

Regulation 4121: Temporary/Substitute Personnel

Status: ADOPTED

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

Hiring

The Superintendent Chief Learning Officer or designee shall recommend candidates for substitute or temporary positions for Board approval, and shall ensure that all substitute and temporary employees are assigned in accordance with law and the authorizations specified in their credential.

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

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

Permanent or probationary certificated employees who were laid off pursuant to Education Code- 44955- and who have a preferred right of reappointment shall be given priority for substitute service in the order of their original employment. (Education Code- 44956,- 44957)

Classification

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

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

To address the need for additional certificated employees when regular district employees are absent due to leaves or long-term illness, the Board may classify a teacher who is employed for at least one semester and up to one complete school year as a temporary employee. Any person whose service begins in the second semester and before March 15 may be classified as a temporary employee, even if employed for less than a semester. The Board shall determine the number of persons who shall be so employed, which shall not exceed the identified need based on the absence of regular employees. (Education Code- 44920)

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Additionally, the Board—shall classify as temporary employees those certificated persons, other than substitute employees, who are employed to:

1. ~~1.~~ Serve from day to day during the first three months of any school term to teach temporary classes which shall not exist after that time, or perform any other duties which do not last longer than the first three months of any school term (Education Code- 44919)
2. ~~2.~~ Teach in special day and evening classes for adults or in schools of migratory population for not more than four months of any school term (Education Code- 44919)
3. ~~3.~~ Serve in a limited assignment supervising student athletic activities provided such assignments have first been made available to teachers presently employed in the district (Education Code- 44919)
4. ~~4.~~ Serve in a position for a period not to exceed 20 working days, in order to prevent the stoppage of district business during an emergency when persons are not immediately available for probationary classification (Education Code- 44919)
5. ~~5.~~ Serve only for the first semester, because the district expects a reduction in student enrollment during the second semester due to mid-year graduations (Education Code- 44921)

For purposes of classifying employees pursuant to ~~item~~ **Item #1 or #2** above, the school year shall not be divided into more than two school terms. (Education Code- 44919)

Any employee hired to provide services in a categorically funded program or project may be employed for a period less than a full school year. ~~He/she~~ **An employee** may be classified as a temporary employee if the period of employment will end at the expiration of that program or project. (Education Code- 44909)

Salary and Benefits

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

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

Paid Sick Leave

Except for a retired annuitant who is not reinstated to the retirement system, any temporary or substitute employee who works for 30 or more days within a year of ~~his/her~~ employment shall be entitled to one hour of paid sick leave for every 30 hours worked. Accrued paid sick days shall carry over to the following year of employment, up to a maximum of ~~48 hours. (Labor Code 246)~~ **80 hours or ten days. However, the district may limit an employee's use of accrued paid sick days to 40 hours or five days in each year of employment. (Labor Code 246)**

Any temporary or substitute employee may begin to use accrued paid sick days on the 90th day of employment, after which the employee may use the sick days as they are accrued. (Labor Code 246)

A temporary or substitute employee may use accrued sick leave for absences due to: (Labor Code 246.5)

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~~A temporary or substitute employee may use accrued sick leave for absences due to: (Labor Code 246.5)~~

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

No employee shall be denied the right to use accrued sick days and the district shall not in any manner discriminate or retaliate against an employee for using or attempting to use sick leave, filing a complaint with the Labor Commissioner, or alleging district violation of Labor Code- 245-249. The Superintendent Chief Learning Officer or designee shall display a poster containing required information, provide notice to eligible employees of their sick leave rights, keep records of employees' use of sick leave for three years, and comply with other requirements specified in Labor Code- 245-249- and in ~~AR~~**Administrative Regulation** 4161.1/4361.1 - Personal Illness/Injury Leave.

Release from Employment/Dismissal

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

The Board may release a temporary employee at its discretion if the employee has served less than 75 percent of the number of days the regular schools of the district are maintained during one school year. After serving 75 percent of the number of days that district schools are maintained during one school year, a temporary employee may be released as long as ~~he/she~~**the employee** is notified, before the last day of June, of the district's decision not to reelect ~~him/her~~**the temporary employee** for the following school year. (Education Code- 37200,- 44954)

Reemployment as a Probationary Employee

Reemployment provisions contained in Education Code 44918 do not apply to districts with average daily attendance of over 250,000; such districts should modify the following section accordingly.

Unless released from employment pursuant to Education Code- 44954, any person employed for one complete school year as a temporary employee shall, if reemployed for the following school year in a vacant position requiring certification qualifications, be classified as a probationary employee. With the exception of on-call, day-to-day substitutes, if a temporary or substitute employee performs the duties normally required of certificated employees for at least 75 percent of the number of days the regular schools of the district were maintained in that school year and is then employed as a probationary employee for the following school year, ~~his/her~~**the employee's** previous employment as a temporary or substitute employee shall be credited as one year's employment as a probationary employee for purposes of acquiring permanent status. (Education Code- 44917,- 44918,- 44920)

Vacant position means a position in which the employee is qualified to serve and which is not filled by a permanent or probationary employee. It shall not include a position which would be filled by a

permanent or probationary employee except for the fact that such employee is on leave. (Education Code- 44920,- 44921)

A temporary employee hired pursuant to ~~item~~**Item #1** or **#2** in the section "Classification" above shall be classified as a probationary employee if the duties continue beyond the time limits of the assignment. (Education Code- 44919)

A person employed pursuant to ~~item~~**Item #5** in the section "Classification" above who is then continued in employment beyond the first semester shall be classified as a probationary employee for the entire school year and shall be reemployed to fill any vacant position in the district for which ~~he/she~~**the employee** is certified. Preference for available positions shall be determined by the Board as prescribed by Education Code- 44845- and- 44846. (Education Code- 44921)

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