

**TEMPORARY/SUBSTITUTE PERSONNEL**

**Hiring**

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

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

*(cf. 4117.14 - Employment of Retired Teachers)*

**Classification**

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

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

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

1. Serve from day-to-day during the first three months of any term to teach temporary classes which shall not exist after that time, or perform any other duties which do not last longer than the first three months of any term (Education Code 44919)
2. Teach in special day and evening classes for adults or in schools of migratory population for not more than four months of any school term (Education Code 44919)
3. Serve in a limited assignment supervising student athletic activities provided such assignments have first been made available to teachers presently employed in the district (Education Code 44919)

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

**TEMPORARY/SUBSTITUTE PERSONNEL** (continued)

4. Serve in a position for a period not to exceed 20 working days in order to prevent the stoppage of district business during an emergency when persons are not immediately available for probationary classification (Education Code 44919)
5. Are employed only for the first semester because the district expects a reduction in student enrollment during the second semester due to midyear graduations (Education Code 44921)

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

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

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

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

*(cf. 4113 - Assignment)*

*(cf. 4115 - Evaluation/Supervision)*

*(cf. 4131 - Staff Development)*

**Qualifications**

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

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

*(cf. 4112.2 - Certification)*

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

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

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

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

## **TEMPORARY/SUBSTITUTE PERSONNEL (continued)**

### **Qualifications for Special Education**

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

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

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

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

### **Salary/Benefits**

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

Substitute and temporary employees shall not participate in the health and welfare plans or other fringe benefits of the district.

### **Granting Probationary Status**

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

*(cf. 4116 - Probationary/Permanent Status)*

**TEMPORARY/SUBSTITUTE PERSONNEL** (continued)

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

A temporary employee hired to teach only the first semester due to anticipated midyear high school graduations shall be classified as a probationary employee for the entire school year if the employment continues beyond the first semester. (Education Code 44921)

**Release from Employment/Dismissal**

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

The Board may release a temporary employee at its discretion if the employee has served less than 75 percent of the number of days the regular schools of the district are maintained. After serving during one school year 75 percent of the number of days the regular schools of the district are maintained, a temporary employee may be released as long as the employee is notified before the end of the school year of the district's decision not to reelect him/her for the following school year. (Education Code 44954)

**Reemployment Rights**

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

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

A person employed for only the first semester because of anticipated midyear high school graduations shall be reemployed to fill any vacant positions in the district for which the employee is certified. Preference for available positions shall be determined by the Board as prescribed by Education Code 44845 and 44846. (Education Code 44921)

*Legal Reference: (see next page)*

## **TEMPORARY/SUBSTITUTE PERSONNEL (continued)**

### *Legal Reference:*

#### EDUCATION CODE

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

#### CODE OF REGULATIONS, TITLE 5

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

#### COURT DECISIONS

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

### *Management Resources:*

#### WEB SITES

CTC: <http://www.ctc.ca.gov>

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