

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## PERSONNEL Section 4000

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Regulation is indicated by (r).  
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Regulation is indicated by (r).  
Exhibit is indicated by (e).

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Regulation is indicated by (r).  
Exhibit is indicated by (e).

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Regulation is indicated by (r).  
Exhibit is indicated by (e).

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## ALL PERSONNEL

Policy No.: 4000

## Concepts and Roles

Board Adopted: 9/12/07

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The Loma Prieta Joint Union Elementary School District Board of Trustees recognizes that the success of the District students and programs hinges on effective personnel. The Board desires to establish safe and supportive working conditions that will attract and retain staff members who are highly qualified and dedicated to the education and welfare of students. The District's personnel policies and related regulations shall be designed to ensure a supportive, positive climate and shall be consistent with collective bargaining agreements and in conformance with state and federal laws and regulations.

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

The Superintendent has primary responsibility for overseeing the District's personnel system. The Superintendent shall nominate all personnel for employment, and the Board shall approve only those persons so recommended. Individuals who approach Board members regarding prospective employment shall be referred to the Superintendent.

The Superintendent or designee shall assign and supervise the work of all employees and shall evaluate their work in accordance with effective accountability systems. The Superintendent also shall recommend disciplinary action which the Board may take against employees when warranted pursuant to Board policy, administrative regulations and/or state or federal law.

The Board recognizes that every employee has a stake in the District's successful operation. The Board encourages all District employees to express their ideas, concerns and proposals related to the improvement of working conditions and the total educational program. The Superintendent shall establish procedures whereby he/she will receive and consider employee suggestions and submit them, when appropriate, for consideration by the Board.

|                  |                 |  |
|------------------|-----------------|--|
| Legal Reference: | Education Code  |  |
|                  | 35020           | Duties of Employees Fixed by Governing Board |
|                  | 35035           | Powers and Duties of Superintendent          |
|                  | 35160           | Powers of Governing Board                    |
|                  | Government Code |  |
|                  | 3540-3549.3     | Public Education Employer-Employee Relations |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

**ALL PERSONNEL**

**Policy No.: 4020**

**Drug and Alcohol-Free Workplace – Page 1**

**Board Adopted: 9/12/07**

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The Board of Trustees believes that the maintenance of drug- and alcohol-free workplaces is essential to school and District operations.

No employee shall unlawfully manufacture, distribute, dispense, possess, use or be under the influence of any alcoholic beverage, drug or controlled substance as defined in the Controlled Substances Act and Code of Federal Regulations before, during or after school hours at school or in any other District workplace.

In taking disciplinary action, the Board shall require termination when termination is required by law. When termination is not required by law, the Board shall either take disciplinary action, up to and including termination, or shall require the employee to satisfactorily participate in and complete a drug assistance or rehabilitation program approved by a federal, state or local health, law enforcement or other appropriate agency. The Board's decision shall be made in accordance with relevant state and federal laws, employment contracts, collective bargaining agreements and District policies and practices.

Legal Reference:      Education Code

|         |   |
|---------|---|
| 44011   | Controlled Substance Offense  |
| 44065   | Issuance of Credentials   |
| 44425   | Conviction of Controlled Substance Offenses as Grounds for Revocation of Credential |
| 44836   | Employment of Certificated Persons Convicted of Controlled Substance Offenses       |
| 44940   | Compulsory Leave of Absence for Certificated Persons                                |
| 44940.5 | Procedures when Employees are placed on Compulsory Leave of Absence                 |
| 45123   | Employment after Conviction of Controlled Substance Offense                         |
| 45304   | Compulsory Leave of Absence for Classified Persons                                  |

Government Code  
8350-8357      Drug Free Workplace

The Drug-Free Workplace Act of 1988  
Public Law 100-690, 5151-5160

Drug-Free Schools and Communities Act Amendment of 1989 H.R. 3614

United States Code, Title 21  
812      Controlled Substances Act

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

**ALL PERSONNEL**

**Policy No.: 4030**

**Nondiscrimination in Employment – Page 1**

**Board Adopted: 9/12/07**

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

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

Any District employee who observes or has knowledge of an incident of unlawful discrimination or harassment shall report the incident to the Principal or Superintendent as soon as practical after the incident. Failure of a District employee to report discrimination or harassment may result in disciplinary action.

The Superintendent shall regularly publicize, within the District and in the community, the District's nondiscrimination policy and the availability of complaint procedures.

The District's policy and administrative regulation shall be posted in all schools and offices including staff lounges and student government meeting rooms.

The Board designates the following position(s) as Coordinator(s) for Nondiscrimination in Employment:

Superintendent  
Loma Prieta Joint Union Elementary School District  
23800 Summit Road  
Los Gatos, California 95033-4054  
(408) 353-1101

## Other Remedies

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

1. To file a valid complaint with DFEH, the employee must file his/her complaint within one year of the alleged discriminatory act(s).
2. To file a valid complaint directly with EEOC, the employee must file his/her complaint within 180 days of the alleged discriminatory act(s). To file a valid complaint with EEOC after filing a complaint with DFEH, the employee must file the complaint within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by DFEH, whichever is earlier.

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

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## ALL PERSONNEL

Policy No.: 4030

## Nondiscrimination in Employment – Page 2

Board Adopted: 9/12/07

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Legal Reference: Government Code  
11135 Unlawful Discrimination  
12900-12996 Fair Employment and Housing Act

Code of Regulations, Title 2  
7287.6 Terms, Conditions and Privileges of Employment

Code of Regulations, Title 5  
4900-4965 Nondiscrimination in Elementary and Secondary Education Programs Receiving State Financial Assistance

United States Code, Title 20  
1681-1688 Discrimination based on Sex or Blindness, Title IX

United States Code, Title 29  
794 Section 504 of the Rehabilitation Act of 1964

United States Code, Title 42  
2000d-2000d-7 Title VI, Civil Rights Act of 1964  
2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended  
2000h-2-2000h-6 Title IX, 1972 Education Act Amendments  
12101-12213 Americans with Disabilities Act

Code of Federal Regulations, Title 28  
35.101-35.190 Americans with Disabilities Act

Code of Federal Regulations, Title 34  
100.6 Compliance Information  
104.8 Notice  
106.8 Designation of Responsible Employee and Adoption of Grievance Procedures  
106.9 Dissemination of Policy

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

**ALL PERSONNEL**

**Regulation No.: 4030**

**Nondiscrimination in Employment**

**Board Adopted: 9/12/07**

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Unlawful discrimination or harassment of an individual includes:

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

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

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

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

**ALL PERSONNEL**

**Policy No.: 4031**

**Complaints Concerning Discrimination in Employment – Page 1**

**Board Adopted: 9/12/07**

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

1. The complaint should be initiated promptly after a complainant knew, or should have known, of the alleged discrimination.
2. All parties involved in allegations of discrimination shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made. The parties also shall be notified of their right to appeal the decision to the next level.
3. When a complaint is brought against the individual responsible for the complaint process at any level, the complainant may address the complaint directly to the next appropriate level.
4. Meetings related to a complaint shall be held at times the District determines appropriate to the circumstances.
5. For the protection of all the parties involved, complaint proceedings shall be kept confidential insofar as appropriate.
6. All documents, communications and records dealing with the investigation of the complaint shall be placed in a confidential District personnel complaint file and not in the employee's individual personnel file.
7. Time limits specified in these procedures may be revised only by written agreement of all parties involved. If the District fails to respond within a specified or adjusted time limit, a complainant may proceed to the next level. If a complainant fails to take the complaint to the next step within the prescribed time, the complaint shall be considered settled at the preceding step.

## Level I

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

## Level II

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

1. The complainant's name, address and telephone number.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## ALL PERSONNEL

Policy No.: 4031

### Complaints Concerning Discrimination in Employment – Page 2

Board Adopted: 9/12/07

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

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

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

#### Level III

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

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

#### Level IV

If the matter is not resolved at Level III, either party may file a written appeal to the Board within 10 working days after receiving the Level III response. The Superintendent shall provide the Board with all information presented at previous levels.

The Board shall grant the hearing request for the next regular Board meeting for which the matter can be placed on the agenda. Any complaint against a District employee shall be addressed in closed session in accordance with law. The Board shall render its decision within 10 working days.

The Board may appoint a hearing panel to review the complaint and previous decisions and make recommendations to the Board. The panel shall hear the appeal and render its decision within 10 working days.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

**ALL PERSONNEL**

**Policy No.: 4031**

**Complaints Concerning Discrimination in Employment – Page 3**

**Board Adopted: 9/12/07**

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## Other Remedies

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

Legal Reference:      Education Code  
                                 200-262.4      Prohibition of Discrimination

                                 Government Code  
                                 12920-12921      Nondiscrimination  
                                 12940-12948      Discrimination Prohibited; Unlawful Practices, Generally

                                 United States Code, Title 29  
                                 621-634      Age Discrimination in Employment Act  
                                 794      Section 504 of the Rehabilitation Act of 1973

                                 United States Code, Title 42  
                                 2001d-2001d-7      Title VI, Civil Rights Act of 1964  
                                 2001e-2001e-17      Title VII, Civil Rights Act of 1964 as amended  
                                 2001h-2-2001h-6      Title IX, 1972 Education Act Amendments  
                                 12101-12213      Americans with Disabilities Act

                                 Code of Federal Regulations, Title 28  
                                 35.101-35.190      Americans with Disabilities Act

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

**ALL PERSONNEL**

**Policy No.: 4040**

**Employee Use of Technology – Page 1**

**Board Adopted: 9/12/07**

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The Board of Trustees recognizes that technological resources can enhance employee performance by improving access to and exchange of information, offering effective tools to assist in providing a quality instructional program, and facilitating District and school operations. The Board expects all employees to learn to use the available technological resources that will assist them in the performance of their job responsibilities. As needed, employees shall receive training in the appropriate use of these resources.

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

Employees should be aware that computer files and communication over electronic networks, including email and voice mail, are not private. These technologies shall not be used to transmit confidential information about students, employees or District operations without authority.

The Superintendent or designee shall ensure that all District computers with Internet access have a technology protection measure that prevents access to visual depictions that are obscene or pornographic, and that the operation of such measures is enforced. The Superintendent or designee may disable the technology protection measure during use by an adult to enable access for bona fide research or other lawful purpose.

To ensure proper use of the system, the Superintendent or designee may monitor the District's technological resources, including email and voice mail systems, at any time without advance notice or consent. If passwords are used, they must be known to the Superintendent or designee so that he/she may have system access.

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

The Superintendent or designee shall provide copies of related policies, regulations and guidelines to all employees who use the District's technological resources. Employees shall be asked to acknowledge in writing that they have read and understood these policies, regulations and guidelines.

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

Legal Reference:      Education Code  
                                 51870-51874      Education Technology

                                 Government Code  
                                 3543.1              Rights of Employee Organizations

**LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT**

**ALL PERSONNEL**

**Policy No.: 4040**

**Employee Use of Technology – Page 2**

**Board Adopted: 9/12/07**

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Legal Reference: (cont.)

Penal Code

502

Computer Crimes, Remedies

631

Eavesdropping on or Recording Confidential Communications

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## ALL PERSONNEL

Regulation No.: 4040

## Employee Use of Technology

Board Adopted: 9/12/07

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### User Obligations and Responsibilities

Employees are authorized to use the District's online services, including a District provided email account, in accordance with user obligations and responsibilities specified below.

1. The employee is responsible for the proper use of his/her online services and email account at all times. Employees shall keep personal passwords, home addresses and telephone numbers private. They shall use the system only under their own accounts.
2. Employees shall use the system responsibly and primarily for work-related purposes.
3. Employees shall not access, post, submit, publish or display harmful or inappropriate matter that is threatening, obscene, disruptive or sexually explicit, or that could be construed as harassment or disparagement of others based on their race/ethnicity, national origin, gender, sexual orientation, age, disability, religion or political beliefs.
4. Employees shall not use the system to promote unethical practices or any activity prohibited by law, Board policy or administrative regulations.
5. Copyrighted material shall not be placed on the system without the author's permission. Employees may download copyrighted material only in accordance with applicable copyright laws and the District's policy.
6. Employees shall not intentionally upload, download or create computer viruses and/or maliciously attempt to harm or destroy District equipment or materials or the data of any other user, including so-called "hacking."
7. Employees shall not read other users' electronic mail or files. They shall not attempt to interfere with other users' ability to send or receive electronic mail, nor shall they attempt to delete, copy, modify or forge other users' mail.
8. Employees shall report any security problem or misuse of the services to the Superintendent.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

**ALL PERSONNEL**

**Policy No.: 4050**

**Employee Protection (Personal Security)**

**Board Adopted: 9/12/07**

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An employee, during the performance of duty, is not subject to criminal prosecution for the exercise of the same degree of physical control over a pupil that a parent would be legally privileged to exercise. Such control shall in no event exceed the amount of physical control reasonably necessary to maintain order, protect property, or protect the health and safety of pupils, or to maintain proper and appropriate conditions conducive to learning.

Employees shall promptly report instances of attack, assault or threat against them by any student to their principal or other immediate supervisor and also to the appropriate local law enforcement agency. The report shall be forwarded immediately to the Superintendent or designee. The Superintendent shall act as a liaison between the employee, the police, and the courts.

If civil proceedings are brought against an employee alleging that the employee committed an assault in connection with his/her employment, such employee may request the Governing Board to furnish legal counsel to defend the employee in any civil action or proceeding brought against him/her within the limits set by law.

An employee required by law to report suspected child abuse does not incur civil or criminal liability for reporting a known or suspected instance of child abuse.

An employee whose person or property is injured or damaged by willful misconduct of a student may request the District to pursue legal action against the student or the student's parent/guardian.

Legal Reference:      Education Code  
                                 44014                      Report of Assault or Threats by Pupil Against School Employee

                                 Government Code  
                                 995                              Authority to Provide for Defense of Civil Action or Proceeding

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED PERSONNEL

Policy No.: 4100

### Certificated Personnel

Board Adopted: 9/12/07

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

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

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

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

Legal Reference:      Education Code  
                                 90                      Definition, Certificated and Certified  
                                 44006                  Certificated Person

                                 Government Code  
                                 3543.2                Scope of Representation

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED PERSONNEL

Policy No.: 4111

### Recruitment and Selection – Page 1

Board Adopted: 9/12/07

Revised: 4/6/11

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Education Code 42605 grants districts flexibility in "Tier 3" categorical programs. The Loma Prieta Joint Union Elementary School District has accepted this flexibility and thus is deemed in compliance with the statutory or regulatory program and funding requirements for these programs for the 2008-09 through 2012-13 fiscal years. As a result, the district may temporarily suspend certain provisions of the following policy or regulation that reflect these requirements. For further information, please contact the Superintendent or designee.

The Board of Trustees desires to employ the most highly qualified and appropriate person available for each open position in order to improve student achievement and efficiency in district operations.

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

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

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

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.

Contingent upon available funding, the Superintendent or designee may provide incentives to recruit credentialed teachers to teach in any district school ranked in the bottom half of the state Academic Performance Index. Such incentives may include, but are not limited to, signing bonuses, improved work conditions, teacher compensation or housing subsidies.

|                  |                |   |
|------------------|----------------|---|
| Legal Reference: | Education Code |   |
|                  | 200-262.4      | Prohibition of Discrimination on the Basis of Sex                         |
|                  | 44066          | Limitations on Certification Requirement                                  |
|                  | 44259          | Teaching Credential; Exception; Designated Subjects; Minimum Requirements |
|                  | 44735          | Incentive Grants for Recruiting Teachers for Low-Performing Schools       |
|                  | 44750          | Regional Teacher Recruitment Centers                                      |
|                  | 44830-44831    | Employment of Certificated Persons  |

44858 Age or Marital Status in Certificated Positions  
44859 Prohibition Against Certain Rules and Regulations Re  
Residency  
52051 Academic Performance Index

Government Code

12900 Unlawful Employment Practices  
12940-12956 Discrimination Prohibited; Unlawful Practices

United States Code, Title 8

1324(a)(b) Immigration and Nationality Act

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



# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## ALL PERSONNEL

Regulation No.: 4111.1

## Legal Status Requirement

Board Adopted: 9/12/07

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

Persons employed for three days or less must provide such documentation on their first day.

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

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

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

The District shall retain the I-9 forms for three years after the date of the hire or for one year after the date the individual's employment is terminated, whichever is later.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED PERSONNEL

Policy No.: 4111.2

### Appointment and Conditions of Employment – Page 1

Board Adopted: 9/12/07

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Upon recommendation from the Superintendent or designee, the Board of Trustees shall approve the appointment of all certificated employees.

Individuals appointed to the certificated staff shall, at a minimum:

1. Possess the appropriate certification qualifications and register the certification document in accordance with law and Board policy.
2. Demonstrate proficiency in basic skills as required by law.
3. Submit to fingerprinting as required by law.
4. Not have been convicted of a violent or serious felony as defined in Penal Code 667.5 and 1192.7, unless the individual has received a certificate of rehabilitation and pardon.
5. Not have been convicted of any sex offense as defined in Education Code 44010.
6. Not be required to register as a sex offender pursuant to Penal Code 290 because of a conviction for a crime where the victim was a minor under the age of 16.
7. Not have been determined to be a sexual psychopath pursuant to Welfare and Institutions Code 6300-6332.
8. Not have been convicted of any controlled substance offense as defined in Education Code 44011.
9. Submit to a physical examination, tuberculosis testing and/or provide a medical certificate as required by law and Board policy.
10. Furnish a statement of military service and, if any was rendered, a copy of the discharge or release from service or, if no such document is available, other suitable evidence of the termination of service.
11. File the oath or affirmation of allegiance.
12. Fulfill any other requirements as specified by law, collective bargaining agreement, Board policy or administrative regulation.

|                  |                |   |
|------------------|----------------|---|
| Legal Reference: | Education Code |   |
|                  | 35161          | Powers and Duties                           |
|                  | 44008          | Effect of Termination of Probation          |
|                  | 44009          | Conviction of Specified Crimes; Definitions |
|                  | 44010          | Sex Offense                                 |
|                  | 44011          | Controlled Substance Offense                |
|                  | 44066          | Limitation on Certification Requirements    |
|                  | 44250-44277    | Credential Types                            |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED PERSONNEL

Policy No.: 4111.2

### Appointment and Conditions of Employment – Page 2

Board Adopted: 9/12/07

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|                  |  |
|------------------|--|
| Legal Reference: | Education Code (cont.)   |
|                  | 44330 Effect of Registration of Certification Document   |
|                  | 44836 Employment of Person Convicted of Sex Offenses or Controlled<br>Substance Offenses           |
|                  | 44837 Employment of Sexual Sociopath   |
|                  | 44838 Statement of Military Service  |
|                  | 44839 Medical Certificate  |
|                  | 44839.5 Medical Certificate for Retirant   |
|                  | 49406 Examination for Tuberculosis   |
|                  | Government Code  |
|                  | 3100-3109 Oaths or Affirmations of Allegiance for Disaster Service Workers<br>and Public Employees |
|                  | 12940-12950 Unlawful Employment Practices  |
|                  | Penal Code   |
|                  | 290 Registration of Sex Offenders  |
|                  | 290.95 Disclosure by Persons Required to Register as Sex Offenders                                 |
|                  | 667.5 Prior Prison Terms, Enhancement of Prison Terms  |
|                  | 1192.7 Plea Bargaining Limitation  |
|                  | Welfare and Institutions Code  |
|                  | 6331-6332 Mentally Disordered Sex Offenders  |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED PERSONNEL

Policy No.: 4112

### Certification

Board Adopted: 9/12/07

The Superintendent shall ensure that person employed in positions requiring certification qualifications have the appropriate credential or permit authorizing their employment in such positions.

When fully credentialed individuals are not available, the District may employ person with emergency permits, intern permits, pre-intern certificates or credential waivers in accordance with law.

|                  |                 |  |
|------------------|-----------------|--|
| Legal Reference: | Education Code  |  |
|                  | 8360-8370       | Qualifications of Child Care Personnel   |
|                  | 32340-32341     | Unlawful Issuance of a Credential  |
|                  | 44066           | Limitations on Certification Requirements  |
|                  | 44200-44399     | Teacher Credentialing  |
|                  | 44225.6         | CTC Annual Report on Credentials, Internships and Emergency Permits                    |
|                  | 44225.7         | Priorities for Recruitment when Fully Prepared Teacher not Available                   |
|                  | 44251           | Period of Credentials  |
|                  | 44252           | Standards and Procedures for Issuance; Proficiency Testing of Basic Skills             |
|                  | 44252.5         | State Basic Skills Assessment Required for Certificated Personnel                      |
|                  | 44259           | Minimum Requirements for Teaching Credential   |
|                  | 44259.5         | Standards for Teachers of All Students, including English Language Learners            |
|                  | 44270.3-44270.4 | Out of State Credentials, Administrative Services                                      |
|                  | 44274.5         | Out of State Credentials   |
|                  | 44277           | Requirements for Maintaining Valid Credentials   |
|                  | 44300-44301     | Emergency Permits  |
|                  | 44302           | CTC Notification Regarding District Options when Fully Qualified Teacher Not Available |
|                  | 44305-44308     | Pre-internship Teaching Certificates   |
|                  | 44325-44328     | District Interns   |
|                  | 44330-44355     | Certificates and Credentials   |
|                  | 44395-44399     | National Board for Professional Teaching Standards                                     |
|                  | 44735           | Teaching as a Priority Block Grant   |
|                  | 44830-44929     | Employment of Certificated Persons; Requirement of Proficiency in Basic Skills         |
|                  | 56060-56063     | Substitute Teachers in Special Education   |
|                  | 90530           | Recruitment Centers  |

Code of Regulations, Title 5

80000-80690.1 Commission on Teacher Credentialing

Court Decisions

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

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED PERSONNEL

Policy No.: 4112.1

### District Interns

Board Adopted: 9/12/07

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The Board of Trustees supports the use of interns in the District to fulfill the District's need for additional instructional resources and to enable future teachers to fulfill state credentialing requirements and link teaching theory with practice.

The Superintendent may enter into agreements with accredited colleges and universities to jointly provide supervised teaching experiences with the District as part of a teacher preparation program. He/she shall collaborate with the college or university in the selection, placement, support and performance assessment of interns.

Interns shall be provided with ongoing feedback regarding their performance in order to enhance their skills and shall be formally evaluated at least once every year.

Interns shall be classified as probationary employees and shall achieve permanent status with the District only as provided by law and administrative regulations.

In designing internship programs, the Superintendent shall coordinate with services offered to beginning teachers in the District in order to provide continuity of preparation, support and assessment.

### Pre-Internship Teaching Program

To provide pre-interns with early, focused preparation in the subject matter they are assigned to teach and to assist them in progressing into a teacher internship program, the District shall provide a program of intensive preparation, support and assistance to individuals with pre-internship certificates issued by the Commission on Teacher Credentialing.

|                  |                              |   |
|------------------|------------------------------|---|
| Legal Reference: | Education Code               |   |
|                  | 300-340                      | English Language Education for Immigrant Children             |
|                  | 44279.1-44279.7              | Beginning Teacher Support and Assessment System               |
|                  | 44305-44308                  | Pre-Internship Teaching Program                               |
|                  | 44314                        | Diversified or Liberal Arts Program                           |
|                  | 44321                        | CTC Approval of Internship Programs                           |
|                  | 44325-44328                  | District Interns  |
|                  | 44450-44467                  | Teacher Education Internship Act of 1967 (University Interns) |
|                  | 44520-44534                  | New Careers Program   |
|                  | 44830.3                      | Employing District Interns                                    |
|                  | 44885.5                      | District Interns Classified as Probationary Employees         |
|                  | Code of Regulations, Title 5 |   |
|                  | 13000-13017                  | New Careers Program   |
|                  | 80055                        | Internship Credential   |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED PERSONNEL

Policy No.: 4112.2

### Special Education Staff

Board Adopted: 9/12/07

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#### Special Educators

The Board of Trustees shall employ certificated special educators to provide services, where required by law, for students who have exceptional needs, their parents/guardians, and school staff.

|                  |                              |  |
|------------------|------------------------------|--|
| Legal Reference: | Education Code               |  |
|                  | 56195.8                      | Adoption of Policies   |
|                  | 56361                        | Program Option   |
|                  | 56362                        | Resource Specialist Program, Contents, Direction; Resource Specialists, Caseloads, Assignments, Instructional Aide; Pupil Enrollment |
|                  | 56362.1                      | Caseload   |
|                  | 56362.5                      | Resource Specialist Certificate of Competence  |
|                  | 56362.7                      | Bilingual - Cross Cultural Certificate of Assessment Competence  |
|                  | 56363.3                      | Average Caseload Limits  |
|                  | 56441.7                      | Maximum Caseload (Programs for Individuals with Exceptional Needs Between the Ages of Three and Five Inclusive)                      |
|                  | Code of Regulations, Title 5 |  |
|                  | 3051.1                       | Language, Speech and Hearing Development and Remediation; Appropriate Credential   |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## ALL PERSONNEL

Policy No.: 4112.3

## Oath or Affirmation

Board Adopted: 9/12/07

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All public employees are disaster service workers. As such, before beginning employment with the District, employees must take the oath or affirmation required by law. In the event of natural, manmade or war-caused emergencies that result in conditions of disaster or extreme peril to life, property and resources, all District employees are subject to disaster service activities as assigned to them by their supervisors.

The Superintendent or designee shall administer the above oath when District employees are hired.

Legally employed noncitizens shall be exempt from taking this oath.

At the advice of legal counsel, the Superintendent may exempt a prospective employee from taking the above oath if he/she raises a valid religious objection.

Legal Reference:      Education Code  
                                 60                      Persons Authorized to Administer and Certify Oaths  
                                 44334                      Oath or Affirmation  
                                 44354                      Administration of Oath

Government Code  
3100-3109              Oath or Affirmation of Allegiance

California Constitution  
Article 20, Section 3    Oath of Office

Court Decisions  
*Chilton v. Contra Costa Community College District* (1976) 55 Cal. App. 3d 544  
*Vogel v. County of Los Angeles* (1967) 68 Cal. 2d 18, 22

**LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT**

**ALL PERSONNEL**

**Exhibit No.: 4112.3**

**Oath or Affirmation**

**Board Adopted: 9/12/07**

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"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

\_\_\_\_\_  
(Signature)

Certified by:

\_\_\_\_\_  
(Person who administers the oath)

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

**ALL PERSONNEL**

**Policy No.: 4112.4**

**Health Examinations**

**Board Adopted: 9/12/07**

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## New Employees

The Superintendent shall ensure that new District employees comply with all the health examination requirements of California law.

In addition, the Superintendent may require applicants for employment in classified positions to undergo a preemployment physical examination to show that they are physically able to perform the duties of specific jobs.

## Continuing Employees

Continuing employees shall undergo periodic tuberculosis tests once every four years in accordance with law.

Employees may be required to pass a physical and/or psychological examination any time such an examination appears necessary to preserve the health and welfare of District students and employees or to furnish medical proof of physical or mental ability to perform satisfactorily the assigned duties of an individual's position.

|                  |                              |  |
|------------------|------------------------------|--|
| Legal Reference: | Education Code               |  |
|                  | 44839                        | Medical Certificate; Periodic Medical Examination  |
|                  | 44839.5                      | Requirements for Employment of Retirant  |
|                  | 44932                        | Grounds for Dismissal of Permanent Employee  |
|                  | 44942                        | Suspension or Transfer of Certificated Employee on Ground of Mental Illness, Psychiatric Examination; Mandatory Sick Leave |
|                  | 45122                        | Physical Examinations  |
|                  | 49406                        | Examination for Tuberculosis   |
|                  | Code of Regulations, Title 5 |  |
|                  | 5502-5503                    | Physical Examination for Retirants Employed as Substitute Teacher, etc.  |
|                  | 5504                         | Medical Certification Procedures   |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED PERSONNEL

Policy No.: 4112.5

### Criminal Record Check

Board Adopted: 9/12/07

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The Superintendent shall ensure that no person is hired in a position requiring certification qualifications or supervising positions requiring certification qualifications who has been convicted of a violent or serious felony, unless that person has obtained a certificate of rehabilitation and a pardon.

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

If the employee challenges the Department of Justice record and the Department of Justice withdraws in writing its notification, the Superintendent shall immediately reinstate the employee with full restoration of salary and benefits for the period of time from the suspension without pay to the reinstatement.

The Superintendent shall request subsequent arrest service from the Department of Justice as provided under Penal Code 11105.2

|                  |                               |   |
|------------------|-------------------------------|---|
| Legal Reference: | Education Code                |   |
|                  | 44010                         | Sex Offense   |
|                  | 44332                         | Temporary Certificate   |
|                  | 44332.6                       | Criminal Record Check, County Board of Education                      |
|                  | 44346.1                       | Applicants for Credential, Conviction of a Violent or Serious Felony  |
|                  | 44830.1                       | Certificated Employees, Conviction of a Violent or Serious Felony     |
|                  | 44830.2                       | Certificated Employees; Interagency Agreement                         |
|                  | 44836                         | Conviction of a Sex Offense   |
|                  | 45122.1                       | Classified Employees, Conviction of a Violent or Serious Felony       |
|                  | 45125                         | Use of Personal Identification Cards to Ascertain Conviction of Crime |
|                  | 45125.01                      | Classified Employees; Interagency Agreements                          |
|                  | 45125.5                       | Automated Records Check   |
|                  | 45126                         | Duty of Department of Justice to Furnish Information                  |
|                  | Penal Code                    |   |
|                  | 667.5                         | Prior Prison Terms, Enhancement of Prison Terms                       |
|                  | 1192.7                        | Plea Bargaining Limitation  |
|                  | 11105.2                       | Subsequent Arrest Notification  |
|                  | Code of Regulations, Title 11 |   |
|                  | 703                           | Release of Criminal Offender Record Information                       |
|                  | 708                           | Destruction of Criminal Offender Record Information                   |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## ALL PERSONNEL

Policy No.: 4112.6

## Employment References

Board Adopted: 9/12/07

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The Superintendent shall process all requests for references, letters of recommendation, or information about the reasons for separation regarding all District employees other than himself/herself. All letters of recommendation to be issued on behalf of the District for current or former employees must be approved by the Superintendent.

At his/her discretion, the Superintendent may refuse to give a recommendation. Any recommendation he/she gives shall provide a careful, truthful and complete account of the employee's job performance and qualifications.

Legal Reference:      Labor Code  
                                 1050-1054              Reemployment Privileges

                                 Civil Code  
                                 47                              Privileged Communication

                                 Code of Civil Procedure  
                                 527.3                        Labor Disputes

                                 Code of Regulations, Title 5  
                                 80332                        Professional Candor and Honesty in Letters or Memoranda of  
                                    Employment Recommendation

                                 Court Decisions  
                                 *Randi W. v. Muroc Joint Unified School District et al.* (1997) 14 Cal. 4<sup>th</sup> 1066

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

**ALL PERSONNEL**

**Regulation No.: 4112.6**

**Employment References**

**Board Adopted: 9/12/07**

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No certificated employee shall write or sign any letter or memorandum which intentionally omits significant facts, or which states as facts matters which the writer does not know of his/her own knowledge to be true, relating to the professional qualifications or personal fitness to perform certificated services of any person who the writer knows will use the letter or memorandum to obtain professional employment.

No certificated employee shall agree to provide a positive letter of recommendation that misrepresents facts as a condition of another employee's resigning or withdrawing action against the District.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## ALL PERSONNEL

Policy No.: 4112.7

## Employment of Relatives

Board Adopted: 9/12/07

Revised: 5/11/11

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The Board of Trustees desires to maximize staff and community confidence in district hiring, promotion, and other employment decisions by promoting practices that are free of conflicts of interest or the appearance of impropriety.

The Board prohibits the appointment of any person to a position for which his/her relative maintains management, supervisory, evaluation, or promotion responsibilities and prohibits an employee from participating in any decision that singularly applies to any of his/her relatives.

In order to preclude situations that could bring about a conflict of interest for members of the administrative staff, an employee shall not be appointed to a position where relatives of employees maintain supervisory or evaluation responsibilities.

Familial relationships to employees shall be identified during the hiring process for any job, and noted for the board upon submission for employment approval. Familial relationships shall also be noted in the annual district workforce report.

For purposes of this policy, relative includes the individual's spouse, domestic partner, parents, grandparents, great-grandparents, children, grandchildren, great-grandchildren, brothers, sisters, aunts, uncles, nieces, nephews, and the similar family of the individual's spouse or domestic partner.

Legal Reference: Government Code  
12940 Unlawful Employment Practices, Exceptions

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

**ALL PERSONNEL**

**Policy No.: 4112.8**

**Employee Notifications – Page 1**

**Board Adopted: 9/12/07**

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The District shall provide employees with the following notifications and shall obtain signed acknowledgments that the notifications were received when so required by law or regulations.

Acknowledgments Required by Law

1. Legal obligation to report known or suspected instances of child abuse.
2. Oath or affirmation of allegiance required of public employees.
3. Hepatitis B vaccine declination.
4. Notice of release from position requiring an administrative or supervisory credential.
5. The classified employee's class specification, salary data, assignment or work location, duty hours and prescribed workweek.
6. Information about certificated employee membership in the State Teachers' Retirement System.

|                  |                             |  |
|------------------|-----------------------------|--|
| Legal Reference: | Education Code              |  |
|                  | 231.5                       | Sexual Harassment Policy                                     |
|                  | 22455.5                     | STRS Information to Potential Members                        |
|                  | 22515                       | Irrevocable Election to Join STRS                            |
|                  | 44031                       | Personnel File Contents, Inspection                          |
|                  | 44663                       | Evaluation and Assessment; Copy to Certificated Employee     |
|                  | 44916                       | Written Statement of Employment Status                       |
|                  | 44940.5-44941               | Notification of Suspension and Intent to Dismiss             |
|                  | 44949                       | Cause, Notice and Right to Hearing                           |
|                  | 44951                       | Continuation in Position Unless Notified                     |
|                  | 44955                       | Reduction in Number of Employees                             |
|                  | 45113                       | Notification of Charges                                      |
|                  | 45117                       | Notice of Layoff   |
|                  | 45169                       | Employee Salary Data   |
|                  | 45192                       | Industrial and Accident Leave                                |
|                  | 45195                       | Additional Leave   |
|                  | 49079                       | Notification to Teacher                                      |
|                  | Government Code             |  |
|                  | 3100-3109                   | Oath or Affirmation of Allegiance                            |
|                  | 8355                        | Certification of Drug-Free Workplace, Including Notification |
|                  | Penal Code                  |  |
|                  | 11166.5                     | Employment; Statement of Knowledge of Duty to Report         |
|                  | Unemployment Insurance Code |  |
|                  | 2613                        | Notice of Rights and Benefits                                |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

**ALL PERSONNEL**

Policy No.: **4112.8**

**Employee Notifications – Page 2**

Board Adopted: **9/12/07**

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Legal Reference: (cont.)

Code of Regulations, Title 5  
80026.1 Information to Applicants

Code of Regulations, Title 8  
5193 California Blood Borne Pathogens Standard

Code of Federal Regulations, Title 49  
382.601 Controlled Substance and Alcohol Use and Testing Notifications

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED PERSONNEL

Policy No.: 4113

### Assignment

Board Adopted: 9/12/07

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In order to serve the best interests of students and the educational program, the Superintendent or designee shall assign certificated personnel to positions for which their preparation, certification, experience and aptitude qualify them.

Certificated personnel may be assigned to any school within the District in accordance with the collective bargaining agreement.

Certificated personnel may be assigned outside the scope of their certificates or fields of study only as allowed by law and when so required in order to meet the needs of the educational program.

The Superintendent or designee may assign holders of a credential other than an emergency permit, with their consent, to teach subjects outside their credential authorization in departmentalized classes. The Superintendent shall develop procedures to verify the subject matter knowledge of the teacher before any such assignment is made. These procedures shall be developed with the assistance of subject matter specialists and shall be submitted to the Board for approval.

|                  |                 |   |
|------------------|-----------------|---|
| Legal Reference: | Education Code  |   |
|                  | 35035           | Additional Powers and Duties of Superintendent                              |
|                  | 37616           | Assignment of Teachers to Year-Round Schools                                |
|                  | 44250-44277     | Credentials and Assignments of Teachers                                     |
|                  | 44395-44398     | Incentives for Assigning NBPTS-Certified Teachers to Low-Performing Schools |
|                  | 44824           | Assignment of Teachers to Weekend Classes                                   |
|                  | 44955           | Reduction in Number of Employees  |
|                  | Government Code |   |
|                  | 3543.2          | Scope of Representation   |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED PERSONNEL

Regulation No.: 4113

## Assignment

Board Adopted: 9/12/07

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### Procedures for Verifying Subject Matter Knowledge

With the involvement of appropriate subject matter specialists, the Superintendent or designee shall develop and employ procedures for verifying the subject matter knowledge of teachers assigned to teach in departmentalized classes outside their credential authorization. For the purposes of these procedures, subject matter specialists are mentor teachers, curriculum specialists, resource teachers, classroom teachers certified to teach a subject, staff to regional subject matter projects or curriculum institutes, or college faculty.

Procedures to be used for this purpose shall specify:

1. One or more of the following ways in which subject matter competence shall be assessed:
  - a. Observation by subject matter specialists.
  - b. Oral interviews.
  - c. Demonstration lessons.
  - d. Presentation of curricular portfolios.
  - e. Written examinations.
2. Specific criteria and standards for verifying subject matter knowledge by any of the above methods. These criteria shall include, but need not be limited to, evidence of the individual's knowledge of the subject matter to be taught, including demonstrated knowledge of the appropriate curriculum framework and the specific content of the District's course of study for the subject at the grade level to be taught.

Whenever a teacher is assigned to teach departmentalized classes, the Superintendent shall notify the exclusive representative of the District's certificated employees.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## PERSONNEL-CERTIFICATED/CLASSIFIED

Policy No.: 4114

### Personnel Records

Board Adopted: 5/16/00

Board Revised: 9/12/07

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Personnel records shall be maintained on all current employees. A file shall be kept for all resigned or retired employees to include such essential information as shall be appropriate to the administration for the period of time prescribed by the Education Code.

All personnel files will be considered confidential and will not be available to persons other than the employee and those authorized by the Superintendent.

All written materials files (except for those prohibited by law\*) shall be made available for inspection by the employee as provided in Section 44031 of the Education Code. Such inspection shall occur in the presence of the Superintendent or designee.

Legal Reference: Education Code  
\*44031

(a) Materials in personnel files of employees that may serve as a basis for affecting the status of their employment are to be made available for the inspection of the person involved.

(b) Except as otherwise provided in subdivision (e), this material is not to include ratings, reports, or records that (1) were obtained prior to the employment of the person involved, (2) were prepared by identifiable examination committee members, or (3) were obtained in connection with promotional examination.

(c) Every employee shall have the right to inspect these materials upon request, provided that the request is made at a time when the person is not actually required to render services to the employing district.

(d) Information of a derogatory nature, except material mentioned in subdivision (b), shall not be entered or filed unless and until the employee is given notice and an opportunity to review and comment thereon. An employee shall have the right to enter, and have attached to any derogatory statement, his own comments thereon. The review shall take place during normal business hours, and the employee shall be released from duty for this purpose without salary reduction.

(e) Notwithstanding subdivision (b), every noncredentialed employee shall have access to his or her numerical scores obtained as a result of a written examination.

Labor Code  
1198.5

Access to Records at Reasonable Intervals

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED PERSONNEL

Policy No.: 4115

### Evaluation/Supervision

Board Adopted: 9/12/07

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The Loma Prieta Joint Union Elementary School District Board of Trustees believes that regular and comprehensive evaluations can help instructional staff improve their teaching skills and raise students' levels of achievement. Evaluations also serve to hold staff accountable for their performance. The Superintendent or designee shall evaluate the performance of certificated staff members in accordance with law, negotiated employee contracts and Board-adopted evaluation standards.

Evaluations shall be used to recognize the exemplary skills and accomplishments of staff and to identify focus areas for growth and/or areas needing improvement. When areas needing improvement are identified, the Board expects employees to accept responsibility for improving their performance. The Superintendent or designee shall endeavor to assist employees to improve their performance and may require participation in appropriate programs. Staff members are encouraged to take initiative to request assistance as necessary to promote effective teaching.

|                  |                 |  |
|------------------|-----------------|--|
| Legal Reference: | Education Code  |  |
|                  | 33039           | State Guidelines for Teacher Evaluation Procedures                                 |
|                  | 35171           | Availability of Rules and Regulations for Evaluation of Performance                |
|                  | 44500-44508     | Peer Assistance and Review Program for Teachers                                    |
|                  | 44660-44665     | Evaluation and Assessment of Performance of Certificated Employees (the Stull Act) |
|                  | Government Code |  |
|                  | 3543.2          | Scope of Representation  |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED PERSONNEL

Policy No.: 4116

### Probationary/Permanent Status

Board Adopted: 9/12/07

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#### Probationary Status

Probationary employees shall receive training, assistance and evaluations consistent with their needs as new certificated personnel. Such training and assistance may consist of in-service training and/or meetings with the employee's evaluator to discuss areas of strength and areas requiring improvement. In-service training may be provided during school hours as part of a comprehensive staff development program.

The performance of each probationary employee shall be evaluated and assessed at least once every school year.

#### Permanent Status

Granting of permanent status shall be based on completion of the probationary period in accordance with applicable law. Employees granted permanent status acquire specific rights under the Education Code, including those relating to discipline and dismissal.

|                  |                |   |
|------------------|----------------|---|
| Legal Reference: | Education Code |   |
|                  | 44466          | Status of University Interns                                    |
|                  | 44850.1        | No Tenure in Administrative or Supervisory Position             |
|                  | 44885.5        | Status of District Interns                                      |
|                  | 44908          | Complete Year for Probationary Employees                        |
|                  | 44911-44913    | Service not computed in Eligibility for Permanent Status        |
|                  | 44915          | Classification of Probationary Employees                        |
|                  | 44917-44921    | Status of Substitute or Temporary Employees                     |
|                  | 44929.20       | Continuing Contracts (Not to Exceed Four Years – ADA Under 250) |
|                  | 44929.21       | Districts of 250 ADA or More                                    |
|                  | 44929.23       | Districts with Less Than 250 ADA                                |
|                  | 44929.28       | Employment by Another District                                  |
|                  | 44930-44988    | Resignations, Dismissals and Leaves of Absences, Especially:    |
|                  | 44948.2        | Election to Use Provisions of Section 44948.3                   |
|                  | 44948.3        | Dismissal of Probationary Employees                             |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED PERSONNEL

Regulation No.: 4116

### Probationary/Permanent Status

Board Adopted: 9/12/07

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A probationary certificated personnel who has been employed by the District in a position or positions requiring certification for two complete consecutive school years and is then rehired for the next succeeding school year shall become a permanent employee at the beginning of the third year.

### Interns

A person employed as a District or university intern shall be classified as a temporary employee. Following completion of the internship, if he/she is reelected by the District to serve in a position requiring certification qualifications for the next succeeding school year, he/she shall continue to be classified as a probationary employee during that year.

A person who has completed an internship and at least one complete school year in a position requiring certification qualifications within the District shall be granted permanent status when he/she is reelected for the next succeeding school year to a position requiring certification qualifications.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

**ALL PERSONNEL**

**Policy No.: 4117**

**Resignation**

**Board Adopted: 9/12/07**

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Any District employee who desires to resign his/her position shall submit, in writing, a letter of resignation that indicates the date that the employee intends as his/her last day at work. The Board of Trustees encourages employees to provide advance notice that is appropriate for the position they hold.

The Board authorizes the Superintendent to accept an employee's written resignation and to set its effective date. Once the Superintendent has accepted and set an effective date for this resignation, the resignation may not thereafter be withdrawn by the employee.

The effective date of the resignation shall be a date not later than the close of the school year during which the resignation is received. However, an employee and the Board may agree that a resignation will be accepted at a mutually agreed upon date not later than two years beyond the close of the school year during which the resignation is received by the Board.

|                  |                              |   |
|------------------|------------------------------|---|
| Legal Reference: | Education Code               |   |
|                  | 35161                        | Board Delegation of Any Powers or Duties  |
|                  | 44242.5                      | Reports of Change in Employment Status, Alleged Misconduct                        |
|                  | 44420                        | Failure to Fulfill Contract as Ground for Suspension of Diplomas and Certificates |
|                  | 44433                        | Unauthorized Departure from Service as Unprofessional Conduct                     |
|                  | 44930                        | Acceptance and Date of Resignation  |
|                  | 45201                        | Power to Accept Resignation   |
|                  | Code of Regulations, Title 5 |   |
|                  | 80303                        | Reports of Change in Employment Status  |
|                  | 80304                        | Notice of Sexual Misconduct   |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED PERSONNEL

Policy No.: 4117.1

### Personnel Reduction

Board Adopted: 9/12/07

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The Board of Trustees may reduce the number of certificated personnel, or their hours and wages, due to any of the following conditions:

1. Declining enrollment, provided that the percentage of reduction in probationary and permanent certificated personnel shall not exceed the corresponding percentage of student attendance lost.
2. Reduction or discontinuance of programs or services.
3. State-mandated modification of the curriculum.
4. The fiscal crisis that may occur after enactment of the Budget Act when the total revenue limit per ADA has not increased by at least two percent.

The Board recognizes that its authority in the reduction of personnel is subject to legal requirements. Except as otherwise provided by statute, a permanent employee who is certificated and competent to render a service shall not be terminated or given a reduction in hours and wages while a probationary employee or other employee with less seniority is retained to render the service.

To be considered competent, an employee must have academic training and one year of full-time experience in the specialized area to which the District would be able to assign him/her. The District will also consider the recency of the employee's experience.

|                  |                 |  |
|------------------|-----------------|--|
| Legal Reference: | Education Code  |  |
|                  | 44830           | Employment of Certificated Persons         |
|                  | 44949           | Dismissal of Probationary Employees        |
|                  | 44955           | Reduction in Number of Permanent Employees |
|                  | 44955.5         | Termination of certificated Employees      |
|                  | 44956-44959.5   | Rights of Employees                        |
|                  | Government Code |  |
|                  | 3543.2          | Scope of Representation                    |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED PERSONNEL

Regulation No.: 4117.1

### Personnel Reduction

Board Adopted: 9/12/07

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For purposes of reduction of certificated personnel, terminations shall generally be in order of least seniority. The District may deviate from terminating or reappointing a certificated employee in order of seniority for either of the following reasons:

1. To fill a demonstrated specific need for personnel to teach a specific course or courses of study, or to provide services authorized by a services credential with a specialization in either student personnel services or health for a school nurse, when the certificated employee has the necessary special training and experience which others with more seniority do not possess.
2. To maintain or achieve compliance with constitutional requirements related to equal protection of the law.

Before assigning or reassigning any certificated employee to teach a subject which he/she has not previously taught, and for which he/she does not have a teaching credential or which is not within the employee's major area of postsecondary study, the Board shall require the employee to pass a subject matter competency test in the appropriate subject.

Terminated certificated employees shall not be subject to any requirements that were not imposed on employees who continued in service; their period of absence shall be treated as a leave of absence and not considered a break in the continuity of their service.

### Notice and Right to Hearing

When the District needs to reduce the number of certificated staff, the District shall adhere to the notice, hearing and layoff procedures in Education Code 44949 and 44955.

When the Board, during the time period between five days after enactment of the Budget Act and August 15, determines that the total revenue limit per ADA has not increased by at least two percent and that the District therefore needs to reduce the number of certificated staff, the Board shall adopt a schedule of notice and hearings, and the District shall otherwise proceed.

### Reappointment

If the number of employees is increased or the discontinued service reestablished, permanent certificated employees under 65 years of age shall have the right to reappointment in order of seniority for 39 months after being terminated. Probationary certificated employees under 65 years of age shall have the same right for 24 months after being terminated, subject to the prior reappointment rights of permanent employees.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## ALL PERSONNEL

Policy No.: 4117.2

## Termination Agreements

Board Adopted: 9/12/07

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If a termination settlement agreement has been made with an employee, the Superintendent shall inform prospective employers, upon request for an employment reference, that an agreement exists and that he/she may only provide information as provided for in the agreement.

Cash settlements made upon the termination of a contract shall never exceed an amount equal to the employee's monthly salary multiplied by the number of months, up to 18, in the unexpired term of the contract. This amount is a maximum ceiling, not to be construed as a target amount for settlement agreements.

Settlement agreements shall not include noncash items other than health benefits, which the District may offer to continue for the unexpired term up to 18 months or until the employee finds other employment, whichever comes first.

Copies of settlement agreements with a Superintendent shall be made available to the public upon request.

|                  |                                       |  |
|------------------|---------------------------------------|--|
| Legal Reference: | Civil Code<br>47                      | Privileged Communication   |
|                  | Government Code<br>53260-53264        | Employment Contracts   |
|                  | Labor Code<br>1198.5                  | Inspection of Personnel Files by Employees                         |
|                  | Code of Regulations, Title 5<br>80303 | Reports of Dismissal, Resignation and Other Terminations for Cause |
|                  | 80332                                 | Professional Honesty in Letters of Employment Recommendation       |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED PERSONNEL

Policy No.: 4117.3

### Decision Not to Rehire

Board Adopted: 9/12/07

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The Superintendent or designee shall provide the Board of Trustees with his/her recommendations regarding the rehiring of probationary employees.

The Board may decide not to rehire a probationary employee for a second year and give written notice of its decision to the employee at any time during his/her first year. If the Board does not give written notice, the employee shall be rehired for the following year.

The Board may decide not to rehire a probationary employee for a third year and give written notice to the employee on or before March 15 of his/her second year. If the Board does not give written notice on or before March 15, the employee shall be rehired for the following year.

The Board may also decide not to rehire a District intern at the end of his/her first, second or third consecutive year. Written notice to the employee may be given at any time during the year except during the employee's last year as an intern, when notice must be given on or before March 15. If the Board does not give written notice, the employee shall be rehired as a probationary employee for the following year.

|                  |                |  |
|------------------|----------------|--|
| Legal Reference: | Education Code |  |
|                  | 44885.5        | District Interns   |
|                  | 44929.21       | Districts with 250 ADA or More; Notice of Reelection Decision                      |
|                  | 44929.23       | Districts with Daily Attendance Less Than 250                                      |
|                  | 44948.2        | Election to Use Provisions of Education Code 44948.3                               |
|                  | 44948.3        | Dismissal of Probationary Employees (Over 250 ADA)                                 |
|                  | 44949          | Cause, Notice and Right to Hearing Required for Dismissal of Probationary Employee |
|                  | 44955          | Reduction in Number of Permanent Employees   |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED PERSONNEL

Policy No.: 4118

### Suspension/Disciplinary Action – Page 1

Board Adopted: 9/12/07

The Loma Prieta Joint Union Elementary School District Board of Trustees desires that all employees exhibit professional and appropriate conduct and serve as positive role models at school and in the community. Unacceptable conduct shall be subject to disciplinary action in accordance with law, collective bargaining agreement, Board policy and administrative regulations.

Disciplinary actions may include, but not be limited to, verbal warnings, written warnings, reassignment, suspension, freezing or reduction of wages, compulsory leave and dismissal.

The Superintendent or designee may take disciplinary action as he/she deems appropriate in light of the particular facts and circumstances involved. He/she shall ensure that disciplinary actions are taken in a consistent, nondiscriminatory manner and are appropriately documented.

|                  |                        |   |
|------------------|------------------------|---|
| Legal Reference: | Education Code         |   |
|                  | 44009                  | Conviction of Specified Crimes  |
|                  | 44010                  | Sex Offense – Definitions   |
|                  | 44011                  | Controlled Substance Offense – Definitions  |
|                  | 44660-44665            | Evaluation and Assessment of Performance of Certificated Employees                          |
|                  | 44830.1                | Criminal Record Summary Certificated Employees  |
|                  | 44932                  | Grounds for Dismissal of Permanent Employee   |
|                  | 44933                  | Other Grounds for Dismissal   |
|                  | 44938                  | Unprofessional Conduct or Unsatisfactory Performance; Notice of Charges                     |
|                  | 44940                  | Sex Offenses and Narcotic Offenses; Compulsory Leave of Absence                             |
|                  | 44940.5                | Compulsory Leave of Absence; Procedures; Extension; Compensation; Bond or Security; Reports |
|                  | 44942                  | Suspension or Transfer of Certificated Employee on Grounds of Mental Illness                |
|                  | 44944                  | Conduct of Hearing  |
|                  | 44948.3                | Dismissal of Employees on Probation   |
|                  | 45055                  | Drawing of Warrants for Teachers  |
|                  | 51530                  | Advocacy or Teaching of Communism   |
|                  | Government Code        |   |
|                  | 3543.2                 | Scope of Representation   |
|                  | Health and Safety Code |   |
|                  | 11054                  | Schedule I, Substances Included   |
|                  | 11055                  | Schedule II, Substances Included  |
|                  | 11056                  | Schedule III, Substances Included   |
|                  | 11357-11361            | Marijuana   |
|                  | 11363                  | Peyote  |
|                  | 11364                  | Opium   |
|                  | 11370.1                | Possession of Controlled Substances With a Firearm  |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

**CERTIFICATED PERSONNEL**

Policy No.: **4118**

**Suspension/Disciplinary Action – Page 2**

Board Adopted: **9/12/07**

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Legal Reference: (cont.)

Penal Code

667.5

Prior Prison Terms, Enhancement of Prison Terms

1192.7

Plea Bargaining Limitation

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## ALL PERSONNEL

Policy No.: 4119

### Civil and Legal Rights – Page 1

Board Adopted: 9/12/07

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The Board of Trustees believes that the personal life of an employee is not an appropriate concern of the District, except as it may directly prevent the employee from performing his/her duties or responsibilities.

An employee's religious or political activities, or the lack thereof, shall not be grounds for any discrimination or disciplinary action by the District, provided these activities do not violate Board policy, administrative regulations or local, state or federal laws.

Teachers shall have the right to refuse to submit to any evaluation or survey conducted by the District concerning personal values, attitudes and beliefs; sexual orientation; political affiliations or opinions, critical appraisals of other individuals with whom the teacher has a family relationship; or religious affiliations or beliefs.

#### Whistleblower Protection

All employees shall have the right to disclose improper governmental activities to a Board member, a school administrator, a member of the Santa Clara County Board of Education, Santa Clara County Superintendent of Schools, or the Superintendent of Public Instruction. An improper governmental activity is an activity by the District or a District employee that violates state or federal law, is economically wasteful, or involves gross misconduct, incompetency or inefficiency.

No employee shall use or attempt to use his/her official authority or influence to intimidate, threaten, coerce or command another employee for the purpose of interfering with that employee's right to disclose improper governmental activity.

An employee who has disclosed improper governmental activity and believes that he/she has subsequently been subjected to acts or attempted acts of reprisal shall file a written complaint in accordance with the District's complaint procedures. After filing a complaint with the District, he/she may also file a copy of the complaint with local law enforcement.

#### Rights in Legal Proceedings

Any employee has the right, if contacted by an attorney or the representative of a law firm not employed by the District about any claim, complaint, lawsuit or other legal proceeding against the District, to:

1. Speak to the attorney or the representative without fear of punishment in retaliation for such communication.
2. Contact his/her supervisor before answering questions or responding in any way.
3. Refuse to speak to the attorney or representative.
4. Notify the District that the attorney or representative has requested an interview.
5. Consult with his/her own attorney or an attorney employed by the District or bargaining unit.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

**ALL PERSONNEL**

**Policy No.: 4119**

**Civil and Legal Rights – Page 2**

**Board Adopted: 9/12/07**

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6. Be represented at any interview either by his/her own attorney or an attorney employed by the District.

|                  |                              |  |
|------------------|------------------------------|--|
| Legal Reference: | Education Code               |  |
|                  | 200-262.4                    | Prohibition of Discrimination on the Basis of Sex  |
|                  | 7050-7057                    | Political Activities of School Officers and Employees  |
|                  | 44040                        | Unlawful to Discriminate Solely Because of Employee's Appearance before Certain Boards or Committees |
|                  | 44110-44114                  | Reporting by School Employees of Improper Governmental Activity                                      |
|                  | 44801                        | Leave of Absence for Employees Elected to the Legislature  |
|                  | 49091.24                     | Teacher Rights to Refuse Evaluation/Survey of Personal Life  |
|                  | Civil Code                   |  |
|                  | 51                           | Unruh Civil Rights Act   |
|                  | Government Code              |  |
|                  | 3540.1                       | Public Employment Definitions  |
|                  | 3543.5                       | Interference with Employee's Rights Prohibited   |
|                  | 12940-12950                  | Discrimination Prohibited; Unlawful Practices  |
|                  | United States Code, Title 42 |  |
|                  | 2000d-2000d-7                | Title VI, Civil Rights Act   |
|                  | 2000e-2000e-17               | Title VII, Civil Rights Act of 1964 as Amended   |
|                  | 2000h-2000h-6                | Title IX, 1972 Education Act Amendments  |
|                  | 12101-12213                  | Americans with Disabilities Act  |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

**ALL PERSONNEL**

**Policy No.: 4119.1**

**Sexual Harassment – Page 1**

**Board Adopted: 9/12/07**

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The Board of Trustees prohibits sexual harassment of District employees and job applicants. The Board also prohibits retaliatory behavior or action against District employees or other persons who complain, testify or otherwise participate in the complaint process established pursuant to this policy and the administrative regulation.

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

1. Providing periodic training to all staff regarding the District's sexual harassment policy, particularly the procedures for filing complaints and employees' duty to use the District's complaint procedures in order to avoid harm.
2. Publicizing and disseminating the District's sexual harassment policy to staff.
3. Ensuring prompt, thorough and fair investigation of complaints.
4. Taking timely and appropriate corrective/remedial actions after completion of investigation. This may require interim separation of the complainant and the alleged harasser, and subsequent monitoring of developments.

Any District employee or job applicant who feels that he/she has been sexually harassed, or who has knowledge of any incident of sexual harassment by or against another employee, a job applicant or a student, shall immediately contact his/her supervisor, Principal or Superintendent to obtain procedures for filing a complaint. If the complaint is against the Superintendent, the complainant shall immediately report the incident to the Board. Complaints of sexual harassment shall be filed in accordance with Policy 4031 – Complaints Concerning Discrimination in Employment.

An employee may bypass his/her supervisor in filing a complaint where the supervisor is the subject of the complaint.

A supervisor or Principal who receives a harassment complaint shall promptly notify the Superintendent.

All complaints and allegations of sexual harassment shall be kept confidential to the extent necessary to carry out the investigation or take other subsequent necessary action.

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.

Legal Reference:      Education Code  
                                 200-262.4              Prohibition of Discrimination on the Basis of Sex

                                 Government Code  
                                 12900-12996          Fair Employment and Housing Act

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

**ALL PERSONNEL**

Policy No.: **4119.1**

**Sexual Harassment – Page 2**

Board Adopted: **9/12/07**

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Legal Reference: (cont.)

Labor Code

1101 Political Activities of Employees  
1102.1 Discrimination: Sexual Orientation

Code of Regulations, Title 5

4900-4965 Nondiscrimination in Elementary and Secondary Education Programs Receiving State Financial Assistance

United States Code, Title 42

2000d-2000d-7 Title VI, Civil Rights Act  
2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended  
2000h-2000h-6 Title IX, 1972 Education Act Amendments

Code of Federal Regulations, Title 34

106.9 Dissemination of Policy

Court Decisions

*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. 988  
*Juarez v. Ameritech Mobile Systems* (N.D. Ill.) 7496 F. Supp 798  
*Dornhecker v. Mailbu Grand Prix Corp.* (5<sup>th</sup> Cir. 1987) 828 F.2d. 307  
*Meritor Savings Bank, FSB v. Vinson et al.* (1986) 447 U.S. 57

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## ALL PERSONNEL

Regulation No.: 4119.1

## Sexual Harassment – Page 1

Board Adopted: 9/12/07

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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 gender, in the work or educational setting, when:

1. Submission to the conduct is made expressly or implicitly a term or condition of the individual's employment.
2. Submission to or rejection of such conduct by the individual is used as the basis for an employment decision affecting him/her.
3. The conduct has the purpose or effect of unreasonably interfering with the other individual's work performance; creating an intimidating, hostile or offensive work environment; or adversely affecting the other individual's evaluation, advancement, assigned duties, or any other condition of employment or career development.
4. Submission to or rejection of the conduct by the other individual is used as the basis for any decision affecting him/her regarding benefits, services, honors, programs or activities available at or through the District.

Other examples of actions that might constitute sexual harassment, whether committed by a supervisor or any other employee, include but are not limited to:

1. Unwelcome leering, sexual flirtations or propositions.
2. Unwelcome sexual slurs, epithets, threats, innuendoes, derogatory comments or sexually degrading descriptions.
3. Graphic verbal comments about an individual's body, or overly personal conversations or pressure for sexual activity.
4. Sexual jokes, stories, drawings, pictures, graffiti, gestures or sexually explicit emails.
5. Spreading sexual rumors.
6. Massaging, grabbing, fondling, stroking or brushing the body.
7. Touching an individual's body or clothes in a sexual way.
8. Cornering, blocking, leaning over or impeding normal movements.
9. Displaying sexually suggestive objectives or using sexual computer screen savers.
10. 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.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

**ALL PERSONNEL**

**Regulation No.: 4119.1**

**Sexual Harassment – Page 2**

**Board Adopted: 9/12/07**

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## Notifications

A copy of the Board of Trustees' policy and this administrative regulation shall:

1. Be displayed in a prominent location in the main administrative building or other area of the school where notices of District rules, regulations, procedures and standards of conduct are posted.
2. Be provided to each faculty member, all members of the administrative staff, and all members of the support staff during the school year.

All employees shall receive either a copy of information sheets prepared by the California Department of Fair Employment and Housing or a copy of District information sheets that contain, at a minimum, components on:

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 the Fair Employment and Housing Department and Equal Employment Opportunity Commission.
6. Directions on how to contact the Fair Employment and Housing Department and Equal Employment Opportunity Commission.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

**ALL PERSONNEL**

**Policy No.: 4119.2**

**Professional Standards**

**Board Adopted: 9/12/07**

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The Board of Trustees expects District employees to maintain the highest ethical standards, follow District policies and regulations, and abide by state and federal laws. Employee conduct should enhance the integrity of the District and advance the goals of the educational programs. Each employee should make a commitment to acquire the knowledge and skills necessary to fulfill his/her responsibilities and should focus on his/her contribution to the learning and achievement of District students.

The Board expects District employees to follow as guiding principles the professional standards and codes of ethics adopted by professional associations to which they may belong.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## ALL PERSONNEL

Policy No.: 4119.3

### Unauthorized Release of Confidential/Privileged Information

Board Adopted: 9/12/07

The Board of Trustees, administration and staff shall maintain the confidentiality of all confidential records until such time as laws, state regulations and/or bylaws of this District permit disclosure. Information and records pertaining to closed sessions, negotiations and student records are not subject to public disclosure.

Any employee who willfully releases confidential/privileged information about students, staff or any topic properly confined to a closed session shall be subject to disciplinary action up to and including dismissal from District service. Confidential information includes any information relating to the Board's employer-employee strategies on matters in negotiation or matters to be placed in negotiation.

Any employee who willingly and for monetary gain uses or discloses confidential/privileged information as defined in Government Code 1098 is guilty of a misdemeanor.

Any action by an employee that inadvertently or carelessly results in release of confidential/privileged information shall be recorded, and the record shall be placed in the employee's personnel file. Depending on the circumstances, the Superintendent may deny the employee further access to any privileged information and shall take any steps necessary to prevent any further unauthorized release of such information.

|                  |                              |  |
|------------------|------------------------------|--|
| Legal Reference: | Education Code               |  |
|                  | 35010                        | Control of District; Prescription and Enforcement of Rules                               |
|                  | 35146                        | Closed Sessions (Re: Student Suspension)   |
|                  | 44031                        | Personnel File Contents and Inspection   |
|                  | 44932                        | Grounds for Dismissal of Permanent Employees   |
|                  | 44933                        | Other Grounds for Dismissal  |
|                  | 45113                        | Rules and Regulations for Classified Service   |
|                  | 49060-49078                  | Pupil Records  |
|                  | Government Code              |  |
|                  | 1098                         | Public Officials and Employees: Confidential Information                                 |
|                  | 3540 <i>et seq.</i>          | Meeting and Negotiation in Public Employment   |
|                  | 6252 <i>et seq.</i>          | Inspection of Public Records   |
|                  | 54957                        | Closed Session; Purposes for Holding; Definition of "Employee"<br>Exclusion of Witnesses |
|                  | 54957.2                      | Taking of Minutes at Closed Sessions; Clerk; Minute Book                                 |
|                  | 54957.6                      | Closed Session, Representatives to Employee Organizations;<br>State Conciliator          |
|                  | Labor Code                   |  |
|                  | 1102.5                       | Employees: Disclosure of Information   |
|                  | United States Code, Title 20 |  |
|                  | 1232g                        | Family Education Rights and Privacy Act  |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## ALL PERSONNEL

Policy No.: 4119.4

## Political Activities of Employees

Board Adopted: 9/12/07

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The Board of Trustees respects the right of school employees to engage in political discussions and activities on their own time and at their own expense. On such occasions, employees shall make it clear that they are acting as individuals and not as representatives of the District.

Like other citizens, employees may use school facilities for meetings under the Civic Center Act.

Employees shall refrain from prohibited activities identified in law and administrative regulations. Employees who engage in these activities shall be subject to disciplinary action and/or criminal penalties.

### Legal Reference:

#### Education Code

7050-7057

Political Activities of School Officers and Employees

38130-38139

Civic Center Act

51520

Prohibited Solicitations on School Premises

#### Government Code

3543.1

Rights of Employee Organizations

#### Attorney General Opinions

93 Ops.Cal.Atty.Gen. 1201 (1994)

#### Court Decisions

*California Teachers Association v. Governing Board of San Diego Unified School District* (1996) 45 Cal.App.4<sup>th</sup> 1383

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## ALL PERSONNEL

Policy No.: 4119.5

## Exposure Control Plan for Bloodborne Pathogens – Page 1

Board Adopted: 9/12/07

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The following regulation is based on Title 8, Section 5193, which contains specific requirements for compliance with OSHA standards for preventing exposure to bloodborne pathogens.

### Definitions

*Occupational Exposure* means “reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee’s duties.”

*Exposure Incident* means “a specific eye, mouth, other mucous membrane, non-intact skin, or parenteral contact with blood or other potentially infectious materials that results from the performance of an employee’s duties.” Parenteral contact means “piercing mucous membranes or the skin barrier through such events as needlesticks, human bites, cuts, and abrasions.”

### Exposure Control Plan

The District’s Exposure Control Plan shall contain at least the following components:

1. A determination of which employees have occupational exposure to blood or other potentially infectious material.
2. A description of the schedule and method for implementing exposure control requirements, including but not be limited to:
  - a. Universal precautions
  - b. Engineering and work practice controls
  - c. Personal protective equipment
  - d. Cleaning and maintenance schedules
  - e. Hepatitis B vaccination
  - f. Post-exposure evaluation and follow-up
  - g. Informing employees about biohazards, including:
    - (1) Labels and signs, and
    - (2) Training
  - h. Maintenance of training and medical records
3. The District’s procedure for evaluating circumstances surrounding exposure incidents.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## ALL PERSONNEL

Policy No.: 4119.5

## Exposure Control Plan for Bloodborne Pathogens – Page 2

Board Adopted: 9/12/07

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The Exposure Control Plan shall be reviewed and updated at least annually and whenever necessary to:

- a. Reflect new or modified tasks and procedures affecting occupational exposure.
- b. Reflect new or revised employee positions with occupational exposure.
- c. Review the exposure incidents that occurred since the previous update

The District's Exposure Control Plan shall be accessible to employees in accordance with law. It also shall be made available to the Chief or Director of the National Institute for Occupational Safety and Health and Human Services, or his/her designee, upon request for examination and copying.

### Exposure Determination

The District's exposure determination shall be made without regard to the use of personal protective equipment and shall include:

1. All job classifications in which all employees have occupational exposure to bloodborne pathogens.
2. Job classifications in which some employees have occupational exposure.
3. All tasks and procedures or groups of closely related tasks and procedures in which occupational exposure occurs and which are performed by employees listed in item 2 above

### Hepatitis B Vaccination

Hepatitis B vaccinations shall be provided at no cost to those employees determined to have occupational exposure to blood and other potentially infectious materials. Employees who decline to accept the vaccination shall sign the hepatitis B declination statement as required by law.

The District may exempt "designated first-aid providers" from the pre-exposure hepatitis B vaccine if:

1. Rendering first aid is not the primary job responsibility of the employee and is not performed on a regular basis.
2. The District's Exposure Control Plan provides that:
  - a. Employees report all first-aid incidents involving the presence of blood or other potentially infectious materials before the end of the work shift during which the incident occurred.
  - b. Designated first-aid providers participate in the bloodborne pathogens training program.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## ALL PERSONNEL

Policy No.: 4119.5

## Exposure Control Plan for Bloodborne Pathogens – Page 3

Board Adopted: 9/12/07

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- c. Unvaccinated first-aid providers shall have the opportunity to receive the full hepatitis B vaccination series no later than 24 hours after rendering assistance in any situation involving the presence of blood or other potentially infectious material regardless of whether an exposure incident occurred.
3. The District implements a procedure to ensure the above requirements are met.

### Protective Equipment

The District shall provide appropriate personal protective equipment at no cost to the employee. The District shall maintain, repair, make accessible and require employees to use and properly handle protective equipment.

### Information and Training

The District shall provide a training program as specified by law to all employees in job classifications that have been determined to have some degree of occupational exposure. This program shall be offered at the time of initial assignment, annually thereafter, and whenever a change of tasks or procedures affect the employee's exposure.

Employees who fall within the definition of designated first-aid providers shall also receive training. Such training shall include the specifics of reporting first-aid incidents that involve blood or body fluids that are potentially infectious.

### First-Aid Incidents

Unvaccinated designated first-aid providers must report any first-aid incident involving the presence of blood or other potentially infectious materials to their supervisors, regardless of whether an exposure incident occurred, by the end of the work shift. The full hepatitis B vaccination series shall be made available to such employees no later than 24 hours after the first-aid incident.

### Exposure Incidents: Post-Evaluation and Follow-Up

All exposure incidents must be reported as soon as possible to the Superintendent. Following a report of an exposure incident, the District shall provide the exposed employee with a confidential medical evaluation and follow-up, as required by law. The District shall maintain the confidentiality of the affected employee and the exposure source during all phases of the post-exposure evaluation.

### Records

Medical and training records shall be kept in accordance with law. Medical records shall be maintained for the duration of employment plus thirty years. Training records shall be maintained for three years from the date of training.

Medical records for each employee with occupational exposure will be kept confidential as appropriate and

transferred or made available in accordance with law.

**LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT**

**ALL PERSONNEL**

**Policy No.: 4119.5**

**Exposure Control Plan for Bloodborne Pathogens – Page 4**

**Board Adopted: 9/12/07**

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Records shall be made available to employees and the National Institute for Occupational Safety and Health in accordance with law.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## PERSONNEL-CERTIFICATED/CLASSIFIED

Policy No.: 4119.7

### Employee Safety

Board Adopted: 5/16/00

Board Revised: 9/12/07

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The Board directs that a safety program be instituted to fulfill this responsibility to employees and students. The safety program shall include information regarding hazardous materials including art supplies and chemicals.

The safety program shall be directed toward maintaining safe working conditions and equipment and shall comply with standards prescribed by federal, state and local laws and regulations affecting employee or student safety.

Employees shall not be required to work under unsafe or hazardous conditions or to perform tasks that endanger their health, safety or well-being.

### Infectious Disease Prevention

In accordance with requirements of the Health and Safety Code, the District shall distribute to its employees information about AIDS and AIDS-related conditions, including methods of preventing exposure to AIDS, as such information is compiled and updated by the State Department of Education.

The Board also directs that a control plan for employee exposure to blood-borne pathogens be developed and implemented in accordance with OSHA requirements.

Legal Reference:      Education Code  
                                 32000 et seq.      Safety; Public Institutions  
                                 32030-32034      Safety Devices  
                                 32200 et seq.      Safety; Public Institutions

                                 Health and Safety Code  
                                 199.81-199.82      AIDS Information

                                 Labor Code  
                                 6305 et seq.      Occupational Safety and Health Standards; Special Order

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## PERSONNEL-CERTIFICATED/CLASSIFIED

Regulation No.: 4119.7

## Employee Safety

Board Adopted: 5/16/00

Board Adopted: 9/12/07

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Any employee, student, parent or community member who expresses a concern about unsafe or hazardous conditions shall have that concern directed to the Superintendent. Following an assessment of the condition, the Superintendent shall give a written response to the party expressing concern.

Teachers shall inform students regarding standards of safety, annually. Such review shall occur during the first ten days of school. Whenever serious deviations from the standards are observed, the standards shall be reviewed again.

Such annual review shall also be provided to all District employees by their immediate supervisors. Annual review shall include a District dissemination of information about hazardous materials and recommendations regarding their storage and use.

Whenever the State Department of Education sends information to the District regarding AIDS and AIDS-related conditions, that information will be forwarded to employees with a District disclaimer that the information is a required notification prepared by the State Department of Education.

Legal Reference:      Education Code  
                                 32000 et seq.      Safety; Public Institutions

                                 Health and Safety  
                                 199.81-199.82      AIDS Information

                                 Labor Code  
                                 6305 et seq.      Occupational Safety and Health Standards; Special Order

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED PERSONNEL

Policy No.: 4121

### On-Call Day-To-Day Substitute Personnel – Page 1

Board Adopted: 9/12/07

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#### Hiring

The Board of Trustees may employ on-call day-to-day substitute personnel to fill positions of regularly employed certificated persons absent from service.

Substitute 30-day Emergency Permit personnel shall not serve greater than 30 consecutive days in a single regular classroom and not greater than 20 consecutive days in a single special education classroom.

#### Safety and Benefits

The Board shall adopt and make public a salary schedule setting the daily rate(s) for personnel in the On-Call Day-to-Day Substitute service.

Substitute personnel shall not participate in the health and welfare plans or other fringe benefits of the District.

|                  |                |  |
|------------------|----------------|--|
| 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   |
|                  | 44845-44846    | Criteria for Reemployment Preferences  |
|                  | 44914          | Substitute and Probationary Employment in 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                                |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED PERSONNEL

Policy No.: 4121

## On-Call Day-To-Day Substitute Personnel – Page 2

Board Adopted: 9/12/07

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Legal Reference:      Education Code (cont.)  
                                 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

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED PERSONNEL

Policy No.: 4122

### Student Teachers

Board Adopted: 9/12/07

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Assignment of student teachers shall be made by the Principal. An effort will be made to rotate assignments so that all interested teachers may participate.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED PERSONNEL

Policy No.: 4128

## Professional Growth

Board Adopted: 9/12/07

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The Board of Trustees recognizes its obligation to help teachers meet their responsibility for fulfilling the professional growth requirements of their credentials. The Board expects that the increased competence attained by these teachers during their professional growth activities will contribute significantly to the District's educational program.

|                  |  |  |
|------------------|--|--|
| Legal Reference: | Education Code<br>44277                                | Requirements for Professional Growth   |
|                  | California Code of Regulations, Title 5<br>80550-80565 | Generally, Especially:   |
|                  | 80550  | Professional Growth Requirements Definitions                                     |
|                  | 80552-80553  | Specific Renewal Requirements  |
|                  | 80554-80555  | Elements of Professional Growth Plan and Professional Growth Record              |
|                  | 80556  | Professional Growth Advisors, and Employing Agencies; Roles and Responsibilities |
|                  | 80558  | Definition of Professional Growth Activities                                     |
|                  | 80565  | Professional Service Requirements  |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

**ALL PERSONNEL**

**Policy No.: 4132**

**Publication or Creation of Materials**

**Board Adopted: 9/12/07**

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

Materials written or developed by an employee during the normal school day are considered District property.

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

The Board may secure copyrights in the name of the District for all copyrightable works developed by the District. All royalties or revenues from these copyrights shall be used for the benefit of the District.

The Board may market or license any noneducational mainframe electronic software developed by the District. Proceeds from this marketing or licensing shall be used exclusively for educational purposes.

|                  |                              |   |
|------------------|------------------------------|---|
| Legal Reference: | Education Code               |   |
|                  | 32360                        | Copyrights; Use of Funds  |
|                  | 32361                        | Copyrights; Use of Employee Work Time   |
|                  | 35170                        | Authority to Secure Copyrights  |
|                  | 35182                        | Marketing or Licensing Noneducational Mainframe Electronic Data-Processing Software |
|                  | 60076                        | Royalties or Other Compensation   |
|                  | Labor Code                   |   |
|                  | 2870-2872                    | Inventions Made by an Employee  |
|                  | United States Code, Title 17 |   |
|                  | 201                          | Copyright Law   |
|                  | 201(a)                       | Copyright Law   |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## ALL PERSONNEL

Policy No.: 4135

### Soliciting and Selling

Board Adopted: 9/12/07

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Employees shall not solicit District staff, students or their families with the intent to sell general merchandise, books, equipment or services.

Staff shall not distribute promotional, political, controversial or other noninstructional materials unless approved by the Superintendent.

Staff members shall not use their status as District employees to secure information such as names, addresses and telephone numbers for use in profit-making ventures.

Educational tours may be promoted on school premises only if they are sponsored by the District. Employees engaged in planning, organizing or leading tours as a private business shall make it clear that they do not represent the school or District. All activities related to such tours must be carried on outside of school hours.

Any classroom activity requiring students to bring money to school for any purpose must have the principal's approval.

Staff participation in "flower funds," "sickness and bereavement funds," "anniversary funds" and the like shall be a matter of individual discretion.

Legal Reference:

Education Code  
51520

Prohibited Solicitations on School Premises

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED PERSONNEL

Policy No.: 4137

### Tutoring

Board Adopted: 9/12/07

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

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

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED AND CLASSIFIED PERSONNEL

Policy No.: 4140

### Bargaining Units

Board Adopted: 9/12/07

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

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

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



31001-32997      Regulations of Employee Relations Boards

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED AND CLASSIFIED PERSONNEL

Policy No.: 4143

### Public Notice – Personnel Negotiations – Page 1

Board Adopted: 9/12/07

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#### Public Notice

The Board of Trustees, pursuant to the collective bargaining law of the State, declares its intent to establish the means by which the public shall be made aware of and be provided an opportunity for input to the negotiations process.

#### Presentation of Employee Organization Proposals

Initial collective bargaining proposals of the employee organization(s) shall be presented to the Board in public during a regularly scheduled Board meeting. The Board may schedule a public hearing at the regularly scheduled Board meeting following the presentation of the initial proposal in order to receive public input.

#### Presentation of Board's Proposal

The initial collective bargaining proposal of the Board shall be presented no later than the second regularly scheduled Board meeting after the public hearing on the employee organization's initial proposal. At the same meeting or at the next regularly scheduled Board meeting following the presentation of the Board's initial proposal, the Board shall place on the agenda a time for public comment on the initial proposal.

#### Availability of Initial Proposals to the Public

The initial proposals of both the employee organization(s) and the Board shall be made available to the public not later than the second work day following the regularly scheduled Board meeting at which they were presented. Copies of the full initial proposals shall be available at each school site and at the District Office.

#### Availability of Initial Proposals to Interested Organizations or Citizens

Organizations and individual residents of the District may register with the District Office for the purpose of receiving copies of initial proposals. The District shall mail a copy of both the employee organizations and the Board's initial proposals to all groups so registered. Reimbursement to the District for making copies of the documents and mailing them shall be \$.05 per page for each document.

#### Public Hearing

Each citizen commenting on a proposal shall be required to identify him or herself. Length of comment may be limited by the President of the Board. The Board shall not take any action to adopt or modify its initial proposal until after it has had an opportunity to receive public comment on the proposal. Interested individuals or groups not wishing to make a formal presentation may respond in writing to be received by the Board not later than mid-week of the week preceding the public hearing. After the public hearing the Board may adopt its initial proposal, including modifications, if any.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED AND CLASSIFIED PERSONNEL

Policy No.: 4143

### Public Notice – Personnel Negotiations – Page 2

Board Adopted: 9/12/07

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#### Notification of New Subjects of Bargaining

The proposals on new subjects of bargaining not included in the initial proposal of either the employee organization or the Board shall be made public within 24 hours. Not later than two workdays following the presentation of the new subject at the Board meeting, the initial proposal(s) regarding the new subject(s) shall be available at the District Office. Interested organizations or residents of the district may register at the District Office for the purpose of being notified about new subjects of bargaining. The District shall notify by mail each organization or resident so registered concerning any new subject which has been proposed, subject to the District policy concerning reimbursement for making and mailing copies of the document.

#### Public Disclosure

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

|                  |   |
|------------------|---|
| Legal Reference: | Government Code   |
|                  | 3547 Proposals Relating to Representation; Informing Public, Adoption of Proposals; New Subjects; Regulations |
|                  | 3547.5 Major Provisions of Agreement with Exclusive Representative  |
|                  | Code of Regulations, Title 8  |
|                  | 32075 PERB Regional Office Defined  |
|                  | 32900 EERA and HEERA Public Notice: Requirements for Governing Boards to Adopt Policy                         |
|                  | 32910 Filing of EERA or HEERA Complaint   |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED AND CLASSIFIED PERSONNEL

Regulation No.: 4143

## Public Notice – Personnel Negotiations

Board Adopted: 9/12/07

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### Public Disclosure

The Superintendent shall prepare a summary of the proposed agreement which shall be available to the public prior to the Board entering into the agreement. The summary shall include, but may not necessarily be limited to:

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

A copy of the summary shall be provided to the Santa Clara County Office of Education.

A copy of the Board of Trustees' policy implementing the public notice requirements shall be available in the District office.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

**ALL PERSONNEL**

**Policy No.: 4144**

**Complaints**

**Board Adopted: 9/12/07**

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The Board of Trustees recognizes the need for providing employees with a complaint process.

The Board expects that employees and supervisors will make every effort to resolve employee complaints and disagreements informally before resorting to formal complaint procedures.

The Superintendent shall establish complaint procedures which allow employees to appeal to the Board.

|                  |   |
|------------------|---|
| Legal Reference: | Government Code                         |
|                  | 3543 Public School Employees' Rights    |
|                  | 3543.1 Rights of Employee Organizations |
|                  | 53296 Definitions                       |
|                  | 53297 Filing Complaint                  |
|                  | 53298 Reprisals                         |
|                  | 53298.5 Violations; Punishment          |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

**ALL PERSONNEL**

**Regulation No.: 4144**

**Complaints – Page 1**

**Board Adopted: 9/12/07**

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The following guidelines shall prescribe the manner in which complaints are handled:

1. A “complaint” shall be defined as an alleged misapplication of the District’s policies, regulations, rules or procedures. Procedures for the resolution of employee complaints provide a route of appeal through administrative channels and to the Board of Trustees, if necessary. If the complaint is related to discrimination, the District’s procedure for complaints concerning discrimination should be used.
2. If a complaint involves sexual harassment, the initial complaint should be made directly to the offending employee’s immediate supervisor. An employee is not required to resolve sexual harassment complaints with the offending person.
3. So as not to interfere with school schedules, meetings related to a complaint shall be held before or after the complainant’s regular working hours.
4. All matters related to a complaint shall be kept confidential. Only those individuals directly involved in resolving the complaint shall be informed of the complaint.
5. All documents, communications and records dealing with the complaint shall be placed in a District complaint file. No such material shall be placed in an employee’s personnel file.
6. No reprisals shall be taken against any participant in a complaint procedure by reason of such participation.
7. Time limits specified in these procedures may be reduced or extended in any specific instance by written mutual agreement of the parties involved. If specified or adjusted time limits expire, the complaint may proceed to the next step.
8. Any complaint not taken to the next step within prescribed time limits shall be considered settled on the basis of the answer given at the preceding step.

## Informal Complaints

Employees are encouraged to resolve complaints informally. Formal complaint procedures shall not be initiated unless informal efforts to resolve the complaint have been exhausted and the complainant has provided a written description of such efforts.

## Formal Complaint Procedure – Step 1

If a complaint has not been satisfactorily resolved by informal procedures, the complainant may file a written complaint with the immediate supervisor or principal within 60 days of the act or event which is the subject of the complaint.

Within five working days of receiving the complaint, the immediate supervisor or principal shall conduct any necessary investigation and meet with the complainant in an effort to resolve the complaint.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

**ALL PERSONNEL**

**Regulation No.: 4144**

**Complaints – Page 2**

**Board Adopted: 9/12/07**

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The immediate supervisor or principal shall present all concerned parties with a written answer to the complaint within 10 working days after the meeting.

## Formal Complaint Procedure – Step 2

If a complaint has not been satisfactorily resolved at Step 1, the complainant may file the written complaint with the Superintendent within five working days of receiving the answer at Step 1. All information presented at Step 1 shall be included with the complaint, and the immediate supervisor or principal shall submit to the Superintendent a report describing attempts to resolve the complaint at Step 1.

Within five working days of receiving the complaint, the Superintendent shall conduct any necessary investigation and meet with the complainant in an effort to resolve the complaint.

The Superintendent shall present all concerned parties with a written answer to the complaint within 10 working days after the meeting.

## Formal Complaint Procedure – Step 3

If a complaint has not been satisfactorily resolved at Step 2, the complainant may file a written appeal to the Board within five working days of receiving the answer at Step 2. All information presented at Steps 1 and 2 shall be included with the appeal, and the Superintendent shall submit to the Board a report describing attempts to resolve the complaint at Step 2.

An appeal hearing shall be held at the next regularly scheduled Board meeting which falls at least 12 days after the appeal is filed. This hearing shall be held in closed session if the complaint relates to matters properly addressed in closed session.

The Board shall make its decision within 30 days of the hearing and shall mail its decision to all concerned parties. The Board's decision shall be final.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

**ALL PERSONNEL**

**Policy No.: 4156**

**Employee Property Reimbursement**

**Board Adopted: 9/12/07**

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The Board of Trustees authorizes the Superintendent to pay the cost of replacing or repairing employee personal property, except cash, which has been stolen or intentionally destroyed or damaged while being used for work-related purposes.

No reimbursement shall be made for accidental damage or for any loss due to lack of personal supervision or failure to keep property in a secured area.

The maximum payment shall be the amount specified by the District's insurance carrier for such loss or the amount specified in the applicable collective bargaining agreement, whichever is less.

Reimbursement for personal items used for work-related purposes shall be made only if:

1. Use of the personal property was approved by the principal, site supervisor or designee before the property was brought to school or District premises.
2. At that time, the employee and District representative agreed on the value of the property.

|                  |                |   |
|------------------|----------------|---|
| Legal Reference: | Education Code |   |
|                  | 35213          | Reimbursement for Loss, Destruction or Damage of Personal Property                                    |
|                  | 48904          | Liability for Parent/Guardian for Willful Misconduct; Withholding of Grades, Diplomas and Transcripts |
|                  | Civil Code     |   |
|                  | 1714.1         | Liability of Parent or Guardian for Act of Willful Misconduct by a Minor                              |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

**ALL PERSONNEL**

**Policy No.: 4157**

**Work-Related Injuries**

**Board Adopted: 9/12/07**

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District employees may be insured for on-the-job specific or cumulative injuries in accordance with law. In order to reduce costs and facilitate employee recovery, the Board of Trustees desires to have an efficient claims handling process. Employees are required to report any work-related injuries or illnesses to their supervisor as soon as practicable.

|                  |                 |  |
|------------------|-----------------|--|
| Legal Reference: | Education Code  |  |
|                  | 44984           | Industrial Accident and Illness Leaves, Certificated Employees     |
|                  | 45192           | Industrial Accident and Illness Leaves, Classified Employees       |
|                  | Government Code |  |
|                  | 21153           | Employer Not to Separate for Disability Members Eligible to Retire |
|                  | Labor Code      |  |
|                  | 3200-4855       | Workers' Compensation, Especially:                                 |
|                  | 3550            | Posting of Notice Re: Workers' Compensation Insurance Carrier      |
|                  | 3551            | Written Notice to New Employees                                    |
|                  | 3600-3605       | Conditions of Liability  |
|                  | 3760            | Report of Injury to Insurer  |
|                  | 4600            | Provision of Medical and Hospital Treatment by Employer            |
|                  | 4906            | Disclosures and Statements   |
|                  | 5400-5404       | Notice of Injury or Death  |
|                  | 6409.1          | Reports  |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## ALL PERSONNEL

Regulation No.: 4157

## Work-Related Injuries

Board Adopted: 9/12/07

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### Notifications

The Superintendent shall post a notice of employee rights related to workers' compensation and shall provide this information in writing to new employees.

This notice shall also include a statement of the District's policy requiring employees to report work-related injuries as soon as practicable.

Employees shall also be informed that it is a felony for an employee to make a false workers' compensation claim.

### District Responsibilities

Supervisors receiving reports of a work-related employee injury shall gather appropriate information, including but not limited to:

1. The date, time and place of the injury.
2. The name, occupation and signature of the injured employee.
3. Details of how the injury occurred.
4. The names of any witnesses.

Supervisors shall promptly remit information about work-related injuries to the Superintendent.

Whenever a work-related injury results in lost work time beyond the date of the injury or requires medical treatment beyond first aid, the employee shall be given a workers' compensation claim form and a notice of potential eligibility for benefits within one working day of the injury.

Within five working days of obtaining knowledge of any injury which results in lost time beyond the date of the injury or which requires medical treatment beyond first aid, the Superintendent shall file a complete report of the injury with the District's insurer.

### Employee Responsibilities

Upon receiving treatment for a work-related injury, the employee shall obtain a medical verification of his/her condition, indicating any limitations on the employee's ability to work, the anticipated time needed for recovery from these limitations, and the type of work modification needed.

The District has designated a medical carrier where employees will be taken in case of a work-related injury. Employees who wish to be taken to their personal physician for treatment of work-related injuries must have a written request on file with the Superintendent. It is the employee's responsibility to inform his/her supervisor that he/she has such a request on file.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CERTIFICATED PERSONNEL

Policy No.: 4161

### Industrial Accident/Illness Leave

Board Adopted: 9/12/07

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In each fiscal year, allowable leave for certificated employees for any single industrial accident or illness shall be for 60 days during which the schools of the District are in session or when the employee would otherwise have been performing work for the District.

Allowable industrial accident/illness leave shall not accumulate from year to year.

When a certificated employee is absent from his/her duties because of an industrial accident or illness:

1. Industrial accident or illness leave shall start on the first day of absence.
2. The employee shall be paid such portion of the salary due for any month in which the absence occurs as, when added to the temporary disability indemnity under Division 4 or 4.5 of the Labor Code, will result in a payment to the employee of not more than his/her full salary.
3. Industrial accident or illness leave shall be reduced by one day for each day of authorized absence, regardless of a temporary disability indemnity award.
4. When an industrial accident or illness leave overlaps into the next fiscal year, the employee is entitled to only the amount of unused leave due the employee for the same illness or injury.

Upon expiration of allowable leave for an industrial accident or illness, the employee may use personal illness and injury leave. If the employee continues to receive temporary disability indemnity, he/she may elect to take as much of the accumulated sick leave which, when added to his/her temporary disability indemnity, will result in a payment to the employee of not more than the employee's full salary.

During any paid leave of absence, the employee may endorse to the District the temporary disability indemnity checks received on account of his/her industrial accident or illness. In those cases, the District shall issue appropriate salary warrants for payment of the employee's salary, and shall deduct normal retirement, other authorized contributions, and the temporary disability indemnity, if any, actually paid to and retained by the employee for periods covered by such salary warrants.

|                  |                |   |
|------------------|----------------|---|
| Legal Reference: | Education Code |   |
|                  | 44977          | Salary Deductions During Absence from Duties                        |
|                  | 44978          | Provisions for Certificated Employee Sick Leave                     |
|                  | 44983          | Exception to Sick Leave   |
|                  | 44984          | Required Rules for Industrial Accident and Illness Leave of Absence |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CLASSIFIED PERSONNEL

Policy No.: 4210

### Classified Personnel

Board Adopted: 9/12/07

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The Board of Trustees desires to fill each of its classified positions with highly skilled and qualified persons, consistent with position requirements. The primary role of classified personnel is to provide services that support and enhance the District's educational program.

The classified service shall consist of all employees in positions not requiring certification unless the position is specifically exempted from the classified service. Individuals who possess certification qualifications shall not be prohibited from being employed in a classified position.

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

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

|                  |                |  |
|------------------|----------------|--|
| Legal Reference: | Education Code |  |
|                  | 45100-45139    | Employment of Classified Staff         |
|                  | 45160-45166    | Salaries and Differential Compensation |
|                  | 45190-45210    | Resignation and Leaves of Absence      |
|                  | 45220-45320    | Merit System                           |
|                  | 49406          | Examination for Tuberculosis           |
|                  | 51760-51769.5  | Work Experience Education              |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CLASSIFIED PERSONNEL

Regulation No.: 4210

## Classified Personnel

Board Adopted: 9/12/07

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Individuals hired solely for the following purposes are exempt from the classified service:

1. Substitute or short-term employees who are employed for less than 75 percent of the school year to replace any classified employee who is temporarily absent from duty.
2. Part-time playground positions (noon duty aides).
3. Apprentices and professional experts employed on a temporary basis for a specific project.
4. Full-time day students employed part-time.
5. Part-time students employed part-time in any program conducted by a community college district pursuant to Education Code 51760 et seq. and which is financed by state or federal funds.

Persons hired solely for purposes that are exempted from the classified service shall nevertheless fulfill the obligations of classified employees related to physical examinations, fingerprinting, and tuberculosis tests. Employment for such purposes after conviction of a sex or controlled substance offense shall be subject to the provisions of Education Code 45123 and 45124.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CLASSIFIED PERSONNEL

Policy No.: 4211

## Recruitment and Selection

Board Adopted: 9/12/07

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In order to secure quality personnel, the District shall maintain an effective recruitment program based upon alertness to good candidates, initiative that results in prompt action, and good personnel practices in dealing with applicants.

The Superintendent shall determine the personnel needs of the District. He/she shall locate suitable candidates and make recommendations to the Board of Trustees for employment.

No inquiry shall be made with regard to the age, race, color, religion, sex or national origin of persons proposed for or seeking employment. Questions regarding handicap shall be asked only when directly related to the job.

District employment practices shall not discriminate against authorized aliens. Legally-required inquiries to assure employment eligibility status shall be made in accordance with Board policy and administrative regulation.

The Superintendent shall ensure that persons nominated for employment meet all qualifications established by law and by the Board.

Legal Reference:      Education Code  
200-261                  Prohibition of Discrimination on the Basis of Sex  
44066                    Limitations on Certification Requirements  
45103-45138            Employment (Classified Employees)  
49406                    Examination for Tuberculosis

Code of Regulations, Title 5  
30-31                    Affirmative Action Employment Programs  
Title VII                Civil Rights Act as Amended by Title IX, Equal Employment  
Opportunity Act

Immigration Reform and Control Act of 1986

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CLASSIFIED PERSONNEL

Policy No.: 4212

### Dismissal/Suspension/Disciplinary Action – Page 1

Board Adopted: 9/12/07

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#### Dismissal of Probationary Employment

At any time prior to the expiration of the probationary period, the Superintendent may dismiss a probationary classified employee from the District. A probationary employee shall not be entitled to a hearing and may not pursue a dismissal grievance under the applicable classified employees' collectively bargained agreement, if any. To the extent permitted by law, where a provision of a collectively bargained agreement conflicts with this policy, the provision of the collectively bargained agreement will be considered controlling.

#### Progressive Discipline

Except in those situations where immediate disciplinary action is justified, disciplinary action will not be initiated unless and until warnings have been issued to correct a problem leading up to the use of the disciplinary procedure. Such warnings will state the nature of the problem to be corrected and give a specific time within which to correct the problem. The warning shall also include the disciplinary action that will be recommended if the problem is not corrected.

The number and nature of the warning(s) will depend upon the seriousness of the offense. The normal process would include initially a verbal warning; second instance a memo; third instance a memo with a copy to the personnel file which includes: (1) the nature of the problem; (2) specific time period to correct the problem, if relevant; (3) the history of prior warnings if relevant; and (4) possible disciplinary action to be taken if the problem is not corrected.

#### Dismissal/Suspension/Disciplinary Action of Permanent Employee

Permanent classified employees shall be subject to certain personnel actions only for cause, including suspension without pay, demotion, reduction of pay, deprivation of any material or significant incident of classification, reassignment without a contractual or legal basis, or dismissal.

#### Causes

In addition to any disqualifying or actionable causes otherwise provided for by statute, regulation, or by policy/regulation of the District, each of the following constitutes cause for personnel action against a permanent classified employee:

1. Knowingly falsifying any information supplied to the District, including, but not limited to, information supplied on application forms, employment records, or any other District records.
2. Incompetence.
3. Inefficiency.
4. Neglect of duty.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CLASSIFIED PERSONNEL

Policy No.: 4212

### Dismissal/Suspension/Disciplinary Action – Page 2

Board Adopted: 9/12/07

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5. Insubordination. Willful Disobedience.
6. Dishonesty.
7. Drinking alcoholic beverages while on duty or in such close time proximity thereto as to cause any detrimental effect upon the employee or upon employees associated with him or her.
8. Possessing or being under the influence of an illegal controlled substance at work or away from work, or furnishing a controlled substance to a minor.
9. Conviction of a felony, conviction of any sex offense made relevant by provisions of law, or conviction of a misdemeanor which is of such a nature as to adversely affect the employee's ability to perform the duties and responsibilities of his or her position. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, is deemed to be a conviction for this purpose.
10. Absence without leave, excessive absenteeism, and/or excessive, repeated tardiness.
11. Discourteous treatment of the public, students, or other employees.
12. Improper political activity, including engaging in political activities during assigned hours of duty, in support of a ballot measure or candidate using District funds, services, supplies or equipment.
13. Misuse of District property.
14. Performing work for an outside employer or an independent contract while in District paid status, including during hours of work and paid leave, but excluding vacation time.
15. Violation of District, Board, or departmental rule, policy or procedure.
16. Failure to possess or keep in effect any license, certificate, or other similar requirement necessary.
17. Refusal to take and subscribe to any oath or affirmation which is required by law in connection with his or her employment.
18. A physical or mental disability which precludes the employee from the proper performance of his or her duties and responsibilities as determined by competent medical authority with due regard for applicable state and federal disability laws, except as otherwise provided by contract or by law regulating the retirement of employees.
19. Unlawful discrimination, including harassment, on the basis of race, religious creed, color, national origin, ancestry, physical disability, medical condition, marital status, sex, sexual orientation or age against the public or other employees when acting in the capacity of a District employee.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CLASSIFIED PERSONNEL

Policy No.: 4212

### Dismissal/Suspension/Disciplinary Action – Page 3

Board Adopted: 9/12/07

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20. Unlawful retaliation against any other District officer or employee or member of the public who, in good faith, reports, discloses, divulges, or otherwise brings to the attention of any appropriate authority any information relative to an actual or suspected violation of state or federal law occurring on the job or directly related thereto.
21. Any other failure of good behavior either during or outside of duty hours which is of such nature that it causes discredit to the District or his or her employment.

In accordance with the Education Code, no personnel action shall be taken for any cause which arose more than two (2) years before the date on which a statement of charges and notice of intent to dismiss or suspend is served on a classified employee by the District or its designee, unless said cause was concealed or not disclosed by the employee when it could reasonably be assumed that the employee should have disclosed the facts to the District. The steps of the process are prescribed in California Education Code.

|                  |                              |  |
|------------------|------------------------------|--|
| Legal Reference: | Education Code               |  |
|                  | 35161                        | Powers and Duties Generally  |
|                  | 44009                        | Conviction of Specific Crimes  |
|                  | 44010                        | Sex Offense  |
|                  | 44011                        | Controlled Substance Offense   |
|                  | 45101                        | Definitions  |
|                  | 45113                        | Rules and Regulations Non Merit District   |
|                  | 45116                        | Notice of Disciplinary Action  |
|                  | 45123                        | Violent or Serious Felonies  |
|                  | Vehicle Code                 |  |
|                  | 1808.8                       | Schoolbus; Dismissal for Safety-Related Cause; Reinstatement; Reporting Requirements |
|                  | United States Code, Title 42 |  |
|                  | 12101-12213                  | Americans With Disabilities Act  |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CLASSIFIED PERSONNEL

Regulation No.: 4212

## Dismissal/Suspension/Disciplinary Action – Page 1

Board Adopted: 9/12/07

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### Initiation and Employee Notification of Charges

An employee who is subject to disciplinary action shall be informed in writing of the charges. Upon request, the employee will also be provided with an opportunity to meet with the Superintendent concerning the discipline sought to be imposed.

### Statement of Charges

A statement of the specific charges against the employee shall be written in ordinary and concise language stating the specific act(s) and/or omission(s) on which the disciplinary action is based and shall include the cause and reference to any rules and regulations which have been violated. No charge, however, shall be made for a case which occurred prior to the employee's becoming permanent nor more than two (2) years from the filing of this statement of charges, unless such cause was concealed or not disclosed by such employee when it could be reasonably assumed that the employee should have disclosed the fact(s) to the District.

The statement of charges shall be served in person or by registered or certified mail to the employee before recommended discipline is imposed, except in the case of immediate suspension.

A copy of the statement of charges shall be sent to the applicable collective bargaining agent, if any; however, inadvertent failure to comply with this requirement shall not constitute reason to affect ultimate disciplinary action, if any. The statement of charges shall also include the disciplinary action being recommended.

### Pre-Disciplinary Conference (Skelly)

Upon receipt of the written notice of proposed disciplinary action provided under "Statement of Charges" above and prior to the imposition of discipline, the employee shall be informed of his/her right to respond to the charges either orally or in writing to the Superintendent prior to the imposition of discipline. The employee shall be informed of his/her right to be represented at this informal conference by a representative of his/her choice.

### Right to Request a Hearing

The employee may request a hearing in writing within seven (7) working days after service of the statement of charges. A card shall be provided to the employee along with the statement of charges, the signing of the card shall constitute a demand for a hearing and denial of all charges. Failure to request a hearing within the seven (7) working days shall be deemed to be waiver of the right to the hearing. Whether or not an employee requests a hearing, he or she will be provided with an opportunity to meet with the Superintendent concerning the proposed discipline. (See Pre-Disciplinary Conference (Skelly) above.)

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CLASSIFIED PERSONNEL

Regulation No.: 4212

## Dismissal/Suspension/Disciplinary Action – Page 2

Board Adopted: 9/12/07

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In cases of recommended suspension without pay, demotion, reduction of pay, reduction of pay step in one's class, deprivation of any material or significant incident of classification, reassignment without a contractual or legal basis, or dismissal, a statement shall be included informing the employee that he or she has the right to a hearing on the charges before a mutually agreed upon hearing officer from a list provided by California State Mediation and Conciliation Service ("CSMCS").

The employee's request for a hearing must be in writing, mailed or delivered to the Superintendent no later than seven (7) working days after the date on which the District's notice of intent is served on the employee. Failure to request a hearing within such time shall constitute a waiver of the right to such hearing. The District shall inform the employee of his or her right to representation in such a hearing.

### Access to Material and Hearing Within a Reasonable Time

The employee shall be furnished with a copy of the material on which the charges are based. The hearing before a mutually agreed upon third party, shall be held within a reasonable period of time but not less than thirty (30) calendar days after the filing of a request for hearing.

### Representation in the Hearing

The employee may be represented at the hearing by a representative of his or her choice. If the representative or any witnesses required are employees of the District, they shall be released from duty to testify or represent with no loss of pay or benefits; otherwise the fees and expenses, if any, of the parties' representatives shall be their own responsibility. The number of witnesses and/or representatives released at or about the same time for purposes of participation in the hearing shall be reasonable and must not interfere with District operations.

### Recommendation of the Hearing Officer

All hearings shall be before a mutually agreed upon third party with a written recommendation to the Board and the employee.

### Results of the Formal Hearing

The Board shall make a final decision on the recommendation of the hearing officer within thirty (30) days of its receipt of the hearing officer's recommendation.

### Immediate Suspension

An employee may be immediately suspended with pay under circumstances in which the presence of the employee on the job would potentially cause harm to students, employees, public property or any other persons, and where the protection of, health, safety and/or property becomes a factor. Upon the imposition of the immediate suspension, the employee shall be given verbal notification to go home or to stay home, followed by immediate written notice.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CLASSIFIED PERSONNEL

Regulation No.: 4212

### Dismissal/Suspension/Disciplinary Action – Page 3

Board Adopted: 9/12/07

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The employee shall be given the opportunity to meet with the Superintendent who shall explain the reasons for the suspension. At such meeting, the employee may state, orally or in writing, his or her side of the matter. If the employee's statement is in writing, the District shall enter such statement in the employee's personnel file, along with the District's notice of suspension and accompanying statement of reasons. Thereafter, whether or not the employee's immediate suspension continues, shall be decided by the Superintendent. Such suspension with pay may continue for not more than thirty (30) days while an internal investigation is pending. At the District's discretion it may extend such period while a hearing is pending.

#### Compulsory Dismissal

The District shall not employ or retain in employment any person who has been convicted of any sex offense as defined in Education Code section 44010 as amended, or any controlled substance offense as defined in Education Code section 44011 as amended. However, the District may employ a person convicted of a controlled substance offense if the Board determines from the evidence it requires that the person has been rehabilitated for at least five (5) years. If any such conviction is reversed and the person acquitted or charges dismissed, except as otherwise provided below, the employee may be re-employed by the District, although re-employment is not guaranteed.

The District reserves the right to recommend dismissal of an employee for any action(s) upon which the original criminal charges were based, despite the disposition of the courts. If dismissal is recommended and upheld, an employee will not be re-employed or compensated for the time he or she was suspended, unless otherwise required to do so by law. An employee shall be given notice of the possibility of not being reimbursed during mandatory suspension if he or she is ultimately dismissed for the act(s) and/or omission(s) upon which the original charges were based.

#### Limitations Period (Timeliness)

In accordance with the Education Code, no personnel action shall be taken for any cause which arose more than two (2) years before the date on which a statement of charges and notice of intent to dismiss or suspend is served on a classified employee by the District, unless said cause was concealed or not disclosed by the employee when it could reasonably assume that the employee should have disclosed the facts to the District.

|                  |  |
|------------------|--|
| Legal Reference: | Education Code                                 |
|                  | 35161 Powers and Duties Generally              |
|                  | 44009 Conviction of Specific Crimes            |
|                  | 44010 Sex Offense                              |
|                  | 44011 Controlled Substance Offense             |
|                  | 45101 Definitions                              |
|                  | 45113 Rules and Regulations Non Merit District |
|                  | 45116 Notice of Disciplinary Action            |
|                  | 45123 Violent or Serious Felonies              |

**LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT**

**CLASSIFIED PERSONNEL**

**Regulation No.: 4212**

**Dismissal/Suspension/Disciplinary Action – Page 4**

**Board Adopted: 9/12/07**

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Legal Reference: (cont.)

Vehicle Code

1808.8

Schoolbus; Dismissal for Safety-Related Cause; Reinstatement;  
Reporting Requirements

United States Code, Title 42

12101-12213

Americans With Disabilities Act



# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CLASSIFIED PERSONNEL

Policy No.: 4216

## Probationary/Permanent Status

Board Adopted: 9/12/07

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Employees newly hired for regular positions in the classified service shall be considered probationary employees until they have satisfactorily completed up to six months of probationary service. Upon satisfactorily completing this period, they shall become permanent classified employees of the District.

New employees shall be evaluated prior to the end of the six-month probationary period. These evaluations shall indicate whether the evaluator is satisfied with the employee's ability, performance, and compatibility with the job.

Permanent employees promoted to a higher classification shall be considered probationary in their new position until they have satisfactorily completed six months of service in that position.

The Superintendent may dismiss an employee during the initial probationary period. A permanent employee who was promoted to a higher classification may be returned during the probationary period to his/her former classification.

This policy shall be made available to classified employees and the public.

Legal Reference: Education Code  
45113

Rules and Regulations for Classified Service in Districts not  
Incorporating the Merit System

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CLASSIFIED PERSONNEL

Policy No.: 4219

### Employment Responsibilities

Board Adopted: 9/12/07

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Each classified position represents a service that is important in carrying on the program of public education in this District. The community expects much from its public employees in return for adequate salaries and responsible conditions of employment.

The first responsibility of any employee is to do well in the position to which he/she has been assigned. The safety and health of students are affected by the condition of the buildings, ground and equipment. The Board of Trustees believes that since the classified employees are working in an educational environment and many are working closely with students they should attempt to conduct themselves in a manner that will serve as a good example to youth.

Public education is a cooperative venture involving the services of many people. The District functions best when there is a spirit of cooperation among all employees, when the employees have confidence in and respect for the rights and responsibilities of others.

Each employee should seek to learn as much as possible about the total program of the schools, for he/she will be called upon frequently to answer questions about the schools and to interpret the school program to the community.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## CLASSIFIED PERSONNEL

Policy No.: 4261

### Industrial Accident/Illness Leave – Page 1

Board Adopted: 9/12/07

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Leave of absence for industrial accidents or illnesses shall be provided to classified employees who have served in the District continuously through the probationary period.

In each fiscal year, allowable leave for any single industrial accident or illness shall be for 60 working days.

Allowable leave shall not accumulate from year to year.

When a classified employee is absent from his/her duties because of an industrial accident or illness:

1. Industrial accident or illness leave shall start on the first day of absence.
2. Payment for wages lost on any day shall not, when added to an award granted the employee under the workers' compensation laws of this state, exceed the normal wage for the day.
3. Industrial accident or illness leave shall be reduced by one day for each day of authorized absence, regardless of a compensation award made under workers' compensation.
4. If an industrial accident or illness leave overlaps into the next fiscal year, the employee is entitled to only that amount remaining at the end of the fiscal year in which the injury or illness occurred, for the same illness or injury.

Upon expiration of allowable leave for an industrial accident or illness, the employee shall use personal illness and injury leave. If the employee continues to receive workers' compensation, he/she shall be entitled to use only as much of his/her accumulated or available sick leave, accumulated compensating time, vacation or other available leave as, when added to the employee's workers' compensation award, will provide for a full day's wage or salary.

During any paid leave of absence, the employee shall endorse to the District the workers' compensation checks received on account of his/her industrial accident or illness. In those cases, the District shall issue appropriate salary warrants for payment of the employee's salary and shall deduct normal retirement and other authorized contributions.

When available paid leave has been exhausted, the employee shall be so notified in writing and shall be offered an opportunity to request additional leave.

When all available leaves of absence, paid or unpaid, have been exhausted and the employee is not medically able to assume the duties of his/her position, the employee shall be placed either in another position or on a reemployment list for a period of 39 months. If during this time the employee becomes medically able, he/she shall be employed in a vacant position in the class of his/her previous assignment over all other available candidates, except for a reemployment list established because of lack of work or lack of funds, in which case the employee shall be listed in accordance with appropriate seniority regulations. An employee who has been placed on a reemployment list and has been medically released for return to duty, but fails to accept an appropriate assignment, shall be dismissed.

Any employee receiving benefits under this leave shall, during periods of injury or illness, remain within the

State of California unless the Board of Trustees authorizes travel outside the state.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

**CLASSIFIED PERSONNEL**

**Policy No.: 4261**

**Industrial Accident/Illness Leave – Page 2**

**Board Adopted: 9/12/07**

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During this leave, the employee may return to his/her position without suffering any loss of status or benefits. Periods of leave of absence, paid or unpaid, shall not be considered to be a break in service of the employee.

Legal Reference:      Education Code  
                                 45191              Leave of Absence for Illness or Injury  
                                 45192              Industrial Accident and Illness Leaves for Classified Employees

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL

Policy No.: 4300

### Management, Supervisory and Confidential Personnel – Page 1

Board Adopted: 9/12/07

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#### Senior Management of the Classified Service

The Board of Trustees recognizes that effective management is vital to the success of District operations. Management personnel are expected to demonstrate initiative and good judgment in the development, implementation and oversight of District programs. Supervisors shall promote the productivity, professional growth and teamwork of District staff.

The Board shall adopt policies related to management, supervisory and confidential personnel insofar as they are needed to comply with law and describe circumstances of employment within the District.

#### Management Positions

Management employees shall be defined as follows:

1. Management employees are those persons having significant responsibilities for formulating District policies or administering District policies and programs and who have been legally designated as management by the Governing Board.
2. Supervisory employees are those persons having the authority to make recommendations to the Superintendent concerning the employees under their supervision. This authority shall extend to the following areas: hiring, transfer, suspension, layoff, recall, promotion, discharge, assignment, reward, discipline, direction, work assignment and discipline.

#### Confidential Employees

A “Confidential Employee” is an employee who, in the regular course of duty has access to or possesses information relating to the employer’s employer-employee relations. Confidential employees shall be excluded from membership in any employee bargaining unit.

The Governing Board will, on recommendation of the Superintendent, designate the confidential employees of the District.

|                  |                |   |
|------------------|----------------|---|
| Legal Reference: | Education Code |   |
|                  | 35031          | Term of Employment                                    |
|                  | 45100.5        | Senior Management Positions                           |
|                  | 45104.5        | Abolishment of Senior Classified Management Positions |
|                  | 45108.5        | Definitions of Senior Classified Management Employees |
|                  | 45108.7        | Waiver of Provisions of 45108.5                       |
|                  | 45128          | Overtime  |
|                  | 45130          | Exclusion from Overtime Provisions                    |
|                  | 45256.5        | Designation of Certain Positions                      |

**LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT**

**MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

**Policy No.: 4300**

**Management, Supervisory and Confidential Personnel – Page 2**

**Board Adopted: 9/12/07**

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Legal Reference: (cont.)

Government Code

3540.1 Definitions, (g) “Management Employee” and (m) “Supervisory Employee”

3543.4 Management Position; Representation

3545 Appropriateness of Unit; Basis

Court Decisions

*Auer v. Robbins* (1997) 117 S.Ct. 905

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL

Regulation No.: 4300

### Management, Supervisory and Confidential Personnel

Board Adopted: 9/12/07

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#### Designation of Management/Confidential Employees

The Board of Trustees designates the following as management and confidential positions. All individuals serving in these positions and such other positions that may be designated shall be members of the management team.

#### Management

District Superintendent  
Chief Business Official

Principal/Chief Instructional Officer

#### Confidential

Administrative Assistant, Superintendent

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL

Policy No.: 4313

### Promotion/Demotion/Reassignment

Board Adopted: 9/12/07

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The Board of Trustees may promote, demote, and reassign management and confidential employees when such action is determined to be in the best interest of the District. The Board shall consider the recommendation of the Superintendent when making decisions related to promotion, demotion and reassignment.

The Superintendent shall ensure that the District complies with all applicable statutory deadlines and due process procedures.

|                  |                |  |
|------------------|----------------|--|
| Legal Reference: | Education Code |  |
|                  | 35031          | Senior Management Employee in the Classified Service: Nonreelection                                    |
|                  | 44660-44665    | Evaluation and Assessment of Performance of Certificated Employees                                     |
|                  | 44850.1        | No Tenure in Administrative or Supervisory Positions   |
|                  | 44896          | Transfer of Administrator or Supervisor to Teaching Position   |
|                  | 44951          | Continuation in Position Unless Notified (Position Requiring Administrative or Supervisory Credential) |
|                  | 45101          | Definitions (Including Disciplinary Action, Cause)   |
|                  | 45113          | Rules for Classified Service in Districts not Incorporating the Merit System                           |

#### Court Decisions

*Jefferson v. Compton Unified School District* (1993) 14 Cal.App.4<sup>th</sup> 32

*Ellerbroek v. Saddleback Valley Unified School District* (1981) 177 Cal.Rptr. 910

*Hentschke v. Sink* (1973) 34 Cal.App.3d 19

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL

Policy No.: 4315

### Evaluation/Supervision – Page 1

Board Adopted: 9/12/07

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#### Certificated Management

The Board of Trustees shall establish and define job responsibilities for administrative personnel. The evaluation and assessment of the competency of administrative personnel shall be based on:

1. The administrator's progress toward agreed-upon goals, objectives and tasks.
2. General expectations of performance that recognize professional responsibility, accountability and attitude.
3. Additional factors as determined by the Superintendent.

The evaluation shall recognize the worth and needs of the individual in the total working environment and shall provide direction toward the improvement of his/her effectiveness.

Administrators shall be evaluated formally at least once every school year. Evaluation is a continuous process.

Formal management evaluations shall be recorded in writing on a form prescribed by the Superintendent. The evaluation shall include recommendations for improvement and/or focus areas for growth.

The evaluation report must be signed by the evaluator and the evaluatee and may be reviewed by the evaluator's immediate supervisor at the request of either party. The signature of the evaluated administrator shall not show agreement with the evaluation unless so indicated above his/her signature.

A copy of the report shall be given to the administrator by June 30. The employee may make a written response to the evaluation at any time up to 10 days after receiving a copy of the evaluation. The response shall be attached to the evaluation and permanently placed in the employee's personnel file.

For 12-month employees, the written evaluation report shall be given to the administrator no later than June 30 and a discussion of the evaluation shall be held no later than July 30 of the year in which the evaluation takes place.

The Superintendent shall develop regulations and procedures for the evaluation of all administrative and supervisory personnel. These written regulations and procedures shall be available to administrative and supervisory personnel.

#### Classified Management Employees

Classified management personnel will be evaluated according to the procedures developed by the Superintendent and approved by the Board. The evaluation shall include recommendations for improvement if needed. Assistance shall be provided by the District as necessary.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL

Policy No.: 4315

### Evaluation/Supervision – Page 2

Board Adopted: 9/12/07

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The evaluation form must be signed by both the person being evaluated and the supervisor making the evaluation. The signature of the evaluated management employee shall not show agreement with the evaluation unless so indicated above the signature of the employee. The employee may make written response to the evaluation at any time up to 10 days after receiving a copy of the evaluation. The response shall be attached to the evaluation and placed in the employee's personnel file.

### Confidential Personnel

The Superintendent shall develop appropriate procedures for the evaluation of confidential personnel. Evaluations shall be administered in the same manner and time schedule as classified employees who have similar but nonconfidential positions with the District.

|                  |                 |  |
|------------------|-----------------|--|
| Legal Reference: | Education Code  |  |
|                  | 33039           | State Guidelines for Teacher Evaluation Procedures   |
|                  | 35171           | Availability of Rules and Regulations for Evaluation of Performance                              |
|                  | 44660-44665     | Evaluation and Assessment of Performance of Certificated Employees                               |
|                  | 45113           | Rules and Regulations for the Classified Service in Districts not Incorporating the Merit System |
|                  | Government Code |  |
|                  | 3543.2          | Scope of Representation (Re Evaluation Procedures)   |

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL

Policy No.: 4331

### Staff Development

Board Adopted: 9/12/07

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The Board of Trustees recognizes that professional development opportunities enhance employee effectiveness and contribute to personal growth. Staff development for management, supervisory and confidential personnel shall be designed to guide instructional improvement, build leadership skills, and enhance overall management efficiency.

The Superintendent shall develop a plan for administrator support and development activities based on a systematic assessment of the needs of District students and staff and aligned to the District's vision and goals. The Board desires that all administrators participate in planning activities that are pertinent to their specific areas of responsibility.

Within budget parameters, the Superintendent may approve participation in activities that will benefit individual administrators and enhance their contributions to the District.

The Superintendent shall evaluate the benefit to staff and students of professional development activities.

Legal Reference:      Education Code  
                                 44510-44517      Principal Training Program  
                                 44681-44689.2      Administrator Training and Evaluation

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## **MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL**

Regulation No.: 4331

### **Staff Development**

Board Adopted: 9/12/07

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Staff development activities may include but are not limited to:

1. Professional education conferences or committee meetings.
2. Courses offered by institutions of higher education.
3. Workshops offered by the District, Santa Clara County Office of Education or state.
4. Small-group activities.
5. Self-directed learning.
6. Observation of other schools.
7. Follow-up activities that help staff implement newly acquired skills.

# LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

## MANAGEMENT, SUPERVISORY AND CONFIDENTIAL PERSONNEL

Policy No.: 4361

### Leaves

Board Adopted: 9/12/07

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The Board of Trustees recognizes the need to provide for leaves which management and confidential personnel may take for justifiable reasons. Such leaves shall be authorized pursuant to Board policies and/or administrative regulations.

Certificated management and supervisory employees shall be entitled to those leave provisions provided in the certificated agreement unless otherwise specified in Board policy, administrative regulations or individual contract.

Classified management, supervisory and confidential employees shall be entitled to those leave provisions provided in the classified negotiated agreement unless otherwise specified in Board policy, administrative regulations or individual contract.

|                  |                |   |
|------------------|----------------|---|
| Legal Reference: | Education Code |   |
|                  | 44036          | Leaves of Absence for Judicial and Official Appearances |
|                  | 44037          | Unlawful to Encourage Exemption from Jury Duty          |
|                  | 44940          | Sex Offenses and Narcotic Offenses; Compulsory Leave    |
|                  | 44962-44988    | Leaves of Absence (Certificated)                        |
|                  | 45190-45210    | Leaves of Absence (Classified)                          |