.2 Leave for military service connected disability

44979 Transfer of accumulated sick leave to another district

44980 Transfer of accumulated sick leave to a county office of education

44981 Leave of absence for personal necessity

44983 Exception to sick leave when district adopts specific rule

44984 Industrial accident or illness

44986 Leave of absence for disability allowance applicant

GOVERNMENT CODE

12945.1-12945.2 California Family Rights Act

12945.6 Parental leave

LABOR CODE

220 Sections inapplicable to public employees

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

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

233 Illness of child, parent, spouse or domestic partner

234 Absence control policy

245-249 Healthy Workplaces, Healthy Families Act of 2014

CODE OF REGULATIONS, TITLE 5

5601 Transfer of accumulated sick leave

UNITED STATES CODE, TITLE 29

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

UNITED STATES CODE, TITLE 42

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

CODE OF FEDERAL REGULATIONS, TITLE 29

825.100-825.800 Family and Medical Leave Act of 1993

1635.1-1635.12 Genetic Information Nondiscrimination Act of 2008

COURT DECISIONS

Veguez v. Governing Board of Long Beach Unified School District, (2005) 127 Cal.App.4th 406

Regulation WILLITS UNIFIED SCHOOL DISTRICT

approved: October 4, 2017 Willits, California

revised:

Personal Illness/Injury Leave

Certificated employees employed five school days per week are entitled to 10 days' leave of absence with full pay for personal illness or injury (sick leave) per school year of service. Employees who work less than five school days per week (part-time employees) shall be granted sick leave in proportion to the time they work. However, any part-time employee who is entitled to less than three days of paid sick leave per year due to the amount of time worked shall be granted sick leave pursuant to Labor Code 246, if he/she is eligible. (Education Code 44978; Labor Code 245-249)

(cf. 4161/4261/4361 - Leaves)

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

Use of Sick Leave

Certificated employees may use sick leave for absences due to:

1. Accident or illness, whether or not the absence arises out of or in the course of employment; quarantine which results from contact with other persons having a contagious disease during the employee's performance of his/her duties; or temporary inability to perform assigned duties because of illness, accident, or quarantine (Education Code 44964)

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

2. Pregnancy, miscarriage, childbirth, and related recovery (Education Code 44965, 44978)

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

3. Personal necessity (Education Code 44981)

(cf. 4161.2/4261.2/4361.2 - Personal Leaves)

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

5. Industrial accidents or illnesses when leave granted specifically for that purpose has been exhausted (Education Code 44984)

(cf. 4161.11/4261.11/4361.11 - Industrial Accident/Illness Leave)

6. Need of the employee to bond with a child within one year of the child's birth, adoption, or foster care placement (parental leave) (Education Code 44977.5; Government Code 12945.2, 12945.6; 29 USC 2612; 29 CFR 825.112)

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

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

For the purposes specified in items #7-8, an employee may use, in any calendar year, the amount of sick leave he/she would accrue during six months at his/her current rate of entitlement. (Labor Code [233](#))

An employee may take sick leave at any time during the school year, even if credit for sick leave has not yet been accrued. (Education Code [44978](#))

An employee shall reimburse the district for any unearned sick leave used as of the date of his/her termination.

Unused days of sick leave shall be accumulated from year to year without limitation. (Education Code [44978](#))

At the beginning of each school year, employees shall be notified of the amount of sick leave they have accumulated.

The district shall not require new employees to waive leave accumulated in a previous district. (Education Code [44979](#), [44980](#))

The Superintendent or designee shall notify any certificated employee who leaves the district after at least one school year of employment that if the employee accepts a certificated position in another district, county office of education, or community college district within one year, he/she may request that the district transfer his/her accumulated sick leave to the new employer. (Education Code [44979](#), [44980](#))

Additional Leave for Disabled Military Veterans

In addition to any other entitlement for sick leave with pay, a certificated employee who is a former active duty member of the U.S. Armed Forces or a former or current member of the California National Guard or a federal reserve component shall be entitled to sick leave with pay of up to 10 days for the purpose of undergoing medical treatment, including mental health treatment, for a military service-connected disability rated at 30 percent or more by the U.S. Department of Veterans Affairs. An eligible employee who works less than five days per week shall be entitled to such leave in proportion to the time he/she works. (Education Code [44978.2](#))

The amount of leave shall be credited to the employee on the date the employee receives confirmation of the submission of his/her disability application to the U. S. Department of Veterans Affairs or on the first day the employee begins or returns to employment after active duty, whichever is later. When the employee receives his/her disability rating decision, he/she shall report that information to the Superintendent or designee. If the disability rating decision makes the employee eligible for the leave, the time used before the decision shall be counted toward the 10-day maximum leave. If the disability rating decision makes the employee ineligible for the leave, the district may change the sick leave time used before the disability rating decision to an alternative leave balance. (Education Code [44978.2](#))

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

Leave for military-service connected disability shall be available for 12 months following the first date that the leave was credited. Leave not used during the 12-month period shall not be carried over and shall be forfeited. (Education Code 44978.2)

Notification of Absence

An employee shall notify the district of his/her need to be absent as soon as such need is known, so that substitute services may be secured. This notification shall include an estimate of the expected duration of absence. If the absence becomes longer than estimated, the employee shall so notify the district. If the duration of absence becomes shorter than estimated, the employee shall notify the district not later than three o'clock in the afternoon of the day preceding the day on which he/she intends to return to work. If the employee fails to notify the district and the failure results in a substitute being secured, the cost of the substitute shall be deducted from the employee's pay.

(cf. [4121](#) - Temporary/Substitute Personnel)

Continued Absence After Available Sick Leave Is Exhausted/Differential Pay

During each school year, when a certificated employee has exhausted all available sick leave, including all accumulated sick leave, and, due to illness or accident, continues to be absent from his/her duties for an additional period of up to five school months, the employee shall receive his/her regular salary minus the actual cost of a substitute to fill the position. If the district has made every reasonable effort to secure the services of a substitute and has been unable to do so, the amount that would have been paid to a substitute shall be deducted from the employee's salary. (Education Code [44977](#))

An employee shall not be provided more than one five-month period per illness or accident. However, if the school year ends before the five-month period is exhausted, the employee may take the balance of the five-month period in a subsequent school year. (Education Code [44977](#))

Absence Beyond Five-Month Period/Reemployment List

If a certificated employee is not medically able to resume his/her duties after the five-month period provided pursuant to Education Code [44977](#), the employee shall be placed either in another position or on a reemployment list. Placement on the reemployment list shall be for 24 months for probationary employees or 39 months for permanent employees and shall begin at the expiration of the five-month period. If during this time the employee becomes medically able, he/she shall be returned to employment in a position for which he/she is credentialed and qualified. (Education Code [44978.1](#))

(cf. [4116](#) - Probationary/Permanent Status)

Parental Leave

During each school year, a certificated employee may use all available sick leave, including accumulated sick leave, for the purpose and of parental leave for a period up to 12 work weeks. The 12-week period

shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of such parental leave. (Education Code 44977.5)

Eligibility for parental leave pursuant to Education Code [44977.5](#) shall not require 1,250 hours of service with the district during the previous 12 months. (Education Code [44977.5](#))

An employee who has exhausted all available sick leave, including accumulated sick leave, and continues to be absent on account of parental leave shall receive differential pay for the remainder of the 12 work weeks. (Education Code 44977.5)

Parental leave taken pursuant to Education Code 44977.5 shall run concurrently with the parental leave taken pursuant to Government Code 12945.2 or 12945.6, and the aggregate amount of parental leave shall not exceed 12 work weeks in a 12 month period. (Education Code 44977.5; Government Code 12945.2,12945.6)

Verification Requirements

After any absence due to illness or injury, the employee shall verify the absence by submitting a completed and signed district absence form to his/her immediate supervisor.

The Superintendent or designee may require verification whenever an employee's absence record shows chronic absenteeism or a pattern of absences immediately before or after weekends and/or holidays or whenever available evidence clearly indicates that an absence is not related to illness or injury.

In addition, the Superintendent or designee may require an employee to visit a physician selected by the district, at district expense, in order to receive a report on the medical condition of the employee. The report shall include a statement as to the employee's need for further leave of absence and a prognosis as to when the employee will be able to return to work. If the report concludes that the employee's condition does not warrant continued absence, the Superintendent or designee may, after giving notice to the employee, deny further leave.

Any district request for additional verification by an employee's physician or a district-selected physician shall be in writing and shall specify that the report to be submitted to the district should not contain the employee's genetic information.

Any genetic information received by the district on behalf of an employee shall be treated as a confidential medical record, maintained in a file separate from the employee's personnel file, and shall not be disclosed except in accordance with 29 CFR 1635.9.

Before returning to work, an employee who has been absent for surgery, hospitalization, or extended medical treatment may be asked to submit a letter from his/her physician stating that he/she is able to return to duty and stipulating any necessary restrictions or limitations.

(cf. [4032](#) - Reasonable Accommodation)

(cf. [4113.4/4213.4/4313.4](#) - Temporary Modified/Light-Duty Assignment)

Healthy Workplaces, Healthy Families Act Requirements

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

To ensure the district's compliance with Labor Code [245-249](#), the Superintendent or designee shall:

1. At a conspicuous location in each workplace, display a poster on paid sick leave that includes the following information:

a. That an employee is entitled to accrue, request, and use paid sick days

b. The amount of sick days provided by Labor Code [245-249](#)

c. The terms of use of paid sick days

d. That discrimination or retaliation against an employee for requesting and/or using sick leave is prohibited by law and that an employee has the right to file a complaint with the Labor Commissioner if the district discriminates or retaliates against him/her

2. Provide at least 24 hours or three days of paid sick leave to each eligible employee to use per year and allow eligible employees to use accrued sick leave upon reasonable request

3. Provide eligible employees written notice, on their pay stub or other document issued with their pay check, of the amount of paid sick leave they have available

(cf. [4112.9/4212.9/4312.9](#) - Employee Notifications)

4. Keep a record documenting the hours worked and paid sick days accrued and used by each eligible employee for three years

Legal Reference:

EDUCATION CODE

44964 Power to grant leave of absence in case of illness, accident, or quarantine

44965 Granting of leaves of absence for pregnancy and childbirth

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GOVERNMENT CODE

12945.1-12945.2 California Family Rights Act

12945.6 Parental leave

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220 Sections inapplicable to public employees
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230.1 Employers with 25 or more employees; domestic violence, sexual assault and stalking victims, right to time off
233 Illness of child, parent, spouse or domestic partner
234 Absence control policy
245-249 Healthy Workplaces, Healthy Families Act of 2014

CODE OF REGULATIONS, TITLE 5

5601 Transfer of accumulated sick leave

UNITED STATES CODE, TITLE 29

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

UNITED STATES CODE, TITLE 42

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

CODE OF FEDERAL REGULATIONS, TITLE 29

825.100-825.800 Family and Medical Leave Act of 1993

1635.1-1635.12 Genetic Information Nondiscrimination Act of 2008

COURT DECISIONS

Veguez v. Governing Board of Long Beach Unified School District, (2005) 127 Cal.App.4th 406

Regulation WILLITS UNIFIED SCHOOL DISTRICT

approved: October 4, 2017 Willits, California

revised:

WILLITS UNIFIED SCHOOL DISTRICT
SUPERINTENDENT'S OFFICE

TO: Board of Trustees
FROM: Mark Westerburg, Superintendent
DATE: October 3, 2018
RE: Board Policy Revision- AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave

Priority:
Communication

Objective:
To conduct a second/final read of the revised policy

Background:
(AR revised)
Regulation updated to reflect **NEW LAW (AB 1556)** which deletes gender-specific references with regard to pregnancy disability leave and clarifies that all employees are protected against pregnancy discrimination regardless of their gender identity. Regulation also reflects **NEW LAW (SB 63)** which extends the requirement to grant parental leave to any district that employs 20-49 employees within 75 miles of the worksite where the employee requesting the leave is employed.

Funding/Source:
None

Recommendation:
Administration recommends the board conduct a second/final read of the revised policy

Family Care And Medical Leave

The district shall not ~~interfere with, restrain, or deny~~ any eligible employee the exercise of any right to for family care, and medical, or pregnancy disability leave (PDL) pursuant to the Family and Medical Leave Act (FMLA), the California Family Rights Act (CFRA), or the Fair Employment and Housing Act (FEHA) nor restrain or interfere with the employee's exercise of such right. provided to an eligible employee, as defined below, under the law. In addition, the district shall not discharge or discriminate or retaliate against ~~him/her for taking such leave or for his/her any employee for opposing opposition to or challenge of any any practice made-unlawful district practice in relation to any of these laws or for his/her involvement in any related inquiry or proceeding. by, or because of, his/her involvement in any inquiry or proceeding related to the family care and medical leave.~~ (29 USC 2615; Government Code 12945, 12945.2; 2 CCR 11094; 29 USC 2615)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4032 – Reasonable Accommodation)

(cf. 4033 – Lactation Accomodation)

Definitions

~~The Any~~ words and or phrases defined below shall have the same meaning throughout this administrative regulation except where otherwise specifically defined.

Child (son or daughter) means a biological, adopted, or foster child; a stepchild; a legal ward; or a child of ~~a person standing to whom the employee stands~~ in loco parentis as long as the child is under 18 years of age or an adult dependent child. (29 USC 2611; Government Code 12945.2; 2 CCR 11087; 29 USC 2611)

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

Employee disabled by pregnancy means an employee whose health care provider states that the employee is: (2 CCR 11035)

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

Parent means a biological, foster, or adoptive parent; a stepparent; a legal guardian; or another person who stood in loco parentis to the employee when the employee was a child. Parent does not include a spouse's parents. (29 USC 2611; 29 CFR 825.122; Government Code 12945.2; 2 CCR 7297.0)

Serious health condition means an illness, injury (including, but not limited to, on-th-job injuries), impairment, or physical or mental condition of the employee or his/her child, parent, or spouse, including, but not limited to, treatment for substance abuse, that involves either of the following: (Government Code 12945.2; 2 CCR 11087, 11097; 29 USC 2611; 29 CFR 825.113, 825.114, 825.115; ~~Government Code 12945.2~~)

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

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

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

2. Continuing treatment or continuing supervision by a health care provider, including one or more of the following:

a. A period of incapacity of more than three consecutive full days

b. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition

c. ~~For purposes of leave under the Family and Medical Leave Act (FMLA),~~ Any period of incapacity due to pregnancy or for prenatal care

d. Any period of incapacity which is permanent or long term due to a condition for which treatment may not be effective

e. Any period of absence to receive multiple treatments, including recovery, by a health care provider

Spouse means a partner in marriage as defined in Family Code 300, including same sex partners in marriage, or a registered domestic partner within the meaning of Family Code 297-297.5 or 1 USC 7. ~~In addition, for purposes of rights under the California Family Rights Act (CFRA), a registered domestic partner shall have the same rights, protections, and benefits as a spouse and protections provided to a spouse's child shall also apply to a child of a registered domestic partner.~~ (1 USC 7; 29 CFR 825.122; Family Code 297, 297.5, 300; 2 CCR 11087, 7297.029 CFR 825.122)

Eligibility

The district shall grant ~~FMLA or CFRA leave family care and medical leave~~ to eligible employees for any of the following reasons: (Government Code 12945.2, 12945.6; 29 USC 2612; 29 CFR 825.112; Family Code 297.5; Government Code 12945.2)

1. ~~Because of~~ the birth of a child of the employee or placement of a child with the employee in connection with the employee's adoption or foster care of the child (parental leave)
2. To care for the employee's child, parent, or spouse with a serious health condition
3. ~~The~~ ~~Because of~~ the employee's own serious health condition that makes him/her unable to perform one or more essential functions of his/her position, ~~except that CFRA leave shall not cover an employee's disability on account of pregnancy, childbirth, or related medical conditions~~
4. ~~Any~~ ~~Because of any~~ qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a ~~covered~~ military member on covered active duty or call to covered active duty (or has been notified of an impending call or order to covered active duty)
5. To care for a covered servicemember with a serious injury or illness if the covered servicemember is the employee's ~~is the~~ spouse, child, parent, or next of kin, as defined, ~~of the servicemember~~

In addition, the district shall grant PDL to any employee who is disabled by to FMLA leave for disability on account of a pregnancy, childbirth, or related medical conditions pursuant to item #3 above, a female employee disabled by pregnancy, childbirth, or related medical conditions may be entitled to take leave for a reasonable period of time, not to exceed four months. (Government Code 12945; 2CCR 11037)

Terms of Leave

An eligible employee shall be entitled to a total of 12 work weeks of FMLA or CFRA ~~family care and medical~~ leave during any 12-month period, except in the case of leave to care for a covered servicemember as provided under "Military Caregiver Leave" below. To the extent allowed by alw, CFRA and FMLA leaves shall run concurrently. (Government Code 12945.2; 29 USC 2612; Government Code 12945.2)

This 12-month period shall be measured forward from the date the employee's first family care and medical leave begins. (29 CFR 825.200)

~~Leave taken pursuant to the CFRA shall run concurrently with leave taken pursuant to the FMLA, except in the following circumstances:~~

- ~~1. Leave taken to care for a registered domestic partner or a child of a domestic partner. Such leave shall count as leave under the CFRA only. (Family Code 297.5)~~
- ~~2. Leave taken for disability on account of pregnancy, childbirth, or related medical conditions. FMLA leave taken for these purposes shall run concurrently with the California pregnancy disability leave granted pursuant to Government Code 12945. CFRA leave related to the birth of a child shall not commence until the expiration of the pregnancy disability leave. (Government Code 12945, 12945.2; 2 CCR 7297.6)~~

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

(cf. 4261.1 ~~Personal Illness/Injury Leave~~)

In addition, any employee who is disabled by pregnancy, childbirth, or other related condition shall be entitled to PDL for the period of the disability not to exceed four months. For a part-time employee, the four months shall be calculated on a proportional basis. (Government Code 12945; 2 CCR 11042)

PDL shall run concurrently with FMLA leave for disability caused by an employee's pregnancy. At the end of the employee's FMLA leave for disability caused by pregnancy, or at the end of four months of PDL, whichever occurs first, a CFRA-eligible employee may request to take CFRA leave of up to 12 work weeks, for the reason of the birth of a child or to bond with or care for the child. (Government Code 12945, 12945.2; 2 CCR 11046, 11093)

Leave taken for the birth or placement of a child must be concluded within the 12-month period beginning on the date of the birth or placement of the child. Such leave does not need to be taken in one continuous period of time. ~~The basic minimum duration of the leave for birth or placement of a child shall be two weeks. However, the district shall grant a request for leave of less than two weeks' duration on any two occasions. (29 USC 2612; 2 CCR 7297.3)~~

If both parents of a child work for the district, their family care and medical leave related to the birth or placement of the child shall be limited to a combined total of 12 weeks. This restriction shall apply regardless of the legal status of both parent' relationship, whether or not the parents are married, not married, or registered domestic partners. (Government Code 12945.2, 12945.6; 2CCR 11088; 29 USC 2612; Government Code 12945.2)

Use/Substitution of Paid Leave

~~Except for pregnancy disability leave, during the period of family care and medical leave, the district shall require the employee to use his/her accrued vacation leave, other accrued time off, and any other paid or unpaid time off negotiated with the district. If the leave is because of the employee's own serious health condition, the employee shall use accrued sick leave pursuant to the collective bargaining agreement and/or Board policy. (29 USC 2612; Government Code 12945.2)~~

~~(cf. 4141/4241 - Collective Bargaining Agreement)~~

~~(cf. 4161/4261/4361 - Leaves)~~

An employee shall use his/her accrued vacation leave, other accrued time off, and any other paid time off negotiated with the district for any otherwise unpaid FMLA or CFRA leave not involving his/her own serious health condition. For PDL, CFRA, or FMLA leave due to an employee's own serious health condition, the employee shall use accrued sick leave and may use accrued vacation leave and other paid time off at his/her option. (Government Code 12945, 12945.2, 12945.6; 2 CCR 11044; 29 USC 2612)

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

(cf. 4141/4241 - Collective Bargaining Agreement)

(cf. 4161/4261/4361 - Leaves)

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

(cf. 4261.1 - Personal Illness/Injury Leave)

Intermittent Leave/Reduced Leave Schedule

PDL and family care and medical leave for Leave related to the serious health condition of the employee or his/her child, parent, or spouse may be taken intermittently or on a reduced leave schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. However, the district may limit leave increments to the shortest period of time that the district's payroll system uses to account for absences or use of leave. (2 CCR 11042, 11090; 29 USC 2612; 2 CCR 7297.3)

(cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)

The basic minimum duration of leave for the birth, adoption, or foster care placement of a child shall be two weeks. However, the district shall grant a request for such leave of less than two weeks on two occasions. (2 CCR 11090; 29 USC 2612)

If an employee needs intermittent leave or leave on a reduced work schedule that is foreseeable based on planned medical treatment for the employee or a family member, the The district may require the employee to transfer temporarily to an available alternative position under any of the following circumstances: (2 CCR 11041, 11090; 29 USC 2612).

1. The employee needs intermittent leave or leave on a reduced work schedule that is foreseeable based on a planned medical treatment for the employee or family member.
2. A medical certification is provided by the employee's health care provider that, because of pregnancy, the employee has a medical need to take intermittent leave or leave on a reduced work schedule.
3. The district agrees to permit intermittent leave or leave on a reduced work schedule due to the birth, adoption, or foster care placement of the employee's child.

-This alternative position must have equivalent pay and benefits, the employee must be qualified for the position, and the position must better accommodate recurring periods of leave than the employee's regular job, and the employee must be qualified for the position. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced leave schedule. (2 CCR 11041, 11090; 29 USC 2612; 2 CCR 7297.3)

(cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)

Request for Leave

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

For family care and medical leave, the ~~The~~ employee need not expressly assert or mention FMLA/CFRA to satisfy this requirement.; However, he/she must state the reason the leave is needed (e.g., birth of child, medical treatment). If more information is necessary to determine whether the employee is eligible for family care and medical leave, the Superintendent or designee shall inquire further and obtain the necessary details of the leave to be taken. (2 CCR 110917297.4)

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

Based on the information provided by the employee, the Superintendent or designee shall designate the leave, paid or unpaid, as FMLA/CFRA qualifying leave and shall give notice of such designation to the employee. Failure of an employee to respond to permissible inquiries regarding the leave request may result in denial of CFRA protection if the district is unable to determine whether the leave is CFRA qualifying. (2 CCR 11091; 29 CFR 825.3007297.4)

When an employee is able to ~~the need for the leave is foreseeable~~ the need for PDL or family care and medical leave at least 30 days in advance of the leave, based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or a family member, the employee shall provide the district with at least 30 days advance notice before the leave. When the 30 days notice is not practicable because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, or other good cause, the employee shall provide the district with notice as soon as practicable. Failure of an employee to provide required notice may result in a denial of leave. (2 CCR 11050, 110917297.4)

In all instances, ~~t~~he employee shall consult with the Superintendent or designee ~~district~~ and make a reasonable effort to schedule, subject to the health care provider's approval, any planned appointment or medical treatment or supervision so as to minimize disruption to district operations. (Government Code 12945.2; 2 CCR 11050, 110917297.4)

~~When the 30 days notice is not practicable because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, the employee shall provide the district with notice as soon as practicable. (2 CCR 7297.4)~~

Certification of Health Condition

Within five business days of an ~~At the time of the~~ employee's request for family care and medical leave for his/her own or his/her child's, parent's, or spouse's serious health condition, ~~or within five business days of the request,~~ the Superintendent or designee shall request that the employee provide certification by a health care provider of the need for leave. Upon receiving the district's request, the employee shall provide the certification within 15 days, unless either the Superintendent or designee provides additional time or it is not practicable under the particular circumstances, despite the employee's diligent, good faith efforts. (2 CCR 11091; 29 CFR 825.305; ~~2 CCR 7297.4~~)

The certification shall include the following: (~~29 USC 2613~~; Government Code 12945.2; 2 CCR 11087 7297.0; 29 USC 2613)

1. The date on which the serious health condition began
2. The probable duration of the condition

3. If the employee is requesting leave to care for a child, parent, or spouse with a serious health condition, both of the following:

a. Statement that the serious health condition warrants the participation of a family member to provide care, such as by providing psychological comfort, arranging for third party care, or directly providing or participating in the medical care during a period of the treatment or supervision of the child, parent, or spouse during a period of the treatment or supervision

b. Estimated amount of time the health care provider believes the employee needs to care for the child, parent, or spouse

4. If the employee is requesting leave because of his/her own serious health condition, a statement that due to the serious health condition, he/she is unable to work at all or is unable to perform one or more essential functions of his/her job

5. If the employee is requesting leave for intermittent treatment or is requesting leave on a reduced leave schedule for planned medical treatment, a statement of the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave

~~The Superintendent or designee shall not request any genetic information, as defined in 42 USC 2000ff, from any employee or his/her family member except as necessary to comply with a certification requirement for FMLA/CFRA leave purposes or with the prior written authorization of the employee. Any such genetic information received by the district shall be kept confidential in accordance with law. (42 USC 2000ff-1, 2000ff-5)~~

When an employee has provided sufficient medical certification to enable the district to determine whether the employee's leave request is FMLA/CFRA-eligible, the Superintendent or designee shall notify the employee within five business days whether the leave is FMLA/CFRA-eligible. The Superintendent or designee may also retroactively designate leave as FMLA/CFRA leave as long as appropriate notice is given to the employee and as long as there is no individualized harm or injury to the employee. (2 CCR 11091; 29 CFR 825.301)

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

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

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

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

If additional PDL or family care and medical leave is needed when the time estimated by the health care provider expires, the district may require the employee to provide recertification in the manner ~~specified~~ specified for the leave in items #1-5 above. (29 USC 2613; Government Code 12945.2; 2 CCR 11050; 29 USC 2613)

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

Release to ~~Fitness for Duty Upon~~ Return to Work

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

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

~~The certification from the employee's health care provider shall address the employee's ability to perform the essential functions of his/her job.~~

Rights to Reinstatement and Maintenance of Benefits

Upon granting an employee's request for PDL or FMLA/CFRA family care and medical leave, the Superintendent or designee shall guarantee to reinstate the employee in the same or a comparable position when the leave ends. ~~(29 USC 2614;~~ Government Code 12945.2; 2 CCR 11043, 11089; 29 USC 2614)

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

1. The employee is a salaried "key employee" who is among the highest paid 10 percent of those district employees who are employed within 75 miles of the employee's worksite.
2. The refusal is necessary to prevent substantial and grievous economic injury to district operations.

3. The district informs the employee of its intent to refuse reinstatement at the time it determines that the refusal is necessary, and the employee fails to immediately return to service.

(cf. 4117.3 - Personnel Reduction)

(cf. 4217.3 - Layoff/Rehire)

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

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

Maintenance of Benefits/Failure to Return from Leave

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

For up to a maximum of four months for PDL and a period of 12 work weeks for other family care and medical leave, the district shall continue to provide an eligible employee ~~on family care and medical leave~~ the group health plan coverage that was in place before he/she took the leave. The employee shall reimburse the district for premiums paid during the ~~family care and medical leave~~ if he/she fails to return to district employment after the expiration of all available the leaves and the failure is for any reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond his/her control. (Government Code 12945.2; 2 CCR 11044, 11092; 29 USC 2614; 29 CFR 825.213; Government Code 12945.2)

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

In addition, during the period when an employee is on PDL or family care and medical leave, ~~the employee he/she~~ shall be entitled to continue to participate in other employee benefit plans including life insurance, short-term or long-term disability insurance, accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as apply to an unpaid leave taken for any other purpose. However, for purposes of pension and retirement plans, the district shall not ~~be required to~~ make plan payments for an employee during any unpaid portion of the leave period and the leave period shall not be counted for purposes of time accrued under the plan. (Government Code 12945.2; 2 CCR 11044, 11092)

Military Family Leave Resulting from Qualifying Exigencies

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

~~Covered military member means an employee's spouse, son, daughter, or parent on covered active duty or call to covered active duty status. (29 CFR 825.126)~~

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

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

1. Address issues arising from short notice deployment (up to seven calendar days from the date of receipt of call or order of short notice deployment)
2. Attend military events and related activities, such as any official ceremony or family assistance program related to the active duty or call to active duty status
3. Arrange childcare or attend school activities arising from the active duty or call to active duty, such as arranging for alternative childcare, enrolling or transferring a child to a new school, or attending meetings
4. Make or update financial and legal arrangements to address a covered military member's absence
5. Attend counseling provided by someone other than a health care provider
6. Spend time (up to fifteen ~~five~~ days of leave per instance) with a covered military member who is on short-term temporary rest and recuperation leave during deployment
7. Attend to certain post-deployment activities, such as arrival ceremonies or reintegration briefings
8. Care for a military member's parent who is incapable of self-care when the care is necessitated by the military member's covered active duty
98. Address any other event that the employee and district agree is a qualifying exigency

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

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

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

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

Military Caregiver Leave

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

Covered servicemember may be either: (29 USC [2611](#))

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

2. A veteran who was discharged or released under conditions other than dishonorable at any time during the five year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran. ~~within the five years preceding his/her undergoing of medical treatment, recuperation, or therapy for a serious injury or illness, was a member of the Armed Forces, including the National Guard or Reserves~~

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

Parent of a covered servicemember means the covered servicemember's biological, adopted, ~~step~~ or foster child, stepchild, legal ward, or a child of any age for whom the covered servicemember stood in loco parentis. ~~parent, or any other individual who stood in loco parentis to the covered servicemember (except "parents in law").~~ (29 CFR [825.127](#))

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

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

Serious injury or illness means: (29 USC [2611](#); 29 CFR [825.127](#))

1. For a current member of the Armed Forces, an injury or illness incurred ~~or aggravated~~ by the member's ~~service~~ in the line of duty ~~while~~ on active duty, ~~or that existed before the beginning of the member's active duty and was aggravated by the member's service in the line of duty while on active duty~~ in the Armed Forces, and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating

2. For a veteran, an injury or illness incurred or aggravated by the member's service in the line of duty on active duty in the Armed Forces, including the National Guard or Reserves, that manifested itself before or after the member became a veteran and that is at least one of the following:

- a. A continuation of a serious injury or illness incurred or aggravated while the veteran was a member of the Armed Forces and rendered him/her unable to perform the duties of his/her office, grade, rank, or rating
- b. A physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs (VA) Service-Related Disability Rating of 50 percent or greater, based wholly or partly on that physical or mental condition
- c. A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of one or more disabilities related to his/her military service or that would do so but for treatment received by the veteran
- d. An injury, including a psychological injury, on the basis of which the veteran has been enrolled in the VA's Program of Comprehensive Assistance for Family Caregivers

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

An employee requesting leave to care for a covered servicemember with a serious injury or illness shall provide the Superintendent or designee with certification from an authorized health care provider of the servicemember that contains the information specified in 29 CFR [825.310](#).

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

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

Notifications

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

1. General Notice: Information explaining the provisions of the FEHA/PDL and FMLA/CFRA and employee rights and obligations shall be posted in a conspicuous place on district premises, or electronically, and shall be included in employee handbooks. (~~2 CCR 11049, 11095; 29 USC [2619](#); 2 CCR [7297.9](#)~~)

The general notice shall also explain an employee's obligation to provide the Superintendent or designee with at least 30 days notice of the need for the requested leave, when the need is reasonable foreseeable at

least 30 days prior to the start of the leave.~~for the leave is reasonably foreseeable.~~ (2 CCR 11050, 11091~~7297.4~~)

2. Eligibility Notice: When an employee requests leave, includin PDL, or when the Superintendent or designee acquires knowledge that an employee's leave may be for an FMLA/CFRA qualifying reason, the Superintendent or designee shall, within five business days, provide notification to the employee of his/her eligibility to take such leave. (29 CFR 825.300)

3. Rights and Responsibilities Notice: Each time the eligibility notice is provided to an employee, the Superintendent or designee shall provide written notification explaining the specific expectations and obligations of the employee, including any consequences for a failure to meet those obligations. Such notice shall include, as applicable ~~appropriate~~: (29 CFR 825.300)

a. A statement that the leave may be designated and counted against the employee's annual FMLA/CFRA leave entitlement and the appropriate 12-month entitlement period, if qualifying

b. Any requirements for the employee to furnish medical certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of active duty or call to active duty status and the consequences of failing to provide the certification

c. The employee's right to use substitute paid leave, whether the district will require use substitution of paid leave, conditions related to ~~any any use of paid leave substitution~~, and the employee's entitlement to take unpaid leave if the employee does not meet the conditions for paid leave

d. Any requirements for the employee to make any premium payments to maintain health benefits, the arrangement for making such payments, and the possible consequences of failure to make payments on a timely basis

e. If applicable, the employee's status as a "key employee," potential consequence that restoration may be denied following the FMLA leave, and explanation of the conditions required for such denial

f. The employee's right to maintenance of benefits during the leave and restoration to the same or an equivalent job upon return from leave

g. The employee's potential liability for health insurance premiums paid by the district during the employee's unpaid FMLA leave should the employee not return to service after the leave

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

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

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

If the district requires paid leave to be used during an otherwise substituted for unpaid family care and medical leave, the notice shall so specify. If the district requires an employee to present a release to return to work fitness for duty certification that addresses the employee's ability to perform the essential functions of the job, the notice shall also specify that requirement. ([2CCR 11091, 11097](#); 29 CFR [825.300](#))

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

Records

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

Legal Reference:

EDUCATION CODE

[44965](#) Granting of leaves of absence for pregnancy and childbirth

FAMILY CODE

[297-297.5](#) Rights, protections and benefits under law; registered domestic partners

[300](#) Validity of marriage

GOVERNMENT CODE

[12926](#) Fair Employment and housing act, definitions

[12940](#) Unlawful employment practices

[12945](#) Pregnancy; childbirth or related medical condition; unlawful practice

[12945.1-12945.2](#) California Family Rights Act

[12946](#) Parental Leave

[12946](#) Fair Employment and Housing Act: discrimination prohibited

CODE OF REGULATIONS, TITLE 2

~~7291.2-7291.16 Sex discrimination: pregnancy and related medical conditions~~

~~7297.0-7297.11 Family care leave~~

~~11035-11051 Sex discrimination: pregnancy, childbirth and related medical conditions~~

~~11087-11098 California Family Rights Act~~

UNITED STATES CODE, TITLE 1

7 Definition of marriage, ~~spouse~~

UNITED STATES CODE, TITLE 29

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

UNITED STATES CODE, TITLE 42

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

CODE OF FEDERAL REGULATIONS, TITLE 29

~~825.100-825.800 Family and Medical Leave Act of 1993~~

COURT DECISIONS

~~United States v. Windsor, (2013) 699 F.3d 169~~

Faust v. California Portland Cement Company, (2007) 150 Cal.App.4th 864

Tellis v. Alaska Airlines, (9th Cir., 2005) 414 F.3d 1045

Management Resources:

~~FEDERAL REGISTER~~

~~Final Rule and Supplementary Information, November 17, 2008. Vol. 73, No. 222, pages 67934-68133~~

U.S. DEPARTMENT OF LABOR PUBLICATIONS

Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers

WEB SITES

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

U.S. Department of Labor, FMLA: <http://www.dol.gov/whd/fmla>

Regulation WILLITS UNIFIED SCHOOL DISTRICT

approved: August 7, 2013 Willits, California

revised:

Family Care And Medical Leave

The district shall not deny any eligible employee the right to family care, medical, or pregnancy disability leave (PDL) pursuant to the Family and Medical Leave Act (FMLA), the California Family Rights Act (CFRA), or the Fair Employment and Housing Act (FEHA) nor restrain or interfere with the employee's exercise of such right. . In addition, the district shall not discharge or discriminate or retaliate against him/her for taking such leave or for his/her opposition to or challenge of any unlawful district practice in relation to any of these laws or for his/her involvement in any related inquiry or proceeding. (Government Code 12945, 12945.2; 2 CCR 11094; 29 USC 2615)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4032 – Reasonable Accommodation)

(cf. 4033 – Lactation Accommodation)

Definitions

The words and phrases defined below shall have the same meaning throughout this administrative regulation except where otherwise specifically defined.

Child (son or daughter) means a biological, adopted, or foster child; a stepchild; a legal ward; or a child to whom the employee stands in loco parentis as long as the child is under 18 years of age or an adult dependent child. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611)

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

Employee disabled by pregnancy means an employee whose health care provider states that the employee is: (2 CCR 11035)

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

Parent means a biological, foster, or adoptive parent; a stepparent; a legal guardian; or another person who stood in loco parentis to the employee when the employee was a child. Parent does not include a spouse's parents. (29 USC 2611; 29 CFR 825.122; Government Code 12945.2; 2 CCR 7297.0)

Serious health condition means an illness, injury (including, but not limited to, on-the-job injuries), impairment, or physical or mental condition of the employee or his/her child, parent, or spouse, including, but not limited to, treatment for substance abuse, that involves either of the following: (Government Code 12945.2; 2 CCR 11087, 11097; 29 USC 2611; 29 CFR 825.113, 825.114, 825.115;)

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

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

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

2. Continuing treatment or continuing supervision by a health care provider, including one or more of the following:

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

Spouse means a partner in marriage as defined in Family Code 300, including same sex partners in marriage, or a registered domestic partner within the meaning of Family Code 297-297.5.. (Family Code 297, 297.5, 300; 2 CCR 11087; 29 CFR 825.122)

Eligibility

The district shall grant FMLA or CFRA leave to eligible employees for any of the following reasons: (Government Code 12945.2, 12945.6; 29 USC 2612; 29 CFR 825.112)

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

5. To care for a covered servicemember with a serious injury or illness if the covered servicemember is the employee's spouse, child, parent, or next of kin, as defined

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

Terms of Leave

An eligible employee shall be entitled to a total of 12 work weeks of FMLA or CFRA leave during any 12-month period, except in the case of leave to care for a covered servicemember as provided under "Military Caregiver Leave" below. To the extent allowed by law, CFRA and FMLA leaves shall run concurrently. (Government Code [12945.2](#); 29 USC [2612](#);))

This 12-month period shall be measured forward from the date the employee's first family care and medical leave begins. (29 CFR [825.200](#))

In addition, any employee who is disabled by pregnancy, childbirth, or other related condition shall be entitled to PDL for the period of the disability not to exceed four months. For a part-time employee, the four months shall be calculated on a proportional basis. (Government Code 12945; 2 CCR 11042)

PDL shall run concurrently with FMLA leave for disability caused by an employee's pregnancy. At the end of the employee's FMLA leave for disability caused by pregnancy, or at the end of four months of PDL, whichever occurs first, a CFRA-eligible employee may request to take CFRA leave of up to 12 work weeks, for the reason of the birth of a child or to bond with or care for the child. (Government Code 12945, 12945.2; 2 CCR 11046, 11093)

Leave taken for the birth or placement of a child must be concluded within the 12-month period beginning on the date of the birth or placement of the child. Such leave does not need to be taken in one continuous period of time.

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

Use/Substitution of Paid Leave

An employee shall use his/her accrued vacation leave, other accrued time off, and any other paid time off negotiated with the district for any otherwise unpaid FMLA or CFRA leave not involving his/her own serious health condition. For PDL, CFRA, or FMLA leave due to an employee's own serious health condition, the employee shall use accrued sick leave and may use accrued vacation leave and other paid time off at his/her option. (Government Code 12945, 12945.2, 12945.6; 2 CCR 11044; 29 USC 2612)

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

(cf. 4141/4241 - Collective Bargaining Agreement)

(cf. 4161/4261/4361 - Leaves)

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)
(cf. 4261.1 - Personal Illness/Injury Leave)

Intermittent Leave/Reduced Leave Schedule

PDL and family care and medical leave for the serious health condition of the employee or his/her child, parent, or spouse may be taken intermittently or on a reduced leave schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. However, the district may limit leave increments to the shortest period of time that the district's payroll system uses to account for absences or use of leave. (2 CCR 11042, 11090; 29 USC [2612](#); 2 CCR [7297.3](#))

(cf. [4113.4/4213.4/4313.4](#) - Temporary Modified/Light-Duty Assignment)

The basic minimum duration of leave for the birth, adoption, or foster care placement of a child shall be two weeks. However, the district shall grant a request for such leave of less than two weeks on two occasions. (2 CCR 11090; 29 USC [2612](#))

The district may require the employee to transfer temporarily to an available alternative position under any of the following circumstances: (2 CCR 11041, 11090; 29 USC [2612](#)).

1. The employee needs intermittent leave or leave on a reduced work schedule that is foreseeable based on a planned medical treatment for the employee or family member.
2. A medical certification is provided by the employee's health care provider that, because of pregnancy, the employee has a medical need to take intermittent leave or leave on a reduced work schedule.
3. The district agrees to permit intermittent leave or leave on a reduced work schedule due to the birth, adoption, or foster care placement of the employee's child.

This alternative position must have equivalent pay and benefits and must better accommodate recurring periods of leave than the employee's regular job, and the employee must be qualified for the position. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced leave schedule. (2 CCR 11041, 11090; 29 USC [2612](#);))

Request for Leave

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

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

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

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

When an employee is able to foresee the need for PDL or family care and medical leave at least 30 days in advance of the leave, the employee shall provide the district with at least 30 days advance notice before the leave. When the 30 days' notice is not practicable because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, or other good cause, the employee shall provide the district with notice as soon as practicable. Failure of an employee to provide required notice may result in a denial of leave. (2 CCR [11050, 11091](#))

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

Certification of Health Condition

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

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

1. The date on which the serious health condition began
2. The probable duration of the condition
3. If the employee is requesting leave to care for a child, parent, or spouse with a serious health condition, both of the following:
 - a. Statement that the serious health condition warrants the participation of a family member to provide care, such as by providing psychological comfort, arranging for third party care, or directly providing or participating in the medical care of the child, parent, or spouse during a period of the treatment or supervision
 - b. Estimated amount of time the health care provider believes the employee needs to care for the child, parent, or spouse

4. If the employee is requesting leave because of his/her own serious health condition, a statement that due to the serious health condition, he/she is unable to work at all or is unable to perform one or more essential functions of his/her job

5. If the employee is requesting leave for intermittent treatment or is requesting leave on a reduced leave schedule for planned medical treatment, a statement of the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave

When an employee has provided sufficient medical certification to enable the district to determine whether the employee's leave request is FMLA/CFRA-eligible, the Superintendent or designee shall notify the employee within five business days whether the leave is FMLA/CFRA-eligible. The Superintendent or designee may also retroactively designate leave as FMLA/CFRA leave as long as appropriate notice is given to the employee and there is no individualized harm or injury to the employee. (2 CCR 11091; 29 CFR [825.301](#))

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

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

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

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

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

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

Release to Return to Work

Upon expiration of an employee's PDL or family care and medical leave taken for his/her own serious health condition, the employee shall present certification from the health care provider that he/she is able to resume work. The certification from the employee's health care provider shall address the employee's ability to perform the essential functions of his/her job.(cf. [4112.4/4212.4/4312.4](#) - Health Examinations)

Rights to Reinstatement and Maintenance of Benefits

Upon granting an employee's request for PDL or FMLA/CFRA leave, the Superintendent or designee shall guarantee to reinstate the employee in the same or a comparable position when the leave ends. (Government Code [12945.2](#); 2 CCR 11043, 11089; 29 USC [2614](#))

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

1. The employee is a salaried "key employee" who is among the highest paid 10 percent of those district employees who are employed within 75 miles of the employee's worksite.
2. The refusal is necessary to prevent substantial and grievous economic injury to district operations.
3. The district informs the employee of its intent to refuse reinstatement at the time it determines that the refusal is necessary, and the employee fails to immediately return to service.

(cf. [4117.3](#) - Personnel Reduction)

(cf. [4217.3](#) - Layoff/Rehire)

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

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

Maintenance of Benefits/Failure to Return from Leave

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

For up to a maximum of four months for PDL and 12 work weeks for other family care and medical leave, the district shall continue to provide an eligible employee the group health plan coverage that was in place before he/she took the leave. The employee shall reimburse the district for premiums paid during the leave if he/she fails to return to district employment after the expiration of all available leaves and the failure is for any reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond his/her control. (Government Code [12945.2](#); 2 CCR 11044, 11092; 29 USC [2614](#); 29 CFR [825.213](#);)

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

In addition, during the period when an employee is on PDL or family care and medical leave, the employee shall be entitled to continue to participate in other employee benefit plans including life insurance, short-term or long-term disability insurance, accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as apply to an unpaid leave taken for any other purpose. However, for purposes of pension and retirement plans, the district shall not make plan payments for an employee during any unpaid portion of the leave period and the leave period shall not be counted for purposes of time accrued under the plan. (Government Code [12945.2](#); 2 CCR 11044, 11092)

Military Family Leave Resulting from Qualifying Exigencies

An eligible employee may take up to 12 work weeks of unpaid FMLA leave, during each 12-month period established by the district in the section entitled "Terms of Leave" above, for one or more qualifying exigencies while his/her child, parent, or spouse who is a military member is on covered active duty or call to covered active duty status. (29 USC [2612](#), 29 CFR 825.126)

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

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

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

7. Attend to certain post-deployment activities, such as arrival ceremonies or reintegration briefings
8. Care for a military member's parent who is incapable of self-care when the care is necessitated by the military member's covered active duty
9. Address any other event that the employee and district agree is a qualifying exigency

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

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

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

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

Military Caregiver Leave

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

Covered servicemember may be either: (29 USC [2611](#))

1. A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness
2. A veteran who was discharged or released under conditions other than dishonorable at any time during the five year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran.

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

Parent of a covered servicemember means the covered servicemember's biological, adopted, or foster child, stepchild, legal ward, or a child of any age for whom the covered servicemember stood in loco parentis. (29 CFR [825.127](#))

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

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

Serious injury or illness means: (29 USC [2611](#); 29 CFR [825.127](#))

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

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

An employee requesting leave to care for a covered servicemember with a serious injury or illness shall provide the Superintendent or designee with certification from an authorized health care provider of the servicemember that contains the information specified in 29 CFR [825.310](#).

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

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

Notifications

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

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

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

2. **Eligibility Notice:** When an employee requests leave, including PDL, or when the Superintendent or designee acquires knowledge that an employee's leave may be for an FMLA/CFRA qualifying reason, the Superintendent or designee shall, within five business days, provide notification to the employee of his/her eligibility to take such leave. (29 CFR [825.300](#))

3. **Rights and Responsibilities Notice:** Each time the eligibility notice is provided to an employee, the Superintendent or designee shall provide written notification explaining the specific expectations and obligations of the employee, including any consequences for a failure to meet those obligations. Such notice shall include, as applicable: (29 CFR [825.300](#))

a. A statement that the leave may be designated and counted against the employee's annual FMLA/CFRA leave entitlement and the appropriate 12-month entitlement period, if qualifying

b. Any requirements for the employee to furnish medical certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of active duty or call to active duty status and the consequences of failing to provide the certification

c. The employee's right to use paid leave, whether the district will require use of paid leave, conditions related to any use of paid leave, and the employee's entitlement to take unpaid leave if the employee does not meet the conditions for paid leave

d. Any requirements for the employee to make any premium payments to maintain health benefits, the arrangement for making such payments, and the possible consequences of failure to make payments on a timely basis

e. If applicable, the employee's status as a "key employee," potential consequence that restoration may be denied following the FMLA leave, and explanation of the conditions required for such denial

f. The employee's right to maintenance of benefits during the leave and restoration to the same or an equivalent job upon return from leave

g. The employee's potential liability for health insurance premiums paid by the district during the employee's unpaid FMLA leave should the employee not return to service after the leave

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

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

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

If the district requires paid leave to be used during an otherwise unpaid family care and medical leave, the notice shall so specify. If the district requires an employee to present a release to return to work certification that addresses the employee's ability to perform the essential functions of the job, the notice shall also specify that requirement. (2CCR 11091, 11097; 29 CFR [825.300](#))

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

Records

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

Legal Reference:

EDUCATION CODE

[44965](#) Granting of leaves of absence for pregnancy and childbirth

FAMILY CODE

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

300 Validity of marriage

GOVERNMENT CODE

12926 Fair Employment and housing act, definitions

12940 Unlawful employment practices

12945 Pregnancy; childbirth or related medical condition; unlawful practice

12945.1-12945.2 California Family Rights Act

12946 Parental Leave

12946 Fair Employment and Housing Act: discrimination prohibited

CODE OF REGULATIONS, TITLE 2

11035-11051 Sex discrimination: pregnancy, childbirth and related medical conditions

11087-11098 California Family Rights Act

UNITED STATES CODE, TITLE 1

7 Definition of marriage

UNITED STATES CODE, TITLE 29

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

UNITED STATES CODE, TITLE 42

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

CODE OF FEDERAL REGULATIONS, TITLE 29

825.100-825.800 Family and Medical Leave Act of 1993

COURT DECISIONS

United States v. Windsor, (2013) 699 F.3d 169

Faust v. California Portland Cement Company, (2007) 150 Cal.App.4th 864

Tellis v. Alaska Airlines, (9th Cir., 2005) 414 F.3d 1045

Management Resources:

U.S. DEPARTMENT OF LABOR PUBLICATIONS

Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers

WEB SITES

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

U.S. Department of Labor, FMLA: <http://www.dol.gov/whd/fmla>

Regulation WILLITS UNIFIED SCHOOL DISTRICT

approved: August 7, 2013 Willits, California

revised:

WILLITS UNIFIED SCHOOL DISTRICT
SUPERINTENDENT'S OFFICE

TO: Board of Trustees
FROM: Mark Westerburg, Superintendent
DATE: October 3, 2018
RE: Board Policy Revision- AR 4261.1 - Personal Illness/Injury Leave

Priority:

Communication

Objective:

To conduct a second/final read of the revised policy

Background:

(AR revised)

Regulation updated to reflect **NEW LAW (SB 63)** which extends the requirement to grant parental leave to any district that employs 20-49 employees within 75 miles of the worksite where the employee requesting the leave is employed. Regulation also updated to reflect **NEW LAW (SB 731)** which entitles an employee who is a military veteran or current member of the California National Guard or federal reserve component to 12 days of additional sick leave for the purpose of undergoing medical treatment for a qualifying military service-connected disability, effective on either the date the U.S. Department of Veterans Affairs rates the employee's disability or on the first day the employee begins or returns to employment after active duty, whichever is later.

Funding/Source:

None

Recommendation:

Administration recommends the board conduct a second/final read of the revised policy

Personal Illness/Injury Leave

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

(cf. 4161/4261/4361 - Leaves)

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

Use of Sick Leave

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

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

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

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

3. Personal necessity as specified in Education Code 45207

(cf. 4161.2/4261.2/4361.2 - Personal Leaves)

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

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

(cf. 4161.11/4261.11/4361.11 - Industrial Accident/Illness Leave)

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

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

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

For the purposes specified in items #6-7-8, an employee may use, in any calendar year, the amount of sick leave he/she would accrue during six months at his/her current rate of entitlement. (Labor Code [233](#))

An employee may take leave for personal illness or injury at any time during the year, even if credit for such leave has not yet been accrued. However, a new full-time classified employee shall not be entitled to more than six days of sick leave until he/she has completed six months of active service with the district. (Education Code [45191](#))

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

An employee shall reimburse the district for any unearned sick leave used as of the date of his/her termination.

The district shall not require newly employed classified employees to waive leave accumulated in a previous district. However, if the employee's previous employment was terminated for cause, the transfer of the accumulated leave shall be made only if approved by the Governing Board of Trustees. (Education Code [45202](#))

The Superintendent or designee shall notify any classified employee whose employment with the district is terminated after at least one calendar year for reasons other than for cause that, if he/she accepts employment in another district, county office of education, or community college district within one year of the termination of employment, he/she shall be entitled to request that the district transfer his/her accumulated sick leave to his/her new employer. (Education Code [45202](#))

Additional Leave for Disabled Military Veterans

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

The amount of leave shall be credited to the employee either on the date the employee receives confirmation of the submission of his/her disability application to the U.S. Department of Veterans Affairs or on the first day the employee begins or returns to employment after active duty, whichever is later of employment and shall remain available for the following 12 months of employment. Leave not used during the 12 month period shall not be carried over and shall be forfeited. When the employee receives his/her disability rating decision, he/she shall report that information to the Superintendent or designee. If the disability rating decision makes the employee eligible for the leave, the time used before the decision shall be counted toward the 12-day maximum leave. If the disability rating decision makes the employee ineligible for the leave, the district may change the sick leave time used before the disability rating decision to an alternative leave balance. (Education Code [45191.5](#))

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

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

Notification of Absence

An employee shall notify the Superintendent or the designated manager or supervisor of his/her need to be absent as soon as such need is known so that the services of a substitute may be secured as necessary. This notification shall include an estimate of the expected duration of absence. If the absence becomes longer than estimated, the employee shall so notify the district. If the duration of absence becomes shorter than estimated, the employee shall notify the district not later than three o'clock in the afternoon of the day preceding the day on which he/she intends to return to work. If the employee fails to notify the district and the failure results in a substitute being secured, the cost of the substitute shall be deducted from the employee's pay.

Continued Absence After Available Sick Leave Is Exhausted/Differential Pay

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

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

Differential Pay for Parental Leave

During each school year, ~~any~~ classified employee may use all who has exhausted all available sick leave, including accumulated sick leave, ~~for the purpose, and continues to be absent on account~~ of parental leave for a period up to 12 work weeks. (baby bonding) pursuant to Government Code 12945.2 shall receive differential pay for up to 12 work weeks. The 12-week period shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of such parental leave. (Education Code [45196.1](#))

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

An employee who has exhausted all available sick leave, including accumulated sick leave, and continues to be absent on account of parental leave shall receive differential pay for the remainder of the 12 work weeks. (Education Cod e45196.1)

Such Pparental leave taken pursuant to Education Code 45196.1 shall run concurrently with the parental leave taken pursuant to Government Code [12945.2](#) or [12945.6](#), and the aggregate amount of parental leave shall not exceed 12 work weeks in a 12-month period. (Education Code 45196.1; Government Code [12945.2](#), [12945.6](#)) Eligibility for parental leave pursuant to Education Code [45196.1](#) shall not require 1,250 hours of service with the district during the previous 12 months. (Education Code [45196.1](#))

Extension of Leave

A permanent employee who is absent because of a personal illness or injury and who has exhausted all available sick leave, vacation, compensatory overtime, and any other paid leave shall be so notified, in writing, and offered an opportunity to request additional leave. The Board may grant the employee additional leave, paid or unpaid, for a period not to exceed six months and may renew this leave for two additional six-month periods or for lesser periods. The total additional leave granted shall not exceed 18 months. (Education Code 45195)

(cf. 4216 - Probationary/Permanent Status)

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

Verification Requirements

After any absence due to illness or injury, the employee shall submit a completed and signed district absence form to his/her immediate supervisor.

The Superintendent or designee may require verification whenever an employee's absence record shows chronic absenteeism or a pattern of absences immediately before or after weekends and/or holidays or whenever available evidence clearly indicates that an absence is not related to illness or injury.

In addition, the Superintendent or designee may require an employee to visit a physician selected by the district, at district expense, in order to receive a report on the medical condition of the employee. The report shall include a statement as to the employee's need for additional leave of absence and a prognosis as to when the employee will be able to return to work. If the report concludes that the employee's condition does not warrant continued absence, the Superintendent or designee may, after giving notice to the employee, deny the request for additional leave.

Any district request for additional verification by an employee's physician or a district-selected physician shall be in writing and shall specify that the report to be submitted to the district should not contain the employee's genetic information.

Any genetic information received by the district on behalf of an employee shall be treated as a confidential medical record, maintained in a file separate from the employee's personnel file, and shall not be disclosed except in accordance with 29 CFR 1635.9.

Before returning to work, an employee who has been absent for surgery, hospitalization, or extended medical treatment may be asked to submit a letter from his/her physician stating that he/she is able to return to work and stipulating any recommended restrictions or limitations.

(cf. 4032 - Reasonable Accommodation)

(cf. [4113.4/4213.4/4313.4](#) - Temporary Modified/Light-Duty Assignment)

Short-Term and Substitute Employees

Except for a retired annuitant who is not reinstated to the retirement system, any short-term or substitute employee who works for 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. Accrued paid sick days shall carry over to the following year of employment, up to a maximum of 48 hours. (Labor Code [246](#))

Any short-term or substitute 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. (Labor Code [246](#))

A short-term or substitute employee may use accrued sick leave for absences due to: (Labor Code [246.5](#))

1. His/her own need or the need of a family member, as defined in Labor Code [245.5](#), for the diagnosis, care, or treatment of an existing health condition or for preventive care
2. Need of the employee to obtain or seek any relief or medical attention specified in Labor Code [230\(c\)](#) and [230.1\(a\)](#) for the health, safety, or welfare of the employee, or his/her child, when the employee has been a victim of domestic violence, sexual assault, or stalking

Healthy Workplaces, Healthy Families Act Requirements

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

To ensure the district's compliance with Labor Code [245-249](#), the Superintendent or designee shall:

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

(cf. [4112.9/4212.9/4312.9](#) - Employee Notifications)

4. Keep a record documenting the hours worked and paid sick days accrued and used by each eligible employee for three years

Legal Reference:

EDUCATION CODE

45103 Substitute employees

45190 Leaves of absence and vacations

45191 Leaves of absence for illness and injury

45191.5 Leave for military service connected disability

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

45195 Additional leave for nonindustrial accident or illness; reemployment preference

45196 Salary; deductions during sick leave

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

45202 Transfer of accumulated sick leave and other benefits

GOVERNMENT CODE

12945.1-12945.2 California Family Rights Act

12945.6 Parental leave

LABOR CODE

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

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

233 Illness of child, parent, spouse or domestic partner

245-249 Healthy Workplaces, Healthy Families Act of 2014

UNITED STATES CODE, TITLE 29

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

UNITED STATES CODE, TITLE 42

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

CODE OF FEDERAL REGULATIONS, TITLE 29

825.100-825.800 Family and Medical Leave Act of 1993

1635.1-1635.12 Genetic Information Nondiscrimination Act of 2008

COURT DECISIONS

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

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

ATTORNEY GENERAL OPINIONS

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

Regulation WILLITS UNIFIED SCHOOL DISTRICT

approved: October 4, 2017 Willits, California

revised:

Personal Illness/Injury Leave

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

(cf. 4161/4261/4361 - Leaves)

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

Use of Sick Leave

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

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

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

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

3. Personal necessity as specified in Education Code 45207

(cf. 4161.2/4261.2/4361.2 - Personal Leaves)

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

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

(cf. 4161.11/4261.11/4361.11 - Industrial Accident/Illness Leave)

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

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

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

For the purposes specified in items #7-8, an employee may use, in any calendar year, the amount of sick leave he/she would accrue during six months at his/her current rate of entitlement. (Labor Code [233](#))

An employee may take leave for personal illness or injury at any time during the year, even if credit for such leave has not yet been accrued. However, a new full-time classified employee shall not be entitled to more than six days of sick leave until he/she has completed six months of active service with the district. (Education Code [45191](#))

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

An employee shall reimburse the district for any unearned sick leave used as of the date of his/her termination.

The district shall not require newly employed classified employees to waive leave accumulated in a previous district. However, if the employee's previous employment was terminated for cause, the transfer of the accumulated leave shall be made only if approved by the Governing Board . (Education Code [45202](#))

The Superintendent or designee shall notify any classified employee whose employment with the district is terminated after at least one calendar year for reasons other than for cause that, if he/she accepts employment in another district, county office of education, or community college district within one year of the termination of employment, he/she shall be entitled to request that the district transfer his/her accumulated sick leave to his/her new employer. (Education Code [45202](#))

Additional Leave for Disabled Military Veterans

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

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

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

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

Notification of Absence

An employee shall notify the Superintendent or the designated manager or supervisor of his/her need to be absent as soon as such need is known so that the services of a substitute may be secured as necessary. This notification shall include an estimate of the expected duration of absence. If the absence becomes longer than estimated, the employee shall so notify the district. If the duration of absence becomes shorter than estimated, the employee shall notify the district not later than three o'clock in the afternoon of the day preceding the day on which he/she intends to return to work. If the employee fails to notify the district and the failure results in a substitute being secured, the cost of the substitute shall be deducted from the employee's pay.

Continued Absence After Available Sick Leave Is Exhausted/Differential Pay

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

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

Differential Pay for Parental Leave

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

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

An employee who has exhausted all available sick leave, including accumulated sick leave, and continues to be absent on account of parental leave shall receive differential pay for the remainder of the 12 work weeks. (Education Code [45196.1](#))

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

A permanent employee who is absent because of a personal illness or injury and who has exhausted all available sick leave, vacation, compensatory overtime, and any other paid leave shall be so notified, in writing, and offered an opportunity to request additional leave. The Board may grant the employee additional leave, paid or unpaid, for a period not to exceed six months and may renew this leave for two additional six-month periods or for lesser periods. The total additional leave granted shall not exceed 18 months. (Education Code [45195](#))

(cf. [4216](#) - Probationary/Permanent Status)

If the employee is still unable to resume his/her duties after all available paid and unpaid leaves have been exhausted, the employee shall be placed on a reemployment list for a period of 39 months. If during this time the employee becomes able to resume the duties of his/her position, he/she shall be offered reemployment in the first vacancy in the classification of his/her previous assignment. During the 39 months, the employee's reemployment shall take preference over all other applicants except those laid off for lack of work or lack of funds, in which case the employee shall be ranked according to his/her seniority. (Education Code [45195](#))

Verification Requirements

After any absence due to illness or injury, the employee shall submit a completed and signed district absence form to his/her immediate supervisor.

The Superintendent or designee may require verification whenever an employee's absence record shows chronic absenteeism or a pattern of absences immediately before or after weekends and/or holidays or whenever available evidence clearly indicates that an absence is not related to illness or injury.

In addition, the Superintendent or designee may require an employee to visit a physician selected by the district, at district expense, in order to receive a report on the medical condition of the employee. The report shall include a statement as to the employee's need for additional leave of absence and a prognosis as to when the employee will be able to return to work. If the report concludes that the employee's condition does not warrant continued absence, the Superintendent or designee may, after giving notice to the employee, deny the request for additional leave.

Any district request for additional verification by an employee's physician or a district-selected physician shall be in writing and shall specify that the report to be submitted to the district should not contain the employee's genetic information.

Any genetic information received by the district on behalf of an employee shall be treated as a confidential medical record, maintained in a file separate from the employee's personnel file, and shall not be disclosed except in accordance with 29 CFR 1635.9.

Before returning to work, an employee who has been absent for surgery, hospitalization, or extended medical treatment may be asked to submit a letter from his/her physician stating that he/she is able to return to work and stipulating any recommended restrictions or limitations.

(cf. [4032](#) - Reasonable Accommodation)

(cf. [4113.4/4213.4/4313.4](#) - Temporary Modified/Light-Duty Assignment)

Short-Term and Substitute Employees

Except for a retired annuitant who is not reinstated to the retirement system, any short-term or substitute employee who works for 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. Accrued paid sick days shall carry over to the following year of employment, up to a maximum of 48 hours. (Labor Code [246](#))

Any short-term or substitute 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. (Labor Code [246](#))

A short-term or substitute employee may use accrued sick leave for absences due to: (Labor Code [246.5](#))

1. His/her own need or the need of a family member, as defined in Labor Code [245.5](#), for the diagnosis, care, or treatment of an existing health condition or for preventive care
2. Need of the employee to obtain or seek any relief or medical attention specified in Labor Code [230\(c\)](#) and [230.1\(a\)](#) for the health, safety, or welfare of the employee, or his/her child, when the employee has been a victim of domestic violence, sexual assault, or stalking

Healthy Workplaces, Healthy Families Act Requirements

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

To ensure the district's compliance with Labor Code [245-249](#), the Superintendent or designee shall:

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

Legal Reference:

EDUCATION CODE

45103 Substitute employees

45190 Leaves of absence and vacations

45191 Leaves of absence for illness and injury

45191.5 Leave for military service connected disability

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

45195 Additional leave for nonindustrial accident or illness; reemployment preference

45196 Salary; deductions during sick leave

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45202 Transfer of accumulated sick leave and other benefits

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12945.6 Parental leave

LABOR CODE

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

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

233 Illness of child, parent, spouse or domestic partner

245-249 Healthy Workplaces, Healthy Families Act of 2014

UNITED STATES CODE, TITLE 29

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

UNITED STATES CODE, TITLE 42

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

CODE OF FEDERAL REGULATIONS, TITLE 29

825.100-825.800 Family and Medical Leave Act of 1993

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ATTORNEY GENERAL OPINIONS

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

Regulation WILLITS UNIFIED SCHOOL DISTRICT

approved: October 4, 2017 Willits, California

revised:

**WILLITS UNIFIED SCHOOL DISTRICT
SUPERINTENDENT'S OFFICE**

TO: Board of Trustees
FROM: Mark Westerburg, Superintendent
DATE: October 3, 2018
RE: Board Policy Revision- BP 6162.5 - Student Assessment

Priority:

Communication

Objective:

To conduct a second/final read of the revised policy

Background:

(BP revised)

Policy updated to reflect **NEW LAW (AB 1035)** which addresses the use and purpose of interim and formative assessments that are part of the California Assessment of Student Performance and Progress, prohibits their use for high-stakes purposes as defined, and requires that teachers who administer the assessments have access to all pertinent functions and information.

Funding/Source:

None

Recommendation:

Administration recommends the board conduct a second/final read of the revised policy

Student Assessment

The Governing Board of Trustees recognizes that student assessments are an important instructional and accountability tool. To obtain the most accurate evaluation of student performance, the district shall use a variety of measures, including district, state, and/or national assessments.

(cf. 6162.51- State Academic Achievement Tests)

Assessment data shall be used to help determine individual students' progress, mastery of academic standards, appropriate placement in district programs, and/or eligibility for graduation. In addition, summary data on student assessment results shall be used by district to identify and review student achievement goals in the district's local control and accountability plan, evaluate district educational programs in order to identify needed improvements, and, as appropriate, evaluate staff performance. ~~program effectiveness and staff evaluations shall, as appropriate, be based in part on indicators of student achievement.~~

(cf. 0460 – Local Control and Accountability Plan)

(cf. 0500 - Accountability)

(cf. 2140 – Evaluation of the Superintendent)

(cf. 4115 - Evaluation/Supervision)

(cf. 4315 – Evaluation/Supervision)

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

(cf. 5123 - Promotion/Acceleration/Retention)

(cf. 6011 - Academic Standards)

(cf. 6142.7 – Physical Education and Activity)

(cf. 6190 - Evaluation of the Instructional Program)

~~To obtain the most accurate evaluation of student performance, the district shall use a variety of measures, including district, state, and/or national assessments. As appropriate, assessment results shall be disaggregated by student subgroup, classroom, grade level, or school site to allow for critical analysis of student needs.~~

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

(cf. 6142.7 – Physical Education and Activity)

(cf. 6162.51 – Standardized Testing and Reporting Program)

(cf. ~~6162.52 - High School Exit Examination~~)

In selecting or developing any district assessment, the Superintendent or designee shall examine evidence of its reliability, its validity for the intended purpose and for various student populations, and the extent to which it corresponds to the material that is being taught.

The Superintendent or designee shall ensure that assessments are administered in accordance with law and the test publisher's directions and that test administration procedures are fair and equitable for all students.

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

(cf. 6162.54 - Test Integrity/Test Preparation)

As appropriate, assessment results shall be disaggregated by student subgroup, classroom, grade level, and/or school site to allow for critical analysis of student needs.

The Superintendent or designee shall provide professional development as needed to assist administrators and to assist teachers and paraprofessionals in interpreting and using assessment data to improve student performance and the instructional program.

(cf. 4131 - Staff Development)

(cf. ~~4222 - Teacher Aides/Paraprofessionals~~)

(cf. 4331 - Staff Development)

When districtwide and school-level results of student assessments are published by the state, the Superintendent or designee may provide supplementary information to assist parents/guardians and the local community in understanding interpreting test results and evaluating school performance.

(cf. 0510 - School Accountability Report Card)

Interim and Formative Assessments

State interim and formative assessments may be used in combination with other sources of information to gain timely feedback about student progress in an effort to continually adjust instruction to improve learning. Results from interim and formative assessments shall not be used for any high-stakes purpose, including, but not limited to, teacher or other school staff evaluation, accountability, student grade promotion or retention, graduation, course or class placement, identification for gifted or talented education, reclassification of English learners, or identification as an individual with exceptional needs. (Education Code 60642.6, 60642.7)

(cf. 5123 - Promotion/Acceleration/Retention)

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6152 - Class Assignment)

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

(cf. 6172 - Gifted and Talented Student Program)

(cf. 6174 - Education for English Learners)

The Superintendent or designee shall ensure that teachers who administer interim and formative assessments have access to all functions and information designed for teacher use related to such assessments and student performance on the assessments. (Education Code 60642.6)

Individual Record of Accomplishment

The Superintendent or designee shall ensure that each student, by the end of grade 12, has an individual record of accomplishment that includes the following: (Education Code [60607](#))

1. The results of the state achievement tests required and administered as part of the California Assessment of Student Performance and Progress, or any predecessor assessments, under the Standardized Testing and Reporting Program pursuant to Education Code [60640-60649](#)
2. The results of any end-of-course examinations taken
3. The results of any vocational education certification examinations taken

(cf. [6178](#) - Career Technical Education)

No individual record of accomplishment shall be released to any person, other than the student's parent/guardian or a teacher, counselor, or administrator directly involved with the student, without the written consent of the student's parent/guardian, or the student if he/she is an adult or emancipated minor. The student or his/her parent/guardian may authorize the release of the record of accomplishment to a postsecondary educational institution for the purposes of credit, placement, or admission. (Education Code [60607](#))

(cf. [5125](#) - Student Records)

Legal Reference:

EDUCATION CODE

313 Assessment of English language development

10600-10610 California Education Information System

44660-44665 Evaluation and assessment of performance of certificated employees (Stull Act)

49558 Free and reduced-price meals; use of individual applications and records

51041 Evaluation of educational program

51450-51455 Golden State Seal Merit Diploma

52052 Accountability; numerically significant student subgroups

52060-52077 Local control and accountability plan

60600-60649 Assessment of academic achievement, especially:

60640-60649 Standardized Testing and Reporting Program

60800 Physical fitness testing

60810-60812 Assessment of English language development

60850-60859 High school exit examination

60900 California Longitudinal Pupil Achievement Data System

CODE OF REGULATIONS, TITLE 5

850-864 California Assessment of Student Performance and Progress

~~850-870 Standardized Testing and Reporting program~~

~~1200-1225 High School Exit Examination~~

UNITED STATES CODE, TITLE 20

9622 National Assessment of Educational Progress

Management Resources:

~~CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS~~

~~Key Elements of Testing, 2004~~

~~U.S. DEPARTMENT OF EDUCATION PUBLICATIONS~~

~~Teachers' Use of Student Data Systems to Improve Instruction, 2007~~

WEB SITES

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

California Department of Education, Testing and Accountability: <http://www.cde.ca.gov/ta>

~~Educational Testing Service: <http://www.ets.org>~~

~~*Smarter Balanced Assessment Consortium: <http://www.smarterbalanced.org>*~~

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

Policy WILLITS UNIFIED SCHOOL DISTRICT

adopted: August 7, 2013 Willits, California

Student Assessment

The Governing Board of Trustees recognizes that student assessments are an important instructional and accountability tool. To obtain the most accurate evaluation of student performance, the district shall use a variety of measures, including district, state, and/or national assessments.

(cf. 6162.51- State Academic Achievement Tests)

Assessment data shall be used to help determine individual students' progress, mastery of academic standards, appropriate placement in district programs, and/or eligibility for graduation. In addition, summary data on student assessment results shall be used by district to identify and review student achievement goals in the district's local control and accountability plan, evaluate district educational programs in order to identify needed improvements, and, as appropriate, evaluate staff performance.

(cf. 0460 – Local Control and Accountability Plan)

(cf. 0500 - Accountability)

(cf. 2140 – Evaluation of the Superintendent)

(cf. 4115 - Evaluation/Supervision)

(cf. 4315 – Evaluation/Supervision)

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

(cf. 5123 - Promotion/Acceleration/Retention)

(cf. 6011 - Academic Standards)

(cf. 6142.7 – Physical Education and Activity)

(cf. 6190 - Evaluation of the Instructional Program)

In selecting or developing any district assessment, the Superintendent or designee shall examine evidence of its reliability, its validity for the intended purpose and for various student populations, and the extent to which it corresponds to the material that is being taught.

The Superintendent or designee shall ensure that assessments are administered in accordance with law and the test publisher's directions and that test administration procedures are fair and equitable for all students.

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

(cf. 6162.54 - Test Integrity/Test Preparation)

As appropriate, assessment results shall be disaggregated by student subgroup, classroom, grade level, and/or school site to allow for critical analysis of student needs.

The Superintendent or designee shall provide professional development as needed to assist administrators and teachers in interpreting and using assessment data to improve student performance and the instructional program.

(cf. [4131](#) - Staff Development)

(cf. 4331 – Staff Development)

When districtwide and school-level results of student assessments are published by the state, the Superintendent or designee may provide supplementary information to assist parents/guardians and the community in understanding test results.

(cf. [0510](#) - School Accountability Report Card)

Interim and Formative Assessments

State interim and formative assessments may be used in combination with other sources of information to gain timely feedback about student progress in an effort to continually adjust instruction to improve learning. Results from interim and formative assessments shall not be used for any high-stakes purpose, including, but not limited to, teacher or other school staff evaluation, accountability, student grade promotion or retention, graduation, course or class placement, identification for gifted or talented education, reclassification of English learners, or identification as an individual with exceptional needs. (Education Code 60642.6, 60642.7)

(cf. 5123 - Promotion/Acceleration/Retention)

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6152 - Class Assignment)

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

(cf. 6172 - Gifted and Talented Student Program)

(cf. 6174 - Education for English Learners)

The Superintendent or designee shall ensure that teachers who administer interim and formative assessments have access to all functions and information designed for teacher use related to such assessments and student performance on the assessments. (Education Code 60642.6)

Individual Record of Accomplishment

The Superintendent or designee shall ensure that each student, by the end of grade 12, has an individual record of accomplishment that includes the following: (Education Code [60607](#))

1. The results of the state achievement tests required and administered as part of the California Assessment of Student Performance and Progress, or any predecessor assessments, pursuant to Education Code [60640-60649](#)

2. The results of any end-of-course examinations taken

3. The results of any vocational education certification examinations taken

(cf. 6178 - Career Technical Education)

No individual record of accomplishment shall be released to any person, other than the student's parent/guardian or a teacher, counselor, or administrator directly involved with the student, without the written consent of the student's parent/guardian, or the student if he/she is an adult or emancipated minor. The student or his/her parent/guardian may authorize the release of the record of accomplishment to a postsecondary educational institution for the purposes of credit, placement, or admission. (Education Code 60607)

(cf. 5125 - Student Records)

Legal Reference:

EDUCATION CODE

313 Assessment of English language development

10600-10610 California Education Information System

44660-44665 Evaluation and assessment of performance of certificated employees (Stull Act)

49558 Free and reduced-price meals; use of individual applications and records

51041 Evaluation of educational program

51450-51455 Golden State Seal Merit Diploma

52052 Accountability; numerically significant student subgroups

52060-52077 Local control and accountability plan

60600-60649 Assessment of academic achievement, especially:

60640-60649 Standardized Testing and Reporting Program

60800 Physical fitness testing

60810-60812 Assessment of English language development

60850-60859 High school exit examination

60900 California Longitudinal Pupil Achievement Data System

CODE OF REGULATIONS, TITLE 5

850-864 California Assessment of Student Performance and Progress

UNITED STATES CODE, TITLE 20

9622 National Assessment of Educational Progress

Management Resources:

WEB SITES

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

California Department of Education, Testing and Accountability: <http://www.cde.ca.gov/ta>

Smarter Balanced Assessment Consortium: <http://www.smarterbalanced.org>

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

Policy WILLITS UNIFIED SCHOOL DISTRICT

adopted: August 7, 2013 Willits, California

WILLITS UNIFIED SCHOOL DISTRICT
SUPERINTENDENT'S OFFICE

TO: Board of Trustees
FROM: Mark Westerburg, Superintendent
DATE: October 3, 2018
RE: Board Policy Revision- **BP/AR 6171 - Title I Programs**

Priority:

Communication

Objective:

To conduct a second/final read of the revised policy

Background:

(BP revised)

Policy updated to address (1) the requirement to use federal Title I funds to supplement, not supplant, funds available from state and local sources; (2) use of the district's local control and accountability plan to fulfill requirements for the Title I local educational agency plan; and (3) methods for demonstrating the comparability of services between Title I and non-Title I schools. Regulation updated to reflect amendments by the Every Student Succeeds Act related to schoolwide programs, targeted assistance programs, and participation by private school students

Funding/Source:

None

Recommendation:

Administration recommends the board conduct a second/final read of the revised policy

Title I Programs

~~In order to improve the academic achievement of students from economically disadvantaged families, the district shall use federal Title I funds to provide supplementary services that reinforce the core curriculum and assist students in attaining proficiency on state academic standards and assessments.~~

The Governing Board desires to provide a high-quality education that enables all students to meet challenging state academic standards. In schools with a large number of percentage of economically disadvantaged families, the district shall use Title 1 funds to provide services that strengthen the academic program and provide support to students at risk of failing to achieve academic standards.

~~(cf. 5149 - At Risk Students)~~

(cf. 6011 - Academic Standards)

(cf. 6162.5 - Student Assessment)

(cf. 6162.51 - Standardized Testing and Reporting Program)

~~(cf. 6162.52 - High School Exit Examination)~~

~~The Superintendent or designee shall provide technical assistance and support to any school participating in the Title I program, including consultation in the development and implementation of school plans and activities. (20 USC 6312)~~

Title I funds shall be used to supplement, not supplant, funds available from state and local sources for the education of students participating in Title I programs. (20 USC 6314, 6321)

Descriptions of how the district will address the required components of the Title I local educational agency plan, as specified in 20 USC 6312, shall be included within the district's control and accountability plan (LCAP), the LCAP Federal Addendum, or another document. School-level strategies shall be aligned with the district's plan and be tailored to the specific needs of the students at the school.

(cf. 0420 - School Plans/Site Councils)

(cf. 0400 - Comprehensive Plans)

(cf. 0460 - Local Control and Accountability Plan)

In addition, the district and each school receiving Title I funds shall develop a written parent/guardian and family engagement involvement policy in accordance with 20 USC 6318.

(cf. 6020 - Parent Involvement)

Local Educational Agency Plan

~~The Superintendent or designee shall consult with teachers, principals, administrators, other appropriate school personnel, and parents/guardians of participating students in the development, periodic review, and, as necessary, the revision of a local educational agency (LEA) plan. The plan and any revisions shall be submitted to the Board of Trustees for approval. (20 USC 6312)~~

~~The plan shall address the components specified in 20 USC 6312, which describe the assessments, strategies, and services the district will use to help low achieving students meet challenging academic standards.~~

~~The initial plan shall be submitted to the California Department of Education (CDE) and approved by the State Board of Education. Subsequent revisions of the plan shall be kept on file in the district.~~

Comparability of Services

~~State and local funds used in~~ In schools receiving Title I funds, state and local funds shall be used to provide services that, taken as a whole, are at least comparable to services in schools that are not receiving Title I funds or, if all district schools are receiving Title I funds, that are substantially comparable in each school. Comparability may be determined on a school-by-school basis or by grade span. (20 USC 6321)

To demonstrate comparability of services among district schools:

1. ~~The Board shall~~ Adopt and implement a districtwide salary schedule.

2. Ensure equivalence in teachers, administrators, and other staff, as measured by either or both of the following:

a. The ratio of students to instructional teachers, administrators, and other staff at each Title I school within a grade span, which shall not exceed 110 percent of the average ratio across non-Title I schools district schools within that grade span;

b3. Salary expenditures for instructional staff at each Title I school, which shall be no less than 90 percent of the average salary expenditure across non-Title I schools.

~~4. All district schools shall be provided with the same level of base funding per student for curriculum and instructional materials.~~

~~5. The Superintendent or designee shall maintain records of the quantity and quality of instructional materials and equipment at each school.~~

3. Ensure equivalence in the provision of curriculum materials and instructional supplies, by determining whether the per-student expenditure of state and local funds for curriculum materials and instructional supplies in Title I schools is between 90 and 110 percent of the districtwide average

4. Determine whether the amount of state and local funds allocated per student for each grade span is between 90 and 110 percent of the per student average for each grade span in non-Title I schools

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

In determining comparability, the district shall not include staff salary differentials for years of employment. The district also may exclude unpredictable changes in student enrollment or personnel assignments that occur after the beginning of the school year, state and local funds expended for language instruction educational programs, state and local funds expended for the excess costs of providing services to disabled students, and supplemental state or local funds expended in any school attendance area or school for programs that specifically meet the intent and purposes of Title I. (20 USC 6321)

~~The~~ ~~At the beginning of each school year,~~ the Superintendent or designee shall annually assess ~~measure~~ comparability in accordance with the above criteria and maintain records documenting the district's compliance. If any instances of noncomparability are identified, the Superintendent or designee shall promptly implement adjustments as needed to ensure comparability.

Participation of Private School Students

The district shall provide or contract to provide special educational services, instructional services (including evaluations to determine the progress being made in meeting students' academic needs), counseling, mentoring, one-on-one tutoring, or other Title I benefits to eligible private school students residing in a participating school attendance area. Such services and benefits shall be provided on an equitable basis in comparison to services and other benefits for public school students. (20 USC 6320, 7881)

Program Evaluation

The Board shall regularly monitor the progress of economically disadvantaged and low achieving student in Title 1 schools. During the annual evaluation of the district's progress toward achieving each goal identified in the LCAP or other planning document addressing 20 USC 6312, the Board shall review disaggregated data on academic achievement, school attendance, and other outcomes for such students and shall ensure that strategies are revised as necessary to support continuous improvement. use state assessment results and other available measures or indicators to annually determine whether each participating school is making adequate yearly progress toward ensuring that all students meet the state's proficient level of achievement on state assessments. (20 USC 6316)

(cf. 0500 – Accountability)

~~(cf. 0520.2 Title I Program Improvement Schools)~~

~~(cf. 0520.3 Title I Program Improvement Districts)~~

(cf. 6190 - Evaluation of the Instructional Program)

Legal Reference:

EDUCATION CODE

11503 Parent involvement programs in Title I schools

~~52055-57 Districts identified or at risk of identification for program improvement~~

~~54020-54028 Economic Impact Aid~~

52060-52077 Local control and accountability plan

54420-54425 State Compensatory Education

64001 Single plan for student achievement, consolidated application programs

UNITED STATES CODE, TITLE 20

6301 Program purpose

6311-6322 Improving basic programs for disadvantaged students, including:

6312 Local educational agency plan

6313 Eligibility of schools and school attendance areas; funding allocation

6314 Title I schoolwide programs

6315 Targeted assistance schools

6316 School improvement

6318 Parent involvement

6320 Participation of private school students

6321 Comparability of services

6333-6335 Grants to local educational agencies

6391-6399 Education for migrant students

7881 Participation of private school students

CODE OF FEDERAL REGULATIONS, TITLE 34

200.1-200.739 Improving basic programs for disadvantaged students

Management Resources:

~~CSBA PUBLICATIONS~~

~~Parent Involvement: Development of Effective and Legally Compliant Policies, Governance and Policy Services Policy Briefs, August 2006~~

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

~~Frequently Asked Questions About Title I Schoolwide Programs~~

~~Local Control and Accountability Plan Federal Addendum Template~~

~~Meeting Title I, Part A Comparability Requirements, October 2017~~

~~LEA Plan, rev. May 17, 2006~~

~~Provisions for Private School Students, Teachers, and Other Education Personnel in the No Child Left Behind Act of 2001, rev. November 1, 2005~~

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS GUIDANCE

~~Fiscal Changes and Equitable Services Requirements Under the Elementary and Secondary Education Act of 1965 (ESEA), as Amended by the Every Student Succeeds Act, Non-Regulatory Guidance, November 21, 2016~~

~~Title I Fiscal Issues, Non-Regulatory Guidance, February 2008May 26, 2006~~

~~Designing Schoolwide Programs, Non-Regulatory Guidance, March 22, 2006~~

~~Supplemental Educational Services, June 13, 2005~~

~~The Impact of the New Title I Requirements on Charter Schools, July 2004~~

~~Parental Involvement: Title I, Part A, April 23, 2004~~

~~Serving Preschool Children Under Title I, March 4, 2004~~

~~Title I Services to Eligible Private School Students, October 17, 2003~~

~~Local Educational Agency Identification and Selection of School Attendance Areas and Schools and Allocation of Title I Funds to Those Areas and Schools, August 2003~~

WEB SITES

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

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

No Child Left Behind: <http://www.ed.gov/nclb>

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

Policy WILLITS UNIFIED SCHOOL DISTRICT

adopted: August 7, 2013 Willits, California

revised:

Title I Programs

The Governing Board desires to provide a high-quality education that enables all students to meet challenging state academic standards. In schools with a large number of percentage of economically disadvantaged families, the district shall use Title 1 funds to provide services that strengthen the academic program and provide support to students at risk of failing to achieve academic standards.

(cf. 6011 - Academic Standards)

(cf. 6162.5 - Student Assessment)

(cf. 6162.51 - Standardized Testing and Reporting Program)

Title I funds shall be used to supplement, not supplant, funds available from state and local sources for the education of students participating in Title I programs. (20 USC 6314, 6321)

Descriptions of how the district will address the required components of the Title I local educational agency plan, as specified in 20 USC 6312, shall be included within the district's control and accountability plan (LCAP), the LCAP Federal Addendum, or another document. School-level strategies shall be aligned with the district's plan and be tailored to the specific needs of the students at the school.

(cf. 0420 - School Plans/Site Councils)

(cf. 0400 – Comprehensive Plans)

(cf. 0460 – Local Control and Accountability Plan)

In addition, the district and each school receiving Title I funds shall develop a written parent/guardian and family engagement policy in accordance with 20 USC 6318.

(cf. 6020 - Parent Involvement)

Comparability of Services

In schools receiving Title I funds, state and local funds shall be used to provide services that, taken as a whole, are at least comparable to services in schools that are not receiving Title I funds or, if all district schools are receiving Title I funds, that are substantially comparable in each school. Comparability may be determined on a school-by-school basis or by grade span. (20 USC 6321)

To demonstrate comparability of services among district schools:

1. Adopt and implement a districtwide salary schedule.

2. Ensure equivalence in teachers, administrators, and other staff, as measured by either or both of the following:

a. The ratio of students to instructional staff at each Title I school within a grade span, which shall not exceed 110 percent of the average ratio across non-Title I district schools within that grade span. Salary expenditures for instructional staff at each Title I school, which shall be no less than 90 percent of the average salary expenditure across non-Title I schools.

3. Ensure equivalence in the provision of curriculum materials and instructional supplies, by determining whether the per-student expenditure of state and local funds for curriculum materials and instructional supplies in Title I schools is between 90 and 110 percent of the districtwide average

4. Determine whether the amount of state and local funds allocated per student for each grade span is between 90 and 110 percent of the per student average for each grade span in non-Title I schools

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

In determining comparability, the district shall not include staff salary differentials for years of employment. The district also may exclude unpredictable changes in student enrollment or personnel assignments that occur after the beginning of the school year, state and local funds expended for language instruction educational programs, state and local funds expended for the excess costs of providing services to disabled students, and supplemental state or local funds expended in any school attendance area or school for programs that specifically meet the intent and purposes of Title I. (20 USC 6321)

The Superintendent or designee shall annually assess comparability in accordance with the above criteria and maintain records documenting the district's compliance. If any instances of noncomparability are identified, the Superintendent or designee shall promptly implement adjustments as needed to ensure comparability.

Participation of Private School Students

The district shall provide or contract to provide special educational services, instructional services (including evaluations to determine the progress being made in meeting students' academic needs), counseling, mentoring, one-on-one tutoring, or other Title I benefits to eligible private school students residing in a participating school attendance area. Such services and benefits shall be provided on an equitable basis in comparison to services and other benefits for public school students. (20 USC 6320, 7881)

Program Evaluation

The Board shall regularly monitor the progress of economically disadvantaged and low achieving student in Title I schools. During the annual evaluation of the district's progress toward achieving each goal identified in the LCAP or other planning document addressing 20 USC 6312, the Board shall review

disaggregated data on academic achievement, school attendance, and other outcomes for such students and shall ensure that strategies are revised as necessary to support continuous improvement.

(cf. 0500 – Accountability)

(cf. 6190 - Evaluation of the Instructional Program)

Legal Reference:

EDUCATION CODE

11503 Parent involvement programs in Title I schools

52060-52077 Local control and accountability plan

54420-54425 State Compensatory Education

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6314 Title I schoolwide programs

6315 Targeted assistance schools

6316 School improvement

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6320 Participation of private school students

6321 Comparability of services

6333-6335 Grants to local educational agencies

6391-6399 Education for migrant students

7881 Participation of private school students

CODE OF FEDERAL REGULATIONS, TITLE 34

200.1-200.73 Improving basic programs for disadvantaged students

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Frequently Asked Questions About Title I Schoolwide Programs

Local Control and Accountability Plan Federal Addendum Template

Meeting Title I, Part A Comparability Requirements, October 2017

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Fiscal Changes and Equitable Services Requirements Under the Elementary and Secondary Education Act of 1965 (ESEA), as Amended by the Every Student Succeeds Act, Non-Regulatory Guidance, November 21, 2016

Title I Fiscal Issues, Non-Regulatory Guidance, February 2008

Designing Schoolwide Programs, Non-Regulatory Guidance, March 22, 2006

Title I Services to Eligible Private School Students, October 17, 2003

WEB SITES

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

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

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

Policy WILLITS UNIFIED SCHOOL DISTRICT

adopted: August 7, 2013 Willits, California

revised:

Title I Programs

Schoolwide Programs

A school may operate a Title I schoolwide program in order to upgrade the entire educational program of the school when at least 40 percent of the students in the school attendance area, or at least 40 percent of the students enrolled in the school, are from low-income families. ~~The Superintendent or designee shall inform any such eligible school and the school's parents/guardians of the school's eligibility and its ability to consolidate funds from federal, state, and local sources for program purposes.~~ (20 USC [6312](#), [6314](#); 34 CFR 200.25)

A school that does not meet these criteria may operate a Title 1 schoolwide program if it receives a waiver from the California Department of Education (20 USC 6314)

~~Any participating school operating a schoolwide program shall develop a comprehensive plan with the involvement of parents/guardians, other members of the community to be served, and individuals who will carry out the plan, including teachers, principals, other school leaders, paraprofessionals present in the school, administrators (including administrators of other federal education programs), the district, tribes and tribal organizations present in the community, and, if appropriate, specialized instructional support personnel, technical assistance providers, school staff, secondary school students as applicable, and other individuals determined by the school. annually review, and update a single plan for student achievement which incorporates the plan required by 20 USC [6314](#) for reforming the school's total instructional program and plans required by other categorical programs included in the state's consolidated application. (Education Code [64001](#); 20 USC [6314](#))~~

(cf. [0400](#) – Comprehensive Plans)

The schoolwide program plan shall be based on a comprehensive needs assessment of the entire school and shall be incorporated into a single plan for student achievement which also incorporates the plans required for other categorical programs included in the state's consolidated application.

(cf. [0420](#) - School Plans/Site Councils)

The plan shall describe the strategies that the school will implement to address school needs, including a description of how such strategies will: (20 USC 6314)

~~A schoolwide program shall include: (20 USC [6314](#))~~

~~1. Provide opportunities for all students, including economically disadvantaged students, ethnic subgroups, students with disabilities, and English learners, to meet A comprehensive needs assessment of the entire school, including the needs of migrant students, which includes the achievement of students in relation to state academic content and achievement standards~~

(cf. [6011](#) - Academic Standards)

~~(cf. 6162.5 – Student Assessment)~~

~~(cf. 6162.51 – Standardized Testing and Reporting Program)~~

~~(cf. 6162.52 – High School Exit Examination)~~

~~(cf. 6175 – Migrant Education Program)~~

~~2. Schoolwide reform strategies that:~~

~~a. Provide opportunities for all students to meet the state's proficient and advanced levels of achievement~~

~~2.b. Use effective methods and instructional strategies, based on scientifically based research, that strengthen the school's core academic program, increase the amount and quality of learning time, and help provide an enriched and accelerated curriculum, which may and include programs, activities, and courses necessary to provide a well-rounded education. strategies for meeting the educational needs of historically underserved populations~~

~~(cf. 5148.2 - Before/After School Programs)~~

~~(cf. 6111 - School Calendar)~~

~~(cf. 6112 - School Day)~~

~~(cf. 6141 – Curriculum Development and Evaluation)~~

~~(cf. 6177 - Summer School)~~

~~3.e. Include strategies to Address the needs of all students in the school, but particularly the needs of those low-achieving students and those at risk of not meeting state achievement standards, through activities which may include the following: who are members of the target population of any program that is part of the schoolwide program~~

~~a. Counseling, school-based mental health programs, specialized instructional support services. Such strategies may include counseling, student services, mentoring services, college and career awareness and other strategies to improve students' skills outside the academic subject areas. preparation, and the integration of vocational and technical education programs.~~

~~(cf. 5141.6 – School Health Services)~~

~~(cf. 5149 – At Risk Students)~~

~~(cf. 6164.2 - Guidance/Counseling Services)~~

~~(cf. 6164.5 - Student Success Teams)~~

~~d. Address how the school will determine if student needs have been met~~

~~e. Are consistent with and designed to implement state and local improvement plans, if any~~

~~(cf. 0520.2 - Title I Program Improvement Schools)~~

~~(cf. 0520.3 - Title I Program Improvement Districts)~~

3. ~~Instruction by highly qualified teachers~~

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

- b. Preparation for and awareness of opportunities for postsecondary education and the workforce, which may include career and technical education programs and broadening secondary school students' access to coursework to earn postsecondary credit while still in high school

~~(cf. 6141.4 - International Baccalaureate Program)~~

~~(cf. 6141.5 - Advanced Placement)~~

~~(cf. 6172.1 - Concurrent Enrollment in College Classes)~~

~~(cf. 6178 - Career Technical Education)~~

- c. Implementation of a schoolwide tiered model to prevent and address problem behavior, and early intervention services, coordinated with similar activities and services carried out under the Individuals with Disabilities Education Act

~~d4. High quality and ongoing professional development and other activities for teachers, principals, paraprofessionals, and, other school if appropriate, student services personnel to improve instruction and use of data from academic assessments and to recruit and retain effective teachers, particularly in high-need subjects. - other staff, and parents/guardians to enable all students in the school to meet state academic achievement standards~~

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

~~(cf. 4131 - Staff Development)~~

~~(cf. 4222 - Teacher Aides/Paraprofessionals)~~

~~(cf. 4231 - Staff Development)~~

~~(cf. 4331 - Staff Development)~~

5. ~~Strategies to attract high quality, highly qualified teachers to high need schools~~

~~(cf. 4111 - Recruitment and Selection)~~

6. ~~Strategies to increase parent involvement~~

~~(cf. 5020 - Parent Rights and Responsibilities)~~

~~(cf. 6020 - Parent Involvement)~~

~~e7. Strategies Plans for assisting preschool children in the transition from early childhood programs education programs to local elementary school programs~~

(cf. 5148.3 - Preschool/Early Childhood Education)

~~8. Measures to include teachers in decisions regarding the use of academic assessments to provide information on and to improve the achievement of individual students and the overall instructional program~~

~~9. Activities to ensure that students who experience difficulty mastering the proficient and advanced levels of academic standards shall be provided with effective, timely additional assistance, which shall include measures for timely identification of students' difficulties and provision of sufficient information on which to base effective assistance~~

(cf. 6179 – Supplemental Instruction)

~~10. The plan shall also include a description of any applicable Coordination and integration of federal, state, and local services and programs that will be consolidated in the schoolwide program. (20 USC 6314; 34 CFR 200.27)~~

The plan and its implementation shall be regularly monitored and revised as necessary based on student needs to ensure that all students are provided opportunities to meet state academic standards. (20 USC 6314)

Targeted Assistance Programs

Any school that receives Title I funds but does not operate a schoolwide program shall use Title I funds to provide services to eligible students who are failing, or most at risk of failing, to meet state academic standards. Students shall be identified on the basis of multiple, educationally related, objective criteria, except that students in preschool through grade 2 shall be selected solely on the basis of criteria, including objective criteria, established by the district and supplemented by the school: (20 USC 6315)

~~1. Students in grades 3-12 identified by the school as failing, or most at risk of failing, to meet the state's academic achievement standards on the basis of criteria established by the district and supplemented by the school~~

~~2. Students in preschool through grade 2 selected solely on the basis of such criteria as teacher judgment, interviews with parents/guardians, and developmentally appropriate measures~~

Eligible students include those who are economically disadvantaged; students with disabilities; migrant students, including those who participated in a migrant education program pursuant to 20 USC 6391-6399 in the preceding two years; English learners; students who participated in a Head Start or state preschool program in the preceding two years; students in a local institution for neglected or delinquent children and youth or attending a community day program for such students; and homeless students. (20 USC 6315)

Any targeted assistance program shall: (20 USC 6315)

1. Use program resources to help participating students meet state academic ~~achievement~~ standards, which may include programs, activities, and academic courses necessary to provide a well-rounded education expected for all students

~~2. Ensure that program planning is incorporated into existing school planning~~

~~23. Use effective methods and instructional strategies, based on scientifically based research, that strengthen the core academic program, through activities which may include: give primary consideration to providing extended learning time, help provide an accelerated, high-quality curriculum, and minimize removing students from the regular classroom during regular school hours for instruction provided by Title I~~

a. Expanded learning time, before- and after-school programs, and summer programs and opportunities

b. A schoolwide tiered model to prevent and address behavior problems, and early intervention services, coordinated with similar activities and services carried out under the Individuals with Disabilities Education Act

~~34. Coordinate with and support the regular education program, which may include services to assist preschool students in the transition to elementary school programs~~

~~5. Provide instruction by highly qualified teachers~~

~~46. Provide opportunities for professional development for teachers, principals, other school leaders, paraprofessionals, and, if appropriate, specialized instructional support and other school personnel who work with eligible students in Title 1 programs or in the regular education program. student services personnel, other staff, and parents/guardians who work with participating students. The professional development shall be provided using funds from Title 1 and, to the extent practicable, other sources.~~

~~57. Implement Provide strategies to increase the parent involvement of parents/guardians of participating students.~~

~~68. If appropriate and applicable, cCoordinate and integrate federal, state, and local services and programs, such as programs supported by the Elementary and Secondary Education Act, violence prevention programs, nutrition programs, housing programs, Head Start programs, adult education programs, career technical education programs, and comprehensive or targeted support and improvement activities under 20 USC 6311~~

7. Provide assurances to the Superintendent or designee that the program will:

a. Help provide an accelerated, high-quality curriculum

b. Minimize the removal of students from the regular classroom during regular school hours for instruction supported by Title I funds

- c. On an ongoing basis, review the progress of participating students and revise the targeted assistance program, if necessary, to provide additional assistance to enable such students to meet state academic standards

Participation of Private School Students

~~The Superintendent or designee shall provide or contract to provide special educational services or other Title I benefits to eligible private school students residing in a participating school attendance area. Such services and benefits shall be provided on an equitable basis with participating public school students. (20 USC 6320, 7881)~~

Teachers, ~~other educational personnel~~, and families of participating private school students shall have an opportunity to participate, on an equitable basis, in parent/guardian and family engagement involvement activities and professional development pursuant to 20 USC 6318 and 6319. (20 USC 6320, 7881)

Each year the Superintendent or designee ~~shall~~ may contact officials of private schools with students who reside within district boundaries, regardless of whether the private school they attend is located within the district or whether or not those officials have previously indicated any interest in program participation, and invite them to a meeting to discuss the intent of Title I and the roles of public and private school officials.

The Superintendent or designee shall consult with appropriate private school officials, in a meaningful and timely manner, ~~with appropriate private school officials~~ during the design and development of the district's Title I programs, with the goal of reaching agreement on how to provide equitable and effective programs for eligible private school students. Such consultation shall occur before the district makes any decision that affects the opportunities of eligible private school students to participate in Title I programs and shall include consultation on issues such as the following: a discussion of: (20 USC 6320, 7881; 34 CFR 56-200.63)

1. How the needs of private school students will be identified
2. What services will be offered
3. How, where, and by whom the services will be provided
4. How the services will be academically assessed and how assessment results will be used to improve those services
5. The size and scope of the equitable services to be provided to eligible private school students and the proportion of funds to be that is allocated for such services, and how that proportion of funds is determined
6. The method or sources of data that are used to determine the number of students from low-income families in participating school attendance areas who attend private schools

7. How and when the district will make decisions about the delivery of service to such students, including a thorough consideration and analysis of the views of private school officials on the provision of services through a third-party provider

8. How, if the district disagrees with the views of private school officials on the provision of services through a third-party provider, the district will provide to private school officials a written analysis of the reasons that the district has chosen not to use a contractor

9. Whether the district will provide services directly or through a separate government agency, consortium, entity, or third-party contractor

10. Whether to provide services to eligible private school students by pooling funds or on a school-by-school basis

11. When services will be provided, including the approximate time of day

12. Whether to consolidate and use funds provided under Title I with other funds available for services to private school students

If the district disagrees with the views of private school officials with respect to any of the above issues, the district shall provide the officials, in writing, the reasons that the district disagrees. (20 USC 6320)

Meetings between district and private school officials shall continue throughout implementation and assessment of services. (20 USC [6320](#))

The ~~district Superintendent or designee~~ shall maintain, and shall provide to the ~~CDE California Department of Education upon request~~, a written affirmation signed by officials of each participating private school that consultation has occurred. The affirmation shall provide the option for private school officials to indicate their belief that timely and meaningful consultation has not occurred or that the program design is not equitable with respect to private school students. If private school officials do not provide the affirmation within a reasonable period of time, the district shall send documentation to the CDE demonstrating that the consultation has, or attempts at such consultation have, taken place. (20 USC [6320](#))

(cf. 3580 – District Records)

The Superintendent or designee shall also maintain copies of program descriptions, notices, funding allocations, and other communications and records pertaining to the provision of services to private school students.

Regulation WILLITS UNIFIED SCHOOL DISTRICT

approved: August 7, 2013 Willits, California

revised:

Title I Programs

Schoolwide Programs

A school may operate a Title I schoolwide program in order to upgrade the entire educational program of the school when at least 40 percent of the students in the school attendance area, or at least 40 percent of the students enrolled in the school, are from low-income families. (20 USC [6314](#); 34 CFR 200.25)

A school that does not meet these criteria may operate a Title 1 schoolwide program if it receives a waiver from the California Department of Education (20 USC 6314)

Any school operating a schoolwide program shall develop a comprehensive plan with the involvement of parents/guardians, other members of the community to be served, and individuals who will carry out the plan, including teachers, principals, other school leaders, paraprofessionals present in the school, administrators (including administrators of other federal education programs), the district, tribes and tribal organizations present in the community, and, if appropriate, specialized instructional support personnel, technical assistance providers, school staff, secondary school students as applicable, and other individuals determined by the school. (20 USC [6314](#))

(cf. 0400 – Comprehensive Plans)

The schoolwide program plan shall be based on a comprehensive needs assessment of the entire school and shall be incorporated into a single plan for student achievement which also incorporates the plans required for other categorical programs included in the state's consolidated application.

(cf. [0420](#) - School Plans/Site Councils)

The plan shall describe the strategies that the school will implement to address school needs, including a description of how such strategies will: (20 USC [6314](#))

1. Provide opportunities for all students, including economically disadvantaged students, ethnic subgroups, students with disabilities, and English learners, to meet state academic standards

(cf. [6011](#) - Academic Standards)

- 2.. Use methods and instructional strategies, that strengthen the school's core academic program, increase the amount and quality of learning time, and help provide an enriched and accelerated curriculum, which may include programs, activities, and courses necessary to provide a well-rounded education.

(cf. [5148.2](#) - Before/After School Programs)

(cf. [6111](#) - School Calendar)

(cf. [6112](#) - School Day)

(cf. 6141 – Curriculum Development and Evaluation)

(cf. 6177 - Summer School)

3. Address the needs of all students in the school, but particularly the needs of those at risk of not meeting state achievement standards, through activities which may include the following:

a. Counseling, school-based mental health programs, specialized instructional support services, mentoring services, and other strategies to improve students' skills outside the academic subject areas.

(cf. 5141.6 – School Health Services)

(cf. [6164.2](#) - Guidance/Counseling Services)

(cf. [6164.5](#) - Student Success Teams)

b. Preparation for and awareness of opportunities for postsecondary education and the workforce, which may include career and technical education programs and broadening secondary school students' access to coursework to earn postsecondary credit while still in high school

(cf. 6141.4 - International Baccalaureate Program)

(cf. 6141.5 - Advanced Placement)

(cf. 6172.1 - Concurrent Enrollment in College Classes)

(cf. 6178 - Career Technical Education)

c. Implementation of a schoolwide tiered model to prevent and address problem behavior, and early intervention services, coordinated with similar activities and services carried out under the Individuals with Disabilities Education Act

d. Professional development and other activities for teachers, paraprofessionals, and, other school personnel to improve instruction and use of data from academic assessments and to recruit and retain effective teachers, particularly in high-need subjects.

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

(cf. [4131](#) - Staff Development)

(cf. [4222](#) - Teacher Aides/Paraprofessionals)

(cf. 4231 - Staff Development)

(cf. [4331](#) - Staff Development)

e. Strategies for assisting preschool children in the transition from early childhood education programs to local elementary school programs

(cf. [5148.3](#) - Preschool/Early Childhood Education)

The plan shall also include a description of any applicable federal, state, and local programs that will be consolidated in the schoolwide program. (20 USC 6314; 34 CFR 200.27)

The plan and its implementation shall be regularly monitored and revised as necessary based on student needs to ensure that all students are provided opportunities to meet state academic standards. (20 USC 6314)

Targeted Assistance Programs

Any school that receives Title I funds but does not operate a schoolwide program shall use Title I funds to provide services to eligible students who are failing, or most at risk of failing, to meet state academic standards. Students shall be identified on the basis of multiple, educationally related, objective criteria, except that students in preschool through grade 2 shall be selected solely on the basis of criteria, including objective criteria, established by the district and supplemented by the school: (20 USC 6315)

Eligible students include those who are economically disadvantaged; students with disabilities; migrant students, including those who participated in a migrant education program pursuant to 20 USC 6391-6399 in the preceding two years; English learners; students who participated in a Head Start or state preschool program in the preceding two years; students in a local institution for neglected or delinquent children and youth or attending a community day program for such students; and homeless students. (20 USC 6315)

Any targeted assistance program shall: (20 USC 6315)

1. Use program resources to help participating students meet state academic standards, which may include programs, activities, and academic courses necessary to provide a well-rounded education
2. Use methods and instructional strategies that strengthen the academic program, through activities which may include:
 - a. Expanded learning time, before- and after-school programs, and summer programs and opportunities
 - b. A schoolwide tiered model to prevent and address behavior problems, and early intervention services, coordinated with similar activities and services carried out under the Individuals with Disabilities Education Act
3. Coordinate with and support the regular education program, which may include services to assist preschool students in the transition to elementary school programs
4. Provide professional development for teachers, principals, other school leaders, paraprofessionals, and, if appropriate, specialized instructional support and other school personnel who work with eligible students in Title 1 programs or in the regular education program. The professional development shall be provided using funds from Title 1 and, to the extent practicable, other sources.
5. Implement strategies to increase the involvement of parents/guardians of participating students.
6. If appropriate and applicable, coordinate and integrate federal, state, and local services and programs, such as programs supported by the Elementary and Secondary Education Act, violence prevention

programs, nutrition programs, housing programs, Head Start programs, adult education programs, career technical education programs, and comprehensive or targeted support and improvement activities under 20 USC 6311

7. Provide assurances to the Superintendent or designee that the program will:
 - a. Help provide an accelerated, high-quality curriculum
 - b. Minimize the removal of students from the regular classroom during regular school hours for instruction supported by Title I funds
 - c. On an ongoing basis, review the progress of participating students and revise the targeted assistance program, if necessary, to provide additional assistance to enable such students to meet state academic standards

Participation of Private School Students

Teachers and families of participating private school students shall have an opportunity to participate, on an equitable basis, in parent/guardian and family engagement activities and professional development pursuant to 20 USC [6318](#) (20 USC [6320](#), [7881](#))

Each year the Superintendent or designee shall contact officials of private schools with students who reside within district boundaries, regardless of whether the private school they attend is located within the district or whether or not those officials have previously indicated any interest in program participation, and invite them to a meeting to discuss the intent of Title 1 and the roles of public and private school officials.

The Superintendent or designee shall consult with appropriate private school officials, in a meaningful and timely manner, during the design and development of the district's Title I programs, with the goal of reaching agreement on how to provide equitable and effective programs for eligible private school students. Such consultation shall occur before the district makes any decision that affects the opportunities of eligible private school students to participate in Title I programs and shall include consultation on issues such as the following: (20 USC [6320](#), [7881](#); 34 CFR [56200.63](#))

1. How the needs of private school students will be identified
2. What services will be offered
3. How, where, and by whom the services will be provided
4. How the services will be academically assessed and how assessment results will be used to improve those services
5. The size and scope of the equitable services to be provided to eligible private school students and the proportion of funds to be allocated for such services, and how that proportion of funds is determined

6. The method or sources of data that are used to determine the number of students from low-income families in participating school attendance areas who attend private schools
7. How and when the district will make decisions about the delivery of service to such students, including a thorough consideration and analysis of the views of private school officials on the provision of services through a third-party provider
8. How, if the district disagrees with the views of private school officials on the provision of services through a third-party provider, the district will provide to private school officials a written analysis of the reasons that the district has chosen not to use a contractor
9. Whether the district will provide services directly or through a separate government agency, consortium, entity, or third-party contractor
10. Whether to provide services to eligible private school students by pooling funds or on a school-by-school basis
11. When services will be provided, including the approximate time of day
12. Whether to consolidate and use funds provided under Title I with other funds available for services to private school students

If the district disagrees with the views of private school officials with respect to any of the above issues, the district shall provide the officials, in writing, the reasons that the district disagrees. (20 USC 6320)

Meetings between district and private school officials shall continue throughout implementation and assessment of services. (20 USC 6320)

The district shall maintain, and shall provide to the CDE, a written affirmation signed by officials of each participating private school that consultation has occurred. The affirmation shall provide the option for private school officials to indicate their belief that timely and meaningful consultation has not occurred or that the program design is not equitable with respect to private school students. If private school officials do not provide the affirmation within a reasonable period of time, the district shall send documentation to the CDE demonstrating that the consultation has, or attempts at such consultation have, taken place. (20 USC 6320)

(cf. 3580 – District Records)

The Superintendent or designee shall also maintain copies of program descriptions, notices, funding allocations, and other communications and records pertaining to the provision of services to private school students.

Regulation WILLITS UNIFIED SCHOOL DISTRICT

approved: August 7, 2013 Willits, California

revised:

WILLITS UNIFIED SCHOOL DISTRICT
SUPERINTENDENT'S OFFICE

TO: Board of Trustees
FROM: Mark Westerburg, Superintendent
DATE: October 3, 2018
RE: Board Policy Revision- BP/AR 3516 - Emergencies and Disaster Preparedness Plan

Priority:

Communication

Objective:

To conduct a second/final read of the revised policy

Background:

(BP/AR revised)

Policy expands paragraph on the involvement of staff and community groups in plan development, consistent with U.S. Department of Education recommendation. Policy also adds training on staff responsibilities in an emergency or disaster, clarifies staff's legal obligation to serve as disaster service workers, and clarifies that board members are not considered disaster service workers. Regulation expands prevention strategies to include measures to increase the security of school facilities, expands crisis communications methods to include social media and electronic communications, and adds assembly of key information into a "crisis response box" that can be easily accessed in an emergency.

Funding/Source:

None

Recommendation:

Administration recommends the board conduct a second/final read of the revised policy

Emergencies And Disaster Preparedness Plan

The ~~Governing Board of Trustees~~ recognizes that all district staff and students must be prepared to respond quickly and responsibly to emergencies, disasters, and threats of disaster. The district shall take all reasonable steps to prevent and/or mitigate the impact of a disaster on district students, staff, and schools.

The Superintendent or designee shall develop and maintain a disaster preparedness plan which contains routine and details provisions for handling emergencies and disasters procedures, including, but not limited to, earthquake emergency procedures, and adaptations for individuals with disabilities in accordance with the Americans with Disabilities Act. Such procedures and which shall be included in the district's comprehensive school safety plan. (Education Code 32282)

(cf. 0400 – Comprehensive Plans)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3516.3 - Earthquake Emergency Procedure System)

~~The Superintendent or designee shall also develop and maintain emergency plans for each school site.~~

In developing the ~~disaster preparedness district and school emergency plans~~, the Superintendent or designee shall involve district staff at all levels, including administrators, district police or security officers, facilities managers, transportation managers, food services personnel, school psychologists, counselors, school nurses, teachers, classified employees, and public information officers. As appropriate, he/she shall also collaborate with law enforcement, fire safety officials, city and county emergency medical services, health and mental health professionals, parents/guardians, and students. responders, including local public health administrators.

(cf. 0420 – School Plans/Site Councils)

(cf. 1220 – Citizen Advisory Committees)

(cf. 3513.3 – District Police/Security Department)

The ~~plan Superintendent or designee~~ shall comply with use state-approved Standardized Emergency Management System (SEMS) guidelines established for multiple-jurisdiction or multiple-agency operations and with and the National Incident Command System, when updating district and site level emergency and disaster preparedness plans.

The Superintendent or designee shall provide training to employees regarding their responsibilities, including periodic drills and exercises to test and refine staff's responsiveness in the event of an emergency.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

The Board shall grant the use of school buildings, grounds, and equipment to public agencies, including the American Red Cross, for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare. The Board shall cooperate with such agencies in furnishing and maintaining whatever services they district may deem necessary to meet the community's needs. (Education Code 32282)

(cf. 1330 - Use of School Facilities)

~~District School~~-employees are considered disaster service workers and are subject to disaster service activities assigned to them. (Government Code 3100)

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

(cf. 4119.3/4219.3/4319.3 - Duties of Personnel)

Legal Reference:

EDUCATION CODE

32001 Fire alarms and drills

32040 Duty to equip school with first aid kit

32280-32289 School safety plans

32290 Safety devices

39834 Operating overloaded bus

46390-46392 Emergency average daily attendance in case of disaster

49505 Natural disaster; meals for homeless students; reimbursement

CIVIL CODE

1714.5 Release from liability for disaster service workers and shelters

GOVERNMENT CODE

3100-3109 Public employees as disaster service workers; oath or affirmation

8607 Standardized emergency management system

CALIFORNIA CONSTITUTION

Article 20, Section 3 Oath or affirmation

CODE OF REGULATIONS, TITLE 5

550 Fire drills

560 Civil defense and disaster preparedness plans

CODE OF REGULATIONS, TITLE 19

2400-2450 Standardized emergency management system

UNITED STATES CODE, TITLE 42

12101-12213 Americans with Disabilities Act

Management Resources:

~~CSBA PUBLICATIONS~~

~~Avian Influenza, Governance and Policy Services Fact Sheet, April 2006~~

~~911! A Manual for Schools and the Media During a Campus Crisis, 2001~~

~~CENTERS FOR DISEASE CONTROL AND PREVENTION PUBLICATIONS~~

~~Pandemic Influenza Planning Checklist, 2006~~

~~CONTRA COSTA COUNTY OFFICE OF EDUCATION~~

~~Pandemic Flu School Action Kit, June 2006~~

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Crisis Response Box, 2000

CALIFORNIA GOVERNOR'S OFFICE OF EMERGENCY SERVICES PUBLICATIONS

Active Shooter Awareness Guidance, February 2018

State of California Emergency Plan, 2017

School Emergency Response: Using SEMS at Districts and Sites, June 1998

FEDERAL EMERGENCY MANAGEMENT AGENCY PUBLICATIONS

National Incident Management System, 3rd ed., October 2017

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

~~Practical Information on Crisis Planning: A Guide for Schools and Communities, May 2003~~

~~Guide for Developing High-Quality School Emergency Operations Plans, 2013~~

WEB SITES

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

American Red Cross: <http://www.redcross.org>

~~California Attorney General's Office: <https://oag.ca.gov>~~

California Department of Education, Crisis Preparedness: <http://www.cde.ca.gov/ls/ss/cp>

~~California Emergency Management Agency: <http://www.calema.ca.gov>~~

~~California Governor's Office of Emergency Services: <http://www.caloes.ca.gov>~~

California Seismic Safety Commission: <http://www.seismic.ca.gov>

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

~~Contra Costa County Office of Education, Pandemic influenza
resources: http://www.cccoe.k12.ca.us/about/flu/resources_flu_action_kit~~

Federal Emergency Management Agency: <http://www.fema.gov>

U.S. Department of Education, Emergency
Planning: <http://www.ed.gov/admins/lead/safety/emergencyplan>

U.S. Department of Homeland Security: <http://www.dhs.gov>

Policy WILLITS UNIFIED SCHOOL DISTRICT

adopted: August 7, 2013 Willits, California

revised:

Emergencies And Disaster Preparedness Plan

The Governing Board recognizes that all district staff and students must be prepared to respond quickly and responsibly to emergencies, disasters, and threats of disaster. The district shall take all reasonable steps to prevent and/or mitigate the impact of a disaster on district students, staff, and schools.

The Superintendent or designee shall develop and maintain a disaster preparedness plan which contains routine and emergency and disaster procedures, including, but not limited to, earthquake emergency procedures, and adaptations for individuals with disabilities in accordance with the Americans with Disabilities Act. Such procedures shall be included in the comprehensive school safety plan. (Education Code 32282)

(cf. 0400 – Comprehensive Plans)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3516.3 - Earthquake Emergency Procedure System)

In developing the disaster preparedness plan, the Superintendent or designee shall involve district staff at all levels, including administrators, district police or security officers, facilities managers, transportation managers, food services personnel, school psychologists, counselors, school nurses, teachers, classified employees, and public information officers. As appropriate, he/she shall also collaborate with law enforcement, fire safety officials, emergency medical services, health and mental health professionals, parents/guardians, and students.

(cf. 0420 – School Plans/Site Councils)

(cf. 1220 – Citizen Advisory Committees)

(cf. 3513.3 – District Police/Security Department)

The plan shall comply with state-approved Standardized Emergency Management System (SEMS) guidelines established for multiple-jurisdiction or multiple-agency operations and with the National Incident Command System.

The Superintendent or designee shall provide training to employees regarding their responsibilities, including periodic drills and exercises to test and refine staff's responsiveness in the event of an emergency.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

The Board shall grant the use of school buildings, grounds, and equipment to public agencies, including the American Red Cross, for mass care and welfare shelters during disasters or other emergencies

affecting the public health and welfare. The Board shall cooperate with such agencies in furnishing and maintaining whatever services the district may deem necessary to meet the community's needs.
(Education Code [32282](#))

(cf. [1330](#) - Use of School Facilities)

District employees are considered disaster service workers and are subject to disaster service activities assigned to them. (Government Code [3100](#))

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

(cf. [4119.3/4219.3/4319.3](#) - Duties of Personnel)

Legal Reference:

EDUCATION CODE

[32001](#) Fire alarms and drills

[32040](#) Duty to equip school with first aid kit

[32280-32289](#) School safety plans

[32290](#) Safety devices

[39834](#) Operating overloaded bus

[46390-46392](#) Emergency average daily attendance in case of disaster

[49505](#) Natural disaster; meals for homeless students; reimbursement

CIVIL CODE

1714.5 Release from liability for disaster service workers and shelters

GOVERNMENT CODE

[3100-3109](#) Public employees as disaster service workers; oath or affirmation

[8607](#) Standardized emergency management system

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Article 20, Section 3 Oath or affirmation

CODE OF REGULATIONS, TITLE 5

[550](#) Fire drills

560 Civil defense and disaster preparedness plans

CODE OF REGULATIONS, TITLE 19

2400-2450 Standardized emergency management system

UNITED STATES CODE, TITLE 42

12101-12213 Americans with Disabilities Act

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Crisis Response Box, 2000

CALIFORNIA GOVERNOR'S OFFICE OF EMERGENCY SERVICES PUBLICATIONS

Active Shooter Awareness Guidance, February 2018

State of California Emergency Plan, 2017

School Emergency Response: Using SEMS at Districts and Sites, June 1998

FEDERAL EMERGENCY MANAGEMENT AGENCY PUBLICATIONS

National Incident Management System, 3rd ed., October 2017

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Guide for Developing High-Quality School Emergency Operations Plans, 2013

WEB SITES

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

American Red Cross: <http://www.redcross.org>

California Attorney General's Office: <https://oag.ca.gov>

California Department of Education, Crisis Preparedness: <http://www.cde.ca.gov/ls/ss/cp>

California Governor's Office of Emergency Services: <http://www.caloes.ca.gov>

California Seismic Safety Commission: <http://www.seismic.ca.gov>

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

Federal Emergency Management Agency: <http://www.fema.gov>

U.S. Department of Education, Emergency
Planning: <http://www.ed.gov/admins/lead/safety/emergencyplan>

U.S. Department of Homeland Security: <http://www.dhs.gov>

Policy WILLITS UNIFIED SCHOOL DISTRICT

adopted: August 7, 2013 Willits, California

revised:

Emergencies And Disaster Preparedness Plan

~~Components of the Plan~~

The Superintendent or designee shall ensure that district and/or school site plans address, at a minimum, the following types of emergencies and disasters:

1. Fire on or off school grounds which endangers students and staff

(cf. [3516.1](#) - Fire Drills and Fires)

2. Earthquake, flood or other natural disasters

(cf. [3516.3](#) - Earthquake Emergency Procedure System)

3. Environmental hazards, such as leakages or spills of hazardous materials

(cf. [3514](#) - Environmental Safety)

(cf. [3514.2](#) - Integrated Pest Management)

4. Attack or disturbance, or threat of attack or disturbance, by an individual or group

~~(cf. [3515](#) - Campus Security)~~

(cf. [3515.2](#) - Disruptions)

(cf. [3515.7](#) - Firearms on School Grounds)

(cf. [5131.4](#) - Student Disturbances)

5. Bomb threat or actual detonation

(cf. [3516.2](#) - Bomb Threats)

6. Biological, radiological, chemical, and other activities, or heightened warning of such activities

7. Medical emergencies and quarantines, such as a pandemic influenza outbreak

(cf. [5141.22](#) - Infectious Diseases)

The Superintendent or designee shall ensure that the district's procedures include strategies and actions for prevention/mitigation, preparedness, response, and recovery, including, but not limited to, the following:

1. Regular inspection of school facilities and equipment, ~~and~~ identification of risks, and implementation of strategies and measures to increase the safety and security of school facilities.

(cf. 3513.3 - District Police/Security Department)

(cf. 3515 - Campus Security)

(cf. 3517 - Facilities Inspection)

(cf. 3530 - Risk Management/Insurance)

2. Instruction for district staff and ~~practice for students and employees~~ regarding emergency plans, including:

a. Training of staff in first aid and cardiopulmonary resuscitation

b. Regular practice of emergency procedures by students and staff

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

3. Specific determination of roles and responsibilities of staff during a disaster or other emergency, including determination of:

a. The appropriate chain of command at the district and, if communication between the district and site is not possible, at each site

b. Individuals responsible for specific duties

c. Designation of the principal for the overall control and supervision of activities at each school during the emergency, including authorization to use his/her discretion in situations which do not permit execution of prearranged plans

d. Identification of at least one person at each site who holds a valid certificate in first aid and cardiopulmonary resuscitation

e. Assignment of responsibility for identification of injured persons and administration of first aid

4. Personal safety and security, including:

a. Identification of areas of responsibility for supervision of students

b. Procedures for evacuation of students and staff, including posting of evacuation routes

c. Procedures for release of students, including a procedure to release students when reference to the emergency card is not feasible

(cf. [5141](#) - Health Care and Emergencies)

(cf. [5142](#) - Safety)

d. Identification of transportation needs, including a plan which allows bus seating capacity limits to be exceeded when a disaster or hazard requires students to be moved immediately to ensure their safety

(cf. [3543](#) - Transportation Safety and Emergencies)

e. Provision of a first aid kit to each classroom

f. Arrangements for students and staff with special needs

(cf. [4032](#) - Reasonable Accommodation)

(cf. [6159](#) - Individualized Education Program)

(cf. 6164.6 – Identification and Education Under Section 504)

g. Upon notification that a pandemic situation exists, adjustment of attendance policies for students and sick leave policies for staff with known or suspected pandemic influenza or other infectious disease

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

(cf. [4261.1](#) - Personal Illness/Injury Leave)

(cf. [5113](#) - Absences and Excuses)

(cf. [6183](#) - Home and Hospital Instruction)

5. Closure of schools, including an analysis of:

a. The impact on student learning and methods to ensure continuity of instruction

b. How to provide for continuity of operations for essential central office functions, such as payroll and ongoing communication with students and parents/guardians

(cf. [3516.5](#) - Emergency Schedules)

6. Communication among staff, parents/guardians, the Governing Board, ~~of Trustees~~, other governmental agencies, and the media during an emergency, including:

a. Identification of spokesperson(s)

(cf. [1112](#) - Media Relations)

b. Development and testing of communication platforms, such as hotlines, telephone trees, ~~and~~ web sites, social media, and electronic notifications

(cf. [1113](#) - District and School Web Sites)

(cf. 1114 – District Sponsored Social Media

c. Development of methods to ensure that communications are, to the extent practicable, in a language and format that is easy for parents/guardians to understand

d. Distribution of information about district and school site emergency procedures to staff, students, and parents/guardians

7. Cooperation with other state and local agencies, including:

a. Development of guidelines for law enforcement involvement and intervention

b. Collaboration with the local health department, including development of a tracking system to alert the local health department to a substantial increase of student or staff absenteeism as indicative of a potential outbreak of an infectious disease

(cf. [1400](#) - Relations between Other Governmental Agencies and the Schools)

8. Steps to be taken after the disaster or emergency, including:

a. Inspection of school facilities

b. Provision of mental health services for students and staff, as needed

(cf. [6164.2](#) - Guidance/Counseling Services)

The Superintendent or designee shall assemble key information that would be needed in an emergency. Such information may include, but is not limited to, a list of individuals and organizations who should be contacted for assistance in an emergency, current layouts and blueprints of school buildings, aerial photos of the campus, maps of evacuation routes and alternate routes, a roster of employees with their work locations, student photographs and their emergency contact information, a clearly labeled set of keys, location of first aid supplies, and procedures and locations for turning off fire alarms, sprinklers, utilities, and other systems. Such information shall be stored in a box in a secure, easily accessible location, with a duplicate kept at another location in case the primary location is inaccessible.

Regulation WILLITS UNIFIED SCHOOL DISTRICT

approved: August 7, 2013 Willits, California

revised:

Emergencies And Disaster Preparedness Plan

The Superintendent or designee shall ensure that district and/or school site plans address, at a minimum, the following types of emergencies and disasters:

1. Fire on or off school grounds which endangers students and staff

(cf. [3516.1](#) - Fire Drills and Fires)

2. Earthquake, flood or other natural disasters

(cf. [3516.3](#) - Earthquake Emergency Procedure System)

3. Environmental hazards, such as leakages or spills of hazardous materials

(cf. [3514](#) - Environmental Safety)

(cf. [3514.2](#) - Integrated Pest Management)

4. Attack or disturbance, or threat of attack or disturbance, by an individual or group

(cf. [3515.2](#) - Disruptions)

(cf. [3515.7](#) – Firearms on School Grounds)

(cf. [5131.4](#) - Student Disturbances)

5. Bomb threat or actual detonation

(cf. [3516.2](#) - Bomb Threats)

6. Biological, radiological, chemical, and other activities, or heightened warning of such activities

7. Medical emergencies and quarantines, such as a pandemic influenza outbreak

(cf. [5141.22](#) - Infectious Diseases)

The Superintendent or designee shall ensure that the district's procedures include strategies and actions for prevention/mitigation, preparedness, response, and recovery, including, but not limited to, the following:

1. Regular inspection of school facilities and equipment, identification of risks, and implementation of strategies and measures to increase the safety and security of school facilities.

(cf. [3513.3](#) - District Police/Security Department)

(cf. [3515](#) - Campus Security)

(cf. 3517 - Facilities Inspection)

(cf. 3530 - Risk Management/Insurance)

2. Instruction for district staff and students regarding emergency plans, including:

a. Training of staff in first aid and cardiopulmonary resuscitation

b. Regular practice of emergency procedures by students and staff

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

3. Specific determination of roles and responsibilities of staff during a disaster or other emergency, including determination of:

a. The appropriate chain of command at the district and, if communication between the district and site is not possible, at each site

b. Individuals responsible for specific duties

c. Designation of the principal for the overall control and supervision of activities at each school during the emergency, including authorization to use his/her discretion in situations which do not permit execution of prearranged plans

d. Identification of at least one person at each site who holds a valid certificate in first aid and cardiopulmonary resuscitation

e. Assignment of responsibility for identification of injured persons and administration of first aid

4. Personal safety and security, including:

a. Identification of areas of responsibility for supervision of students

b. Procedures for evacuation of students and staff, including posting of evacuation routes

c. Procedures for release of students, including a procedure to release students when reference to the emergency card is not feasible

(cf. 5141 - Health Care and Emergencies)

(cf. 5142 - Safety)

d. Identification of transportation needs, including a plan which allows bus seating capacity limits to be exceeded when a disaster or hazard requires students to be moved immediately to ensure their safety

(cf. [3543](#) - Transportation Safety and Emergencies)

e. Provision of a first aid kit to each classroom

f. Arrangements for students and staff with special needs

(cf. [4032](#) - Reasonable Accommodation)

(cf. [6159](#) - Individualized Education Program)

(cf. 6164.6 – Identification and Education Under Section 504)

g. Upon notification that a pandemic situation exists, adjustment of attendance policies for students and sick leave policies for staff with known or suspected pandemic influenza or other infectious disease

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

(cf. [4261.1](#) - Personal Illness/Injury Leave)

(cf. [5113](#) - Absences and Excuses)

(cf. [6183](#) - Home and Hospital Instruction)

5. Closure of schools, including an analysis of:

a. The impact on student learning and methods to ensure continuity of instruction

b. How to provide for continuity of operations for essential central office functions, such as payroll and ongoing communication with students and parents/guardians

(cf. [3516.5](#) - Emergency Schedules)

6. Communication among staff, parents/guardians, the Governing Board, other governmental agencies, and the media during an emergency, including:

a. Identification of spokesperson(s)

(cf. [1112](#) - Media Relations)

b. Development and testing of communication platforms, such as hotlines, telephone trees, web sites, social media, and electronic notifications

(cf. [1113](#) - District and School Web Sites)

(cf. 1114 – District Sponsored Social Media)

c. Development of methods to ensure that communications are, to the extent practicable, in a language and format that is easy for parents/guardians to understand

d. Distribution of information about district and school site emergency procedures to staff, students, and parents/guardians

7. Cooperation with other state and local agencies, including:

a. Development of guidelines for law enforcement involvement and intervention

b. Collaboration with the local health department, including development of a tracking system to alert the local health department to a substantial increase of student or staff absenteeism as indicative of a potential outbreak of an infectious disease

(cf. 1400 - Relations between Other Governmental Agencies and the Schools)

8. Steps to be taken after the disaster or emergency, including:

a. Inspection of school facilities

b. Provision of mental health services for students and staff, as needed

(cf. 6164.2 - Guidance/Counseling Services)

The Superintendent or designee shall assemble key information that would be needed in an emergency. Such information may include, but is not limited to, a list of individuals and organizations who should be contacted for assistance in an emergency, current layouts and blueprints of school buildings, aerial photos of the campus, maps of evacuation routes and alternate routes, a roster of employees with their work locations, student photographs and their emergency contact information, a clearly labeled set of keys, location of first aid supplies, and procedures and locations for turning off fire alarms, sprinklers, utilities, and other systems. Such information shall be stored in a box in a secure, easily accessible location, with a duplicate kept at another location in case the primary location is inaccessible.

Regulation WILLITS UNIFIED SCHOOL DISTRICT

approved: August 7, 2013 Willits, California

revised:

**WILLITS UNIFIED SCHOOL DISTRICT
SUPERINTENDENT'S OFFICE**

TO: Board of Trustees
FROM: Mark Westerburg, Superintendent
DATE: October 3, 2018
RE: Board Policy Revision- AR 3541 - Transportation Routes and Services

Priority:

Communication

Objective:

To conduct a second/final read of the revised policy

Background:

(AR revised)

Regulation updated to reflect **NEW LAW (AB 1453)** which authorizes districts to provide for the transportation of adult volunteers to and from educational activities. Regulation also reflects requirement to provide transportation consistent with a student's Section 504 plan, and clarifies the district's responsibility with respect to transportation for homeless students and foster youth.

Funding/Source:

None

Recommendation:

Administration recommends the board conduct a second/final read of the revised policy

Transportation Routes And Services

Routes and Bus Stops

The Superintendent or designee shall design transportation routes and stops within the district boundaries that to promote student the safety, of students and maximum efficiency in the use of buses, and decreased traffic in and around the schools.

(cf. 3510 - Green School Operations)

(cf. 3514 - Environmental Safety)

(cf. 3540 - Transportation)

Students shall be eligible for transportation service to and from school if the distance between their school-established bus stop and the school is beyond the minimum listed below:

1. For elementary school students:

Grades K-3: three-fourths mile

Grades 4-8: one mile

2. For students attending a three-year junior high school:

Grades 7-9: one mile

3. For students attending a four-year high school:

Grades 9-12: two miles

The Superintendent or designee may authorize transportation within the walking distance when safety problems or hazards exist.

(cf. 5142.2 – Safe Routes to School)

~~Students who attend a school outside their attendance area may be eligible for transportation services in accordance with Board policy.~~

~~(cf. 5116.1 – Intradistrict Open Enrollment)~~

~~(cf. 5117 – Interdistrict attendance)~~

The Superintendent or designee shall communicate in writing to parents/guardians regarding bus routes, schedules and stops. He/she may also and/or shall arrange for local media to publish such information.

(cf. 1112 - Media Relations)

Transportation Services

With the Governing Board's ~~of Trustee's~~ authorization, transportation services may be provided or arranged by the district for:

1. Students traveling to and from school during the regular school day (Education Code 39800)
2. Field trips and excursions (Education Code 35330)
(cf. 3541.1 - Transportation for School-Related Trips)
3. School activities, expositions or fairs, or other activities determined to be for the benefit of students (Education Code 39860)

4. District employees, ~~and~~ parents/guardians, and adult volunteers traveling to and from educational activities authorized by the district (Education Code 39837.5)

5. Preschool or nursery school students (Education Code 39800)

(cf. 5148.3 – Preschool/Early Childhood Education)

6. Students traveling to full-time occupational classes provided by a ~~r~~Regional ~~O~~ccupational center or program ~~or Center~~ (Education Code 39807.5, 41850)

(cf. 6178.2 – Regional Occupation Center/Program)

7. Students traveling to and from their places of employment during the summer in connection with a summer employment program for youth (Education Code 39837)

8. Matriculated or enrolled adults traveling to and from school, or adults for educational purposes other than to and from school (Education Code 39801.5)

(cf. 6200 - Adult Education)

97. Private school students, upon in the same terms, in the same manner, and on the same routes provided for district students (Education Code 39808)

8. Nonschool purposes as allowed by law, such as:

a. Community recreation (Education Code 39835)

b. Public transportation (Education Code 39841)

c. Tranportation of government employees to and from their places of employment (Education Code 39840)

Students who attend a school outside their attendance area or district boundaries may be eligible for transportation services in accordance with district ~~Board~~ policy.

(cf. 5116.1- Intradistrict Open Enrollment)

(cf. 5117 - Interdistrict attendance)

The district shall provide home-to-school transportation and additional transportation services as needed for students with disabilities as specified in their individualized education programs or Seciton 504 plan. (Education Code 41850; 20 USC 1400-1482; 34 CFR 104.4, 300.17, 300.34)

(cf. 3541.2 - Transportation for Students with Disabilities)

(cf. 6159 – Individualized Education Program)

(cf. 6164.6 – Identification and Education Under Section 504)

The Superintendent or designee shall provide transportation to homeless children in accordance with law, Board policy and administrative regulation. When the student resides outside of district boundaries, the Superintendent or designee shall consult with the superintendent of the district of residence to apportion the responsibility and costs of transportation. (42 USC 11432)

(cf. 6173 - Education for Homeless Children)

The Superintendent or designee shall collaborate with the local child welfare agency to determine the provision, arrangement, and fundin fo transportation to enable foster youth to attend their school of origin when it is in the student’s best interest to do so. (20USC 6312)

(cf. 6173.1 – Educatio for Foster Youth)

Legal Reference:

EDUCATION CODE

10900.5 Use of school buses for community recreation

35330 Excursions and field trips

35350 Authority to transport pupils

39800-39809.5 Transportation, general provisions, especially:

39800 Powers of governing board to provide transportation to and from school

39801.5 Transportation for adults

39808 Transportation for private school students

39830-339842 School buses, especially:

39835 Use of school buses for community recreation

39837 Transportation to summer employment program

39837.5 Transportation of employees and parents/guardians to school activities

39860 Transportation to school activities

41850-41856 Allowances for transportation

41860-41863 Supplementary allowances for transportation

48853.5 Educational placement of students residing in licensed children's institutions

CODE OF REGULATIONS, TITLE 5

15240-15244 Allowances for student transportation

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act

6312 Transportation to maintain children in foster care in school of origin

UNITED STATES CODE, TITLE 42

11432 McKinney-Vento Homeless Assistance Act

CODE OF FEDERAL REGULATIONS, TITLE 34

104.4 Equal opportunity under the Rehabilitation Act of 1973, Section 504

300.17 Free appropriate public education

300.34 Special education related services

Management Resources:

CSBA PUBLICATIONS

Special Education Pupil Transportation: Considerations in the Era of LCFF, Governance Brief, April 2014

WEB SITES

California Department of Education, Office of School
Transportation: <http://www.cde.ca.gov/bus/index.html>

Pupil Transportation Safety Institute: <http://www.ptsj.org>

Regulation WILLITS UNIFIED SCHOOL DISTRICT

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Transportation Routes And Services

Routes and Bus Stops

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(cf. 3510 - Green School Operations)

(cf. 3514 - Environmental Safety)

(cf. 3540 - Transportation)

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(cf. 5142.2 – Safe Routes to School)

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With the Governing Board's authorization, transportation services may be provided or arranged by the district for:

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2. Field trips and excursions (Education Code [35330](#))

(cf. [3541.1](#) - Transportation for School-Related Trips)

3. School activities, expositions or fairs, or other activities determined to be for the benefit of students (Education Code [39860](#))

4. District employees, parents/guardians, and adult volunteers traveling to and from educational activities authorized by the district (Education Code [39837.5](#))

5. Preschool or nursery school students (Education Code [39800](#))

(cf. 5148.3 – Preschool/Early Childhood Education)

6. Students traveling to full-time occupational classes provided by a regional occupational center or program (Education Code [39807.5](#), [41850](#))

(cf. 6178.2 – Regional Occupation Center/Program)

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The district shall provide home-to-school transportation and additional transportation services as needed for students with disabilities as specified in their individualized education program or Section 504 plan. (Education Code [41850](#); 20 USC [1400-1482](#); 34 CFR [104.4](#), 300.17, 300.34)

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[39800](#) Powers of governing board to provide transportation to and from school

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[39808](#) Transportation for private school students

[39830-339842](#) School buses, especially:

[39835](#) Use of school buses for community recreation

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[41850-41856](#) Allowances for transportation

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Pupil Transportation Safety Institute: <http://www.ptsi.org>

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