

AR4121 Temporary/Substitute Personnel
Personnel

Status: ADOPTED
December 16, 2015

The County Superintendent 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 County Superintendent or designee shall recommend candidates for substitute or temporary positions 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 County Superintendent may employ substitute personnel for the remainder of the school year for positions for which no regular employee is available. The County Office shall first demonstrate to the Commission on Teacher Credentialing the inability to acquire the services of a qualified regular employee.

Classification

At the time of initial employment and each July thereafter, the County Superintendent shall classify substitute and temporary employees as such.

The County Superintendent may classify as substitute personnel a teacher hired to fill the position of a regularly employed person who is absent from service.

To address the need for additional certificated employees when regular County Office employees are absent due to leaves or long-term illness, the County Superintendent 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 County Superintendent 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.

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

1. Serve from day to day during the first three months of any school term to teach temporary classes which shall not exist after that time, or perform any other duties which do not last longer than the first three months of any school term
2. Teach in special day and evening classes for adults or in schools of migratory population for not more than four months of any school term
3. Serve in a position for a period not to exceed 20 working days in order to prevent the stoppage of County Office business during an emergency when persons are not immediately available for

probationary classification (Education Code 44919)

For purposes of classifying employees pursuant to item #1 or #2 above, the school year shall not be divided into more than two school terms. (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 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 County Superintendent shall adopt and make public a salary schedule setting the daily or pay period rate(s) for substitute employees for all categories or classes of certificated employees of the County Office.

Paid Sick Leave

Except for a retiree 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 credited with 24 hours of paid sick leave for that year. Unused sick leave shall not carry over to the following year of employment. (Labor Code 246)

A temporary or substitute employee may begin to use accrued paid sick leave on the 90th day of his/her employment, after which he/she may use the sick day as they are accrued.

A temporary or substitute employee may use accrued sick leave for absences due to:

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

No employee shall be denied the right to use accrued sick days and the County Office shall not in any manner discriminate or retaliate against any employee for using or attempting to use sick leave, filing a complaint with the Labor Commissioner, or alleging County Office violation of Labor Code 245-249. The County Superintendent 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 4161.1/4361.1 - Personal Illness/Injury Leave.

Release from Employment/Dismissal

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

Vacant position means a position in which the employee is qualified to serve and which is not filled by an employee. It shall not include a position which would be filled by an employee except for the fact that such employee is on leave. (Education Code 44920, 44921)

Legal Reference:

EDUCATION CODE

22455.5 Provision of retirement plan information to potential members
22515 Irrevocable election to join retirement plan
37200 School calendar
44252.5 State basic skills assessment required for certificated personnel
44300 Emergency teaching or specialist permits
44830 Employment of certificated persons; requirements of proficiency in basic skills
44839.5 Employment of retirant
44845 Date of employment
44846 Criteria for reemployment preferences
44909 Employees providing services through categorically funded programs
44914 Substitute and probationary employment computation for classification as permanent employee
44915 Classification of probationary employees
44916 Time of classification; statement of employment status
44917 Classification of substitute employees
44918 Substitute or temporary employee deemed probationary employee; reemployment rights
44919 Classification of temporary employees
44920 Employment of certain temporary employees; classifications
44921 Employment of temporary employees; reemployment rights (unified and high school districts)
44953 Dismissal of substitute employees
44954 Release of temporary employees
44955 Layoff of permanent and probationary employees
44956 Rights of laid-off permanent employees to substitute positions
44957 Rights of laid-off probationary employees to substitute positions
44977 Salary schedule for substitute employees
45030 Substitutes
45041 Computation of salary
45042 Alternative method of computation for less than one school year
45043 Compensation for employment beginning in the second semester
56060-56063 Substitute teachers in special education

GOVERNMENT CODE

3540.1 Educational Employment Relations Act, definitions

LABOR CODE

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

CODE OF REGULATIONS, TITLE 5

5502 Filing of notice of physical examination for employment of retired person
5503 Physical examination for employment of retired persons
5590 Temporary athletic team coach
80025-80025.5 Emergency substitute teaching permits

COURT DECISIONS

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

1277

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