

**Tri-Valley Regional Occupational Center/Program
Board Policies and Administrative Regulations**

SERIES 4000 – PERSONNEL

4000 Concepts and Roles

All Employees

Drug- and Alcohol-Free Workplace.....	4020	BP/AR
Tobacco-Free Facilities.....	4021	BP/AR
Injury and Illness Prevention Program for Employees	4022	BP/AR/E
Prevention of Infectious Diseases.....	4023	BP/AR
Nondiscrimination in Employment.....	4030	BP/AR
Complaint Procedure for Employees.....	4031	BP/AR
Sexual Harassment.....	4032	BP/AR
Employee Use of Technology	4040	BP/AR/E
Staff Social Media Guidelines	4040.1	BP
Recruitment, Selection and Appointment	4041	BP/AR
Medical Examination Requirements.....	4041.1	AR
Loyalty Oath	4041.2	AR
Fingerprints.....	4041.3	AR
Application Procedure	4041.4	AR
Selection Procedure.....	4041.5	AR
Personnel Records	4042	BP/AR
Resignations	4043	BP/AR

4100 Certificated Personnel

Staff Members	4110	BP/AR
Assignment and Transfer	4115	BP
Teaching Hours	4116	BP
Evaluation	4117	BP/AR
Separation.....	4119	BP
Salary Schedule Placement	4122	BP/AR
Retirement	4124	BP
Other Personnel.....	4125	BP
Substitute Teachers	4126	BP
Student Teachers	4127	BP
Exchange Teachers.....	4128	BP
Activities.....	4130	BP
Professional Growth	4131	BP/AR
Tutoring.....	4132	BP
Organizations	4133	BP
Sale or Promotion of Products.....	4136	BP
Liability of Staff for Student Welfare	4137	BP/AR

SERIES 4000 – PERSONNEL**4100 Certificated Personnel (continued)**

Compensation and Related Benefits	4140	BP
Salary Guidelines.....	4141	BP
Salary Warrants.....	4142	BP
Salary Deductions and Employee Insurance Coverage.....	4143	BP/AR
Retirement Benefits.....	4144	BP
Payment for Damaged Property	4145	BP
Salary Moves.....	4146	BP/AR
Absences and Leaves	4150	BP/AR
Health and Welfare Benefits	4154	BP/AR
Basic Skills Proficiency for Designated Subjects Vocational Credential.....	4160	BP/AR

4200 Classified Personnel

General Provisions	4210	BP/AR
Appointment Procedures.....	4214	AR
Assignment/Transfer/Promotion.....	4215	BP/AR
Suspension, Demotion, Release and Dismissal.....	4216	BP/AR
Layoff and Re-Employment.....	4218	BP/AR
Professional Growth	4229	BP/AR
Salary Guidelines and Compensation.....	4230	BP/AR
Holidays.....	4236	BP/AR
Retirement Benefits	4239	BP
Hours and Overtime.....	4241	BP/AR/E
Leaves.....	4243	BP/AR
Vacations.....	4244	BP/AR
Evaluations.....	4245	BP/AR
Employee Benefits	4246	BP/AR
Organizations	4253	BP
Health and Welfare Benefits (See 4154/4254/4354)	4254	BP/AR

4300 Administrative and Supervisory Personnel

Management Team Employment Conditions.....	4310	BP/AR
Health and Welfare Benefits (See 4154/4254/4354)	4354	BP/AR

Drug- and Alcohol-Free Workplace**NOTICE TO EMPLOYEES**

You are hereby notified that any employee who unlawfully manufactures, distributes, dispenses, possesses, uses or is under the influence of any alcoholic beverage, intoxicant, drug or controlled substance, as defined in state or federal law or regulations, before, during or after school hours at or in any school district workplace is in violation of Board Policy and may be in violation of other state and/or federal laws. The Tri-Valley Regional Occupational Program and its Joint Powers Governing Board considers the abuse of drugs, controlled substances, alcoholic beverages and/or intoxicants in the workplace to constitute a danger to the well-being of the staff and students.

Legal References:

EDUCATION CODE

- 44011 Controlled substance offense
- 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

UNITED STATES CODE, TITLE 20

- 7111-7117 Safe and Drug Free Schools and Communities Act

UNITED STATES CODE, TITLE 21

- 812 Schedule of controlled substances

UNITED STATES CODE, TITLE 41

- 701-707 Drug-Free Workplace Act

Policy**adopted:** June 8, 2000**updated:** June 16, 2010renumbered November 30, 2010 (*from 4237*)**TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM****Livermore, CA**

Drug- and Alcohol-Free Workplace

A Tri-Valley ROCP workplace is any place where district work is performed, any district-owned or approved vehicle used to transport students or employees to and from district classes or activities; any off-school sites when accommodating a district-sponsored or approved activity or function where students are under district jurisdiction; or during any period of time when an employee is supervising students on behalf of the district or otherwise engaged in district business.

As a condition of your continued employment, you will agree to, and comply with, district policy on a Drug- and Alcohol-Free Workplace. Specifically, you are notified of the following terms and conditions of employment:

- A. If at any time, you are convicted of any violation of a drug and/or alcohol criminal statute and that violation occurred in the workplace, as defined above, you will notify your supervisor of this conviction no later than five (5) days after the conviction. A "conviction" will include findings of guilt and pleas of guilty or nolo contendere by any adjudicatory process. Conviction will also include the imposition of a fine, sentence or probation under any federal or state drug or alcohol statute.
- B. TVROCP may require an employee to satisfactorily participate in or complete a drug and/or alcohol treatment or rehabilitation program as a term of continued employment, if that employee is found in violation of this policy.
- C. The Governing Board may not employ or retain in employment persons in classified or certificated service who have been convicted of a controlled substance offense, as defined in Education Code Section 44011 (Education Code sections 44836 and 45123).

However, upon the presentation of evidence, the Governing Board may make a finding that a person is and has been rehabilitated for a period of five (5) years or more and is, therefore, eligible for classified service (Education Code section 45123).

Whenever a certificated employee is charged and/or convicted of a controlled substance offense, as defined in Education Code Section 44011, the Commission for Teacher Credentialing (CTC) must suspend and/or revoke that person's credential(s). The TVROCP may not employ a person without a credential in a certificated position. Employment in certificated service is no longer prohibited if the conviction is reversed and the person is acquitted in a new trial, or the charge is dismissed (Education Code sections 44421, 44425, 444065, 44836).

Drug- and Alcohol-Free Workplace

- D. The Governing Board must place an employee on immediate compulsory leave of absence when that employee is charged with "aiding or abetting the unlawful sale, use or exchange to minors of certain controlled substances ..." Further disciplinary action is not necessarily dependent on the outcome of the criminal proceedings (Education Code section 44940).

The Governing Board may immediately place on compulsory leave of absence any employee charged with violating the laws relating to certain controlled substances (Education Code section 44940).

- E. The TVROCP is mandated by law to refer any violation of the Drug and Alcohol-Free Workplace policy for prosecution. You are expected to make a good faith effort to comply with this policy.

The Personnel Office maintains information on available programs for the treatment of drug and/or alcohol dependence and/or abuse. Upon request, the Personnel Office will provide you and/or your bargaining unit representative, if applicable, with a list of available counseling and/or rehabilitation services. If you are concerned about confidentiality, you may obtain information on available and approved services from Alameda County Social Services.

Regulation**approved:** June 8, 2000**updated:** June 16, 2010renumbered November 30, 2010 (*from 4237*)**TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM****Livermore, CA**

Tobacco-Free Facilities

The Tri-Valley ROCP Governing Board recognizes the health hazards associated with tobacco products, including the breathing of second-hand smoke, and desires to provide a healthy environment for students and staff.

Employees are encouraged to serve as models for good health practices that are consistent with the Tri-Valley ROCP's instructional programs.

In accordance with state and federal law, smoking is prohibited in all Tri-Valley ROCP facilities and vehicles. (20 USD 6038, Labor Code 6404.5.)

The Tri-Valley ROCP Governing Board further prohibits the use of tobacco products at all times on all property owned or controlled by the Tri-Valley ROCP. This prohibition applies to all employees, students, and visitors at any activity or event on property owned, leased, rented, in use by or from the Tri-Valley ROCP.

The Superintendent, or designee, shall inform students, parents/guardians, employees, and the public about this policy and related procedures.

Legal References:

EDUCATION CODE

35161 Powers and duties

48901 Smoking or use of tobacco; steps to discourage

HEALTH AND SAFETY CODE

39003 Control of air pollution from non-vehicular sources

104420 Implementation of tobacco use prevention program

LABOR CODE

6404.5 Occupational safety and health: use of tobacco products

UNITED STATUS CODE, TITLE 20

6083 Nonsmoking policy for children's services

PERB DECISIONS

CSEA #506 and Associated Teachers of Metropolitan Riverside v. Riverside Unified School District (1989) PERB Order #750 (13 PERC 20147)

Eureka Teachers Assn. v. Eureka City School District (1992) PERB Order #955 (16 PERC 23168)

Policy

approved: June 24, 1993

updated: June 16, 2010

renumbered November 30, 2010 (*from 4272*)

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM

Livermore, CA

TOBACCO-FREE FACILITIES**A. Employee Notifications**

1. The Superintendent or designee shall notify employees of the Tri-Valley ROCP's tobacco-free facilities policy.
2. The notification shall also inform them of:
 - a. Their need to abide by Tri-Valley ROCP policy as a condition of employment.
 - b. The dangers of tobacco use in the workplace, including its threat to the health and safety of employees, students and the public.
 - c. Available resources which may help employees stop using tobacco.
 - d. Possible disciplinary actions in accordance with Governing Board policy, state law and applicable agreements.

B. Enforcement Procedures for Visitors

1. A visitor who smokes in or on any Tri-Valley ROCP facility, or during an activity run by the Tri-Valley ROCP, shall be informed of the Tri-Valley ROCP's tobacco-free facilities policy and asked to refrain from smoking.
2. If the person fails to comply with this request, the following actions may ensue:
 - a. The matter may be referred to the Superintendent or designee responsible for the area or the event.
 - b. The Superintendent or designee may direct the person to leave school property.
 - c. If necessary, the Superintendent or designee may request local law enforcement assistance in removing the person from Tri-Valley ROCP facilities or activities.
 - d. If the person repeatedly violates the tobacco-free facilities policy, the Superintendent or designee may prohibit him/her from entering Tri-Valley ROCP facilities or attending Tri-Valley ROCP activities for a specified period of time.

**Regulation
approved:**

updated: June 16, 2010

renumbered November 30, 2010 (from 4272)

**TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM
Livermore, CA**

INJURY AND ILLNESS PREVENTION PROGRAM FOR EMPLOYEES

The Tri-Valley Regional Occupational Center/Program is committed to the safety and health of all employees and recognizes the need to comply with laws and regulations governing injury and accident prevention.

The Superintendent, or designee, is authorized and directed to establish regulations governing employee safety that comport with the applicable laws and regulations.

Legal References:**EDUCATION CODE**

32020 Gates to School Grounds

32066 Safety: public and private institutions

35161 Powers and duties

LABOR CODE

6305 Occupational safety and health standards; special order

6310 Retaliation for filing complaint prohibited

6401.7 Injury prevention programs

6400-6413.5 Responsibilities and duties of employers and employees

CODE OF REGULATIONS, TITLE 8

3203 Injury and illness prevention program

5095-5100 Control of noise exposure

CODE OF FEDERAL REGULATIONS, TITLE 28

1910.95 Noise standards

Administrative Code, Title 8

3202 General Industrial Safety Orders (State law based on SB 198)

Policy

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renumbered November 30, 2010 (*from 4270*)

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM

Livermore, CA

INJURY AND ILLNESS PREVENTION PROGRAM FOR EMPLOYEES

1. **Support**
 - a. All employees shall comply with the injury and illness prevention program.
 - b. Every employee is directed to comply with all aspects of the program.
 2. **Responsibility**
 - a. The Superintendent, or designee, will be responsible for overseeing the illness and injury prevention program, including the following tasks:
 - (1) Compliance with the program.
 - (2) Proper maintenance of the records.
 - (3) Appropriate training of employees.
 - (4) Ensuring that appropriate safety equipment is available to affected employees.
 - (5) Overseeing annual safety inspections.
 - (6) Performing all duties necessary to ensure compliance with applicable safety regulations.
 3. **Responsible Person**
 - a. Chief Business Officer
 4. **Backup Person**
 - a. Director, Instructional and Student Support Services
- B. System**
1. **Identifying and Evaluating**
 - a. The employer's system for identifying, evaluating and preventing occupational safety and health hazards, includes the following:
 - (1) Review all applicable general industrial safety orders (Title 8) and other safety orders that apply to the education of students.

INJURY AND ILLNESS PREVENTION PROGRAM FOR EMPLOYEES

- (2) Review all current procedures to assess how safe they are.
 - (3) Investigate all accidents, illnesses and unusual events that have occurred. If the incident has potential for injury, a report must be filled out with corrective action.
 - (4) Conduct periodic and scheduled inspections of all sites in a timely manner.
 - (5) Evaluate information provided by employees (*see Section V.*).
2. Hazard evaluations will be completed periodically for the following work areas, and job safety classes will be held for appropriate personnel.
- a. Name of area: All classrooms and offices.
Where the area is: All sites.
Job safety class: Office workers, teachers, teachers' aides, all management.
 - b. Name of area: Transportation Pathways/ Auto Facility, custodial, industrial technology.
Where the area is: High school sites.
Job safety class: Industrial arts teachers, custodians, Auto Specialist, Auto Machinist, Small Engines, Auto Collision Repair and Refinishing.
3. The occupational safety and health hazards identified above are documented in the following manner:
- a. The information gathered in II.B is reviewed, then filed in the Tri-Valley ROCP office.
4. Safe working conditions, work practices and protective equipment requirements are documented and communicated in the following manner:
- a. Codes of safe practices have been developed for both general and specific job classes and are located in the binder maintained in the maintenance office.
 - (1) (NOTE: Code of Safe Practices includes both work practices and protective equipment requirements.)

INJURY AND ILLNESS PREVENTION PROGRAM FOR EMPLOYEES

- (2) Frequency of scheduled inspection: Quarterly school site custodian; Annual TVROCP;
 - (3) Verified by: Chief Business Official, Director of Instructional and Student Support Services, Custodian.
- b. Documentation of inspections:
- (1) Periodic inspections are documented on the standard district inspection form (available at the Tri-Valley ROCP office).
 - (2) Completed forms are maintained in the Tri-Valley ROCP office.

D. Safety Training

1. Employer safety training is provided initially or in the following circumstances:
 - a. Initial training of all current employees (who have not already been trained prior to July 1, 1991), on their first thirty (30) days of return to work.
 - b. New employees will be given initial training within thirty (30) days of employment.
 - c. When an employee is given a new task, he or she will be trained prior to starting the new task.
 - d. Supervisors will be trained on hazard and safety practices in their work area.
 - e. Training will cover all known hazards in their area, both general and job specific, in addition to potential occupational safety and health hazards.
 - f. Documentation of training will be maintained in the Personnel Office, at the Tri-Valley ROCP office, on the prescribed form.
 - g. Refresher training, where needed, will be provided at the frequency required.

INJURY AND ILLNESS PREVENTION PROGRAM FOR EMPLOYEES**E. Communication**

1. Effective communication with employees has been established, including the following methods:
 - a. Communication of safe working conditions, work practices and required personal protection equipment is part of the initial training session.
 - b. Other forms of employer to employee communication on safety topics including, safety insurance, are provided by handbooks, newly updated training memos, posters, newsletters, etc.
2. Employees have been advised in writing and by training that safe work practices and required personal protective equipment are mandatory and will be enforced in the following ways:
 - a. Recognition for compliance/good safety practices with certificates.
 - b. Discipline for non-compliance of safety procedures which includes, but may not be limited to, all provisions of the employee collective bargaining agreements.
3. The employer's methods to solicit safety related information from employees will be as follows:
 - a. Direct employee feedback.
 - b. Employer safety meeting.
 - c. Training programs which allow employee feedback.
 - d. Anonymous suggestions turned into program coordinator (forms available at the Safety Department, located in the Tri-Valley ROCP office, or at the school office).

F. Record Keeping

1. Record keeping requirements will be followed which include:
 - a. Maintenance of all written records for three (3) years, except those prescribed by law to be kept longer.

INJURY AND ILLNESS PREVENTION PROGRAM FOR EMPLOYEES (continued)

- b. Retention of training records on all employees for at least three (3) years after the employee has left, unless they are required by law to be kept longer.
- c. All suggestions, reports and inspections are part of the written record.

Regulation

approved: September 17, 1992

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renumbered November 30, 2010 (*from 4270*)

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM

Livermore, CA

PREVENTION OF INFECTIOUS DISEASES

The Tri-Valley ROCP Governing Board recognizes the importance of providing training and information on infectious disease prevention techniques to all pupils and staff members.

The Tri-Valley ROCP Governing Board also recognizes its shared responsibility with the home and the community to promote appropriate disease prevention procedures in the handling of blood and bodily fluids.

It is the goal of this policy to protect the entire school community, without segregation, discrimination or stigma in promoting prevention in this area. Accordingly, infectious disease prevention techniques will be taught regardless of whether a pupil or adult with an identified infectious disease is known in the district.

The Superintendent is directed, in compliance with applicable laws, to establish administrative regulations regarding the prevention of infectious diseases and to ensure that all pupils and district employees will be provided appropriate periodic instruction in these basic procedures as recommended or required by the State Department of Education, Cal/OSHA (Occupational Safety and Health Administration) and other public health agencies and associations.

Legal References:**EDUCATION CODE**

- 35161 Powers and duties
49403 Cooperation in control of communicable disease and immunization of pupils

HEALTH AND SAFETY CODE

- 117600-118360 Handling and disposal of regulated waste
120875 Providing information to school districts on AIDS, AIDS-related conditions and Hepatitis B
120880 Information to employees of school district

CODE OF REGULATIONS, TITLE 8

- 5193 California bloodborne pathogens standard
Reportable diseases and conditions

CODE OF FEDERAL REGULATIONS, TITLE 29

- 1910.1030 OSHA bloodborne pathogens standards

Management Resources:**CDE PROGRAM ADVISORIES**

- 1016.89 Guidelines for Informing School Employees about Preventing the Spread of Infectious Diseases, including Hepatitis B and AIDS/HIV Infections and Policies for Dealing with HIV-Infected Persons in School Settings

WEB SITES

Centers for Disease Control and Prevention: <http://www.cdc.gov>

Policy

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM

approved: February 24, 1994

Livermore, CA

updated: June 16, 2010

renumbered November 30, 2010 (from 4271)

PREVENTION OF INFECTIOUS DISEASES**A. General**

1. **Hand washing**
 - a. Hand washing is the single most important technique for preventing the spread of disease.
 - b. Liquid soap is preferable to bar soap.
 - c. Hands should be washed thoroughly for 15 to 30 seconds with soap and warm running water, rinsed under running water, and thoroughly dried with paper towels:
 - (1) before eating, drinking or feeding;
 - (2) before handling food, clean utensils or kitchen equipment;
 - (3) before and after using the toilet or diapering;
 - (4) after accidental contact with body secretions such as blood, urine, feces, mucus, saliva or drainage from wounds, or with soiled garments, equipment, diapers or menstrual pads.

2. **Food and Utensils**

- a. Food and drinks should not be shared. Separate eating utensils, glasses and cups should be used.

B. Control In Laboratory Setting

1. Before a class works with blood or blood products, the teacher must explain the potentially hazardous nature of blood, emphasizing the fact that through blood, various agents can be transmitted from one person to another.
2. Before and after doing laboratory work, pupils always must wash hands with soap and water, dry hands, and cover any existing cut, wound, or open sore with a sterile dressing. The following techniques also will be used when pupils are working with human blood:
 - a. Specific procedures and safety precautions will be explained carefully before starting each laboratory exercise.

PREVENTION OF INFECTIOUS DISEASES (continued)

- b. When working with power tools and hand tools that can cause cuts, the students must be informed on the procedures for cleaning up fluids.
 - c. Each student must be taught on how to work with sharp tools.
 - d. Treat each wound with antiseptic and bandage, then report to school office.
 - e. Call for custodial staff to clean up blood and properly dispose of contaminated blood.
 - f. At the end of the class, laboratory desks will be wiped with alcohol or a school district-provided, hospital standard disinfectant.
 3. Techniques similar to the above will be used when working with any other body fluids. Working procedures will be covered by the school district's Exposure Control Plan (ECP).
- C. Cal/OSHA (Occupational Safety and Health Administration) Regulations**
1. Cal/OSHA has adopted regulations applicable to school district employees which are designed to prevent the possible spread of infection by blood borne pathogens.
 2. These regulations, which contain procedures to protect against exposure to blood and other potentially infectious materials, housekeeping procedures, contaminated waste disposal procedures and post-exposure procedures, are incorporated by reference into this regulation to the extent they apply to the school setting.
 3. Copies of the Cal/OSHA regulations are available in the school district office.

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approved: February 24, 1993
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TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM
Livermore, CA

NONDISCRIMINATION IN EMPLOYMENT

The Tri-Valley ROCP Governing Board prohibits unlawful discrimination against, and/or harassment of, Tri-Valley ROCP job applicants and employees at any Tri-Valley ROCP site and/or activity 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,
- sex, or sexual orientation.

The Tri-Valley ROCP Governing Board also prohibits retaliation against any Tri-Valley ROCP employee or job applicant who complains, testifies or in any way participates in the Tri-Valley ROCP's complaint procedures instituted in conjunction with this policy.

Any Tri-Valley ROCP employee who engages on, 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 Tri-Valley ROCP employee who observes or has knowledge of an incident of unlawful discrimination or harassment shall report the incident to the director, principal, Tri-Valley ROCP administrator or Superintendent as soon as practical after the incident. Failure of a Tri-Valley ROCP employee to report discrimination or harassment may result in disciplinary action up to and including dismissal.

The Superintendent or designee shall publicize, within the Tri-Valley ROCP and in the community, the Tri-Valley ROCP's nondiscrimination policy and the availability of complaint procedures. Such publication shall be included in each announcement, bulletin or application form that is used in employee recruitment. (34 CFR 100.6, 106.9)

A copy of this policy, and the related administrative regulation, shall be posted as required by California law. (See 5 CCR 4960)

NONDISCRIMINATION IN EMPLOYMENT (continued)

The Tri-Valley ROCP Governing Board designates the following position as Coordinator for Nondiscrimination in Employment:

Business and Personnel Services Manager
2600 Kitty Hawk Road, Suite 117
Livermore, CA 94551
925-455-4800

Legal References:

CIVIL CODE

51.7 Freedom from violence or intimidation

GOVERNMENT CODE

11135 Unlawful discrimination

12900-12996 Fair Employment and Housing Act

PENAL CODE

422.56 Definitions, hate crimes

CODE OF REGULATIONS, TITLE 2

7287.6 Terms, conditions and privileges of employment

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and second 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 1973

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

NONDISCRIMINATION IN EMPLOYMENT (continued)

COURT DECISIONS

Carter v. California Department of Veterans Affairs (2006) 38 Cal. 4th 914.

Shephard v. Loyola Marymount (2002) 102 Cal App. 4th 837.

Management Resources:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999

Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, March, 1999

U.S. DEPARTMENT OF EDUCATION, OFFICE OF CIVIL RIGHTS

Notice of Non-Discrimination, January, 1999

WEB SITES

EEOC: <http://www.eeoc.gov>

OCR: <http://www.ed.gov/offices/OCR>

DFEH: <http://www.dfeh.ca.gov>

Policy

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TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM

Livermore, CA

NONDISCRIMINATION IN EMPLOYMENT**A. Unlawful Discrimination**

1. If related to a protected category, unlawful discrimination and/or harassment of an individual includes such conduct as:
 - a. Slurs, epithets, threats or verbal abuse.
 - b. Derogatory or degrading comments, descriptions, drawings, pictures or gestures.
 - c. Unwelcome jokes, stories, teasing or taunting.
 - d. Any other verbal, written, visual or physical conduct against the individual which:
 - 1) Adversely affects his/her employment opportunities; or
 - 2) Has the purpose or effect of unreasonably interfering with his/her work performance or creating an intimidating, hostile or offensive work environment.
2. The examples set forth in this Regulation are illustrative and are not to be construed as a complete list of unlawful discriminating or harassing behaviors.

B. Reporting Discrimination

1. 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. An employee may bypass his/her supervisor when the supervisor is the alleged offender.
2. 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 Tri-Valley ROCP policy and regulations.

NONDISCRIMINATION IN EMPLOYMENT (continued)

3. The Superintendent or designee shall ensure that training is provided to all employees regarding the issues of unlawful harassment and discrimination, pursuant to governing laws.

C. Other Remedies

An employee may, in addition to filing a discrimination complaint with the Tri-Valley ROCP, 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 (1) year of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code 12960. (Government Code 12960)
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 three hundred (300) days of the alleged discriminatory act(s) or within thirty (30) days after the termination of proceedings by DFEH, whichever is earlier. (42 USC 2000e-5)

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

Legal References (next page)

NONDISCRIMINATION IN EMPLOYMENT (continued)CIVIL CODE

51.7 Freedom from violence or intimidation

GOVERNMENT CODE

11135 Unlawful discrimination

12900-12996 Fair Employment and Housing Act

PENAL CODE

422.56 Definitions, hate crimes

CODE OF REGULATIONS, TITLE 2

7287.6 Terms, conditions and privileges of employment

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and second 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 1973

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

COURT DECISIONS

Carter v. California Department of Veterans Affairs (2006) 38 Cal. 4th 914.

Shephard v. Loyola Marymount (2002) 102 Cal App. 4th 837.

Management Resources:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999

Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, March, 1999

U.S. DEPARTMENT OF EDUCATION, OFFICE OF CIVIL RIGHTS

Notice of Non-Discrimination, January, 1999

WEB SITES

EEOC: <http://www.eeoc.gov>

OCR: <http://www.ed.gov/offices/OCR>

DFEH: <http://www.dfeh.ca.gov>

Regulation

approved: June 23, 1993

updated: June 16, 2010

renumbered November 30, 2010 (from 4222)

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM

Livermore, CA

COMPLAINT PROCEDURE FOR EMPLOYEES

The Superintendent, or designee, is authorized and directed to establish procedures to be used in order to resolve concerns expressed by all employees.

Legal References:

EDUCATION CODE

35161 Powers and duties

GOVERNMENT CODE

3543 Rights of Public School Employees

Policy

approved: June 24, 1993

updated: June 16, 2010

renumbered November 30, 2010 (*from 4224*)

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM

Livermore, CA

COMPLAINT PROCEDURE FOR EMPLOYEES**A. Procedure for Filing Complaint****1. Definitions**

- a. A "complainant" is any employee filing a complaint.
- b. A "complaint" is defined as a written statement, signed by the complainant, that alleges a violation, misinterpretation, or inequitable application of Tri-Valley ROC Governing Board policies, administrative rules, regulations or procedures,
- c. "Employer" means the TVROCP Governing Board
- d. "Day(s)" means working days.
- e. "Party-in-interest" is defined as the complainant, or any person who might be required to take action, or against whom action might be taken in order to resolve the problem.

2. Procedures and Steps

- a. Each "party-in-interest" involved in a complaint will act quickly so that the complaint may be resolved promptly.
- b. Every effort should be made to complete action within the time limits contained in the complaint procedure, but with the written consent of both parties, the time limitation for any step may be extended.
- c. Steps in the Complaint Process:
 - Step 1. The complainant must deliver the complaint to the Superintendent. If the informal discussion does not resolve the complaint, a formal written complaint may be initiated, not later than thirty (30) days after the event or circumstances occasioning the complaint.
 - Step 2. The Superintendent or his/her designee will have ten (10) days to give a written decision after receipt of the complaint.

COMPLAINT PROCEDURE FOR EMPLOYEES

- Step 3. If the complaint is not settled in Step 2, the complainant—may appeal to Step 3 by written notice to the Superintendent within ten (10) days of receiving the decision in Step 2. The appeal will include a copy of the original complaint, the decision rendered at Step 2, and a clear, concise statement of the reasons for the appeal.

The Superintendent will have ten (10) days to give a written decision after receipt of the complainant's notice.

- Step 4. If the complaint is not settled in Step 3, the complainant may, within ten (10) days, appeal to Step 4 by providing the Superintendent with a request in writing for a presentation to the Tri-Valley ROCP Governing Board regarding the complaint at its regularly scheduled Board meeting. The appeal will include a copy of the original complaint, the decision rendered at Step 3, and a clear, concise statement of the reasons for the appeal. The presentation will be made in Closed or Open Session, as determined by the complainant.

The Tri-Valley ROCP Governing Board will render a decision in the matter no later than the next regularly scheduled Board meeting. The Board's decision will be reached in a manner to be determined by the Board and will be deemed the final administrative remedy.

- Step 5. All levels of the Complaint Procedure as outlined above must be followed unless all parties in interest agree to waive their rights to normal complaint processing.
- Any complaint not appealed to the next step of the procedure within the proscribed time limit shall be considered settled on the basis of the answer given at the preceding step.

B. No Reprisals

1. No reprisals will be taken against any employee for processing a complaint or participating in any way in the complaint procedure.

COMPLAINT PROCEDURE FOR EMPLOYEES (continued)

C. Release Time

1. Except for the level of Board review, complaints will ordinarily be processed during the regular work day, and reasonable release time will be provided for all participants in the investigating and processing of complaints, including the complainant, parties in interest, and witnesses, without loss of pay.

D. Response

1. If the Tri-Valley ROCP fails to respond to a complaint within the time limits specified for that level, the complainant will have the right to appeal to the next level.

E. Records

1. No complaint will be retained in the employee's personnel file. All records of the proceedings will be retained by the Personnel Department in a separate complaint file.

Sexual Harassment

The Tri-Valley Governing Board is committed to maintaining an environment that is free of sexual harassment. The unlawful sexual harassment of any Tri-Valley ROCP employee by any employee, student, or other person at a Tri-Valley ROCP program, class or any Tri-Valley ROCP-related activity is strictly prohibited.

The Tri-Valley ROCP's Superintendent or designee shall ensure that employees receive appropriate information related to sexual harassment. Tri-Valley ROCP employees shall be assured that they need not endure any form of sexual behavior or communication, including harassment because of sexual orientation. They shall further be assured that they need not endure, for any reason, any harassment which interferes with the work or educational environment of the Tri-Valley ROCP employee or an employee's emotional well-being in an Tri-Valley ROCP class, program, or Tri-Valley ROCP-related activity, or which creates an intimidating, threatening or abusive work environment for the Tri-Valley ROCP employee in a Tri-Valley ROCP class, program, or Tri-Valley ROCP-related activity.

Any employee who engages in the sexual harassment of anyone at a Tri-Valley ROCP class, program, or Tri-Valley ROCP-related activity shall be subject to disciplinary action up to and including dismissal.

Any employee who engages in, permits, condones or fails to report sexual harassment shall be subject to disciplinary action up to and including dismissal. In addition, criminal or civil charges may be brought against the alleged harasser(s) and/or any supervisor who is aware of the sexual harassment and fails to take appropriate action to stop it. Sexual harassment of minor students may also constitute violations of laws relating to child abuse which require a report to a child protective agency and/or law enforcement authorities.

Employees shall be directed that they are to immediately contact their supervisor or other Tri-Valley ROCP administrator if they feel they are being harassed. Within twenty-four (24) hours of being informed of or observing a sexual harassment incident, even if the victim has not yet complained about the incident, Tri-Valley ROCP staff members, supervisors and/or administrators shall report the sexual harassment incident to the site principal or designee and to the Tri-Valley ROCP's Superintendent or designee.

The supervisor or Tri-Valley ROCP administrator/designee and/or the site principal or designee shall promptly investigate any report of the sexual harassment of a employee at a Tri-Valley ROCP class, program, or Tri-Valley ROCP-related activity. Upon verifying that sexual harassment occurred, the supervisor or Tri-Valley ROCP administrator/designee shall ensure that appropriate action is promptly taken to end the harassment, address its effects on the person subjected to the harassment, and prevent any further instances of harassment. In addition, the employee may file a formal complaint with the Tri-Valley ROCP's Superintendent or designee in accordance with the Tri-Valley ROCP's uniform complaint procedures.

Sexual Harassment

The Tri-Valley ROCP's Governing Board expressly prohibits retaliatory behavior against any complainant or any participant in the complaint investigation process. Information related to a complaint of sexual harassment shall be kept confidential to the extent possible under the law, and individuals and/or witnesses involved in the investigation of such a complaint shall be informed that discussion of any related information outside the investigation process is improper.

Legal References:**CIVIL CODE**

51.9 Liability for sexual harassment; business, service and professional relationships

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex,

35161 Powers and duties

48980 Notice at beginning of term of rights and responsibilities; required content

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act, especially:

12940 Prohibited discrimination

12950.1 Sexual harassment training

LABOR CODE

1101 Political activities of employees

1102.1 Discrimination: sexual orientation

CODE OF REGULATIONS, TITLE 2

7287.8 Retaliation

7288.0 Sexual harassment training and education

CODE OF REGULATIONS, TITLE 5

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

UNITED STATES CODE, TITLE 42

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

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

CODE OF FEDERAL REGULATIONS, TITLE 34

106.9 Dissemination of policy

COURT DECISIONS

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

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

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

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

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

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

Management Resources:

OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

Protecting Student from Harassment and Hate Crime, January, 1999

Policy

approved: June 10, 1999

updated: June 16, 2010

renumbered November 30, 2010 (*from 4300*)

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM

Livermore, CA

Sexual Harassment**A. Prohibited Conduct**

1. Prohibited sexual harassment includes, by way of illustration and not limitation, unwelcome sexual advances, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature when:
 - a. Submission to the sexual conduct is explicitly or implicitly made a term or condition of an individual's employment status or progress.
 - b. Submission to or rejection of the sexual conduct by an individual is used as the basis for employment decisions affecting the individual.
 - c. The sexual conduct is severe, persistent or pervasive enough to have a negative impact on the individual's job performance, and/or to create an intimidating, hostile, abusive or offensive employment environment.
 - d. Submission to or rejection of the sexual conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the Tri-Valley ROCP.

2. **Specific Examples**

Types of unwelcome or unwanted sexual conduct which are prohibited by the Tri-Valley ROCP and which constitute sexual harassment include, by way of illustration and not limitation:

- a. Unwelcome sexual advances, flirtations or propositions.
- b. Touching an individual's body or clothes in a sexual way.
- c. Graffiti of a sexual nature.
- d. Displaying or distributing sexually explicit drawings, pictures and written materials.
- e. Sexual gestures, jokes or stories.
- f. Cornering or blocking of normal movements.
- g. Pressure for sexual favors.
- h. Touching oneself sexually in front of others.

Sexual Harassment

- i. Talking about one's sexual activity in front of others.
- j. Spreading rumors about or rating others as to sexual activity or performance.
- k. Retaliation against an individual who reports or participates in an investigation.
- l. Graphic verbal comments about an individual's body, sexual slurs, leering, epithets, threats, derogatory comments/names or sexually degrading descriptions.
- m. Poking, patting, pinching, grabbing, bumping, and brushing others.
- n. Teasing about over/under, early/late body development.
- o. Bra snapping, pulling clothes, "pantsing" others.
- p. Whistling or making cat calls to others.
- q. Bragging about the size of sexual organs.

B. Notifications of Policy/Regulation

- 1. A copy of the Tri-Valley ROCP's sexual harassment policy and administrative regulation shall:
 - a. Be provided to employees, including administrators and employee organizations, at the beginning of each school year;
 - b. Be displayed in a prominent location near each school's career center at which a Tri-Valley ROCP class, program or activity occurs, and/or other locations(s) in the main administrative building and/or other areas where notices of Tri-Valley ROCP rules, regulations, procedures and standards of conduct are posted;
 - c. Be provided as part of any orientation program conducted for new employees at the beginning of their employment with the Tri-Valley ROCP;

Sexual Harassment

- d. Appear in any Tri-Valley ROCP publication that sets forth in the Tri-Valley ROCP's comprehensive rules, regulations, procedures and standards of conduct.
2. All employees of the Tri-Valley ROCP shall receive either a copy of information sheet(s) prepared by the California Department of Fair Employment and Housing or a copy of Tri-Valley ROCP information sheet(s) that contain, at a minimum, components on (Government Code Section 12950):
 - a. The illegality of sexual harassment;
 - b. The definition of sexual harassment under applicable state and federal law;
 - c. A description of sexual harassment, with examples;
 - d. The Tri-Valley ROCP's complaint process available to the employee;
 - e. The legal remedies and complaint process available through the Fair Employment and Housing Department and Commission;
 - f. Directions on how to contact the Fair Employment and Housing Department and Commission.

C. Investigation of Complaints

1. All employees shall immediately report any sexual harassment incident, evidence or complaint which has been made to them by a Tri-Valley ROCP student or employee, or which they have observed or heard, to their immediate supervisor or Tri-Valley ROCP administrator. All Tri-Valley ROCP supervisors and administrators who receive such reports, or who themselves observe or hear of a sexual harassment incident, evidence or complaint shall immediately report the same to the Tri-Valley ROCP's Superintendent.
2. If the alleged sexual harassment occurred at a Tri-Valley ROCP program, class or activity by an individual not employed by or a student in the Tri-Valley ROCP, the employee/victim's supervisor or Tri-Valley ROCP administrator may assist the employee/victim in submitting his/her complaint to the appropriate person or department within the school district and/or employer of the accused individual for investigation by the school district or employer.

Sexual Harassment

3. The supervisor or Tri-Valley ROCP administrator/designee of the accused employee shall promptly investigate any complaints of sexual harassment alleged to have occurred by the employee at a Tri-Valley ROCP class, program or activity, after having consulted with the Tri-Valley ROCP's Superintendent.
4. In investigating the complaint allegations and/or in preparing his/her investigative report and decision regarding the complaint, the supervisor or Tri-Valley ROCP administrator/ designee shall make reasonable efforts to keep the matter confidential to the extent provided by law. However, he/she may discuss the complaint allegations with any of the following individuals in his/her discretion:
 - a. The complaining employee/victim.
 - b. The person accused of the harassment.
 - c. Any witnesses who may have seen or heard the harassment take place.
 - d. Anyone mentioned by the victim, accused, or other witness as having related or pertinent information.
 - e. The complaining employee/victim shall have an opportunity to describe the incident, witnesses and other evidence of the harassment, and put his/her complaint in writing.
 - f. The Tri-Valley ROCP's Superintendent or designee.
 - g. A teacher, administrator or staff member whose knowledge of the employee(s) and/or individuals involved may help in determining who is telling the truth.
 - h. Child protective agencies responsible for investigating child abuse reports.
 - i. Legal counsel for the Tri-Valley ROCP.
5. When the employee who complained and the person accused of harassment so agree, the supervisor or Tri-Valley ROCP administrator/designee may arrange for them to resolve the complaint informally with the help of a trained counselor, teacher, administrator or mediator. The employee/victim who complained shall not be asked to work out the problem directly with the accused person unless the employee/victim desires to do so and such trained help is provided.

Sexual Harassment

6. The supervisor or Tri-Valley ROCP administrator/designee shall inform the employee who complained that he/she has the right to file a formal complaint at any time in accordance with the Tri-Valley ROCP's complaint procedures. If the employee wishes to file a formal complaint, the supervisor or Tri-Valley ROCP administrator/designee will assist the employee in doing so.
7. In reaching a decision about the complaint, the supervisor or Tri-Valley ROCP administrator/ designee will consider relevant information such as:
 - a. Statements made by any of the persons specified above;
 - b. The details and consistency of each person's account;
 - c. Evidence of how the complaining employee reacted to the incident;
 - d. Evidence of past instances of harassment by the accused person;
 - e. Evidence of past harassment complaints by the complaining employee/victim that were found to be untrue;
 - f. Any other relevant information deemed by the supervisor or Tri-Valley ROCP administrator/designee as appropriate for consideration.
8. To judge the severity of the harassment, the supervisor or Tri-Valley ROCP administrator/ designee will take into consideration:
 - a. How the misconduct affected one or more employees' job performance;
 - b. The type, frequency and duration of the misconduct;
 - c. The number of persons involved;
 - d. The age and sex of the person accused of harassment;
 - e. The age and sex of the person subjected to the harassment;
 - f. The place and situation where the incident occurred;
 - g. Other incidents at the Tri-Valley ROCP class, program or activity, including incidents of harassment that were not related to sex;

Sexual Harassment

- h. Any other relevant information deemed by the supervisor or Tri-Valley ROCP administrator/designee as appropriate for consideration.
9. The supervisor or Tri-Valley ROCP administrator/designee shall provide a written report of his/her findings, decision, and reasons for the decision to the employee who complained and the person accused of the harassment. If the supervisor or Tri-Valley ROCP administrator/designee verifies that sexual harassment occurred, this report shall describe the actions he/she took and/or will take to end the harassment, address the effects of the harassment on the person harassed, and to prevent retaliation or further harassment.
10. Thereafter, the supervisor or Tri-Valley ROCP administrator/designee shall periodically determine whether or not the employee who complained has been further harassed and/or retaliated against. The supervisor or Tri-Valley ROCP administrator/designee shall keep a record of this information, take appropriate action as necessary to prevent or stop any retaliation or further harassment of the employee/victim, and shall continue this follow-up for a reasonable period after the conclusion of the complaint investigation and subsequently at the discretion of the Tri-Valley ROCP's Superintendent.
11. In the event that the complaining employee is dissatisfied with the decision of the supervisor or Tri-Valley ROCP administrator/designee, the employee may submit a written appeal of the decision to the Tri-Valley ROCP's Superintendent within fifteen (15) business days of the employee's receipt of the supervisor or Tri-Valley ROCP administrator/designee's investigation report. The written appeal shall specify the reasons for the appeal and the desired remedy the employee seeks. A copy of the appeal shall also be provided to the supervisor or Tri-Valley ROCP administrator/designee by the employee.
12. Within thirty (30) business days of receipt of a copy of the appeal by the employee, the Tri-Valley ROCP's Superintendent shall review the supervisor or Tri-Valley ROCP administrator/ designee's investigation report and determine whether to:
 - a. Accept the investigation report as it is written without further hearing;
 - b. Hear the appeal of the complainant; or
 - c. Direct further investigation as the Tri-Valley ROCP's Superintendent deems necessary or appropriate.

Sexual Harassment

13. Written notice of the Tri-Valley ROCP's Superintendent's decision shall be promptly provided to the complaining employee and to the accused. If any additional investigation is deemed necessary or appropriate by the Tri-Valley ROCP's Superintendent, it shall promptly occur by the Tri-Valley ROCP's Superintendent or an investigator designated by the Tri-Valley ROCP's Superintendent. In the event the Tri-Valley ROCP's Superintendent determines to hold a hearing concerning the appeal, all pertinent parties shall be informed in writing of the hearing date, time and location. After the hearing, the Tri-Valley ROCP's Superintendent shall provide a written decision to the complainant and the accused concerning the appeal within ten (10) business days of the hearing date. The decision of the Tri-Valley ROCP's Superintendent shall be final.

D. Enforcement

The Tri-Valley ROCP's Superintendent or designee shall take appropriate actions to supplement and/or reinforce the Tri-Valley ROCP's sexual harassment policy. As deemed needed by the Tri-Valley ROCP's Superintendent, these actions may include, by way of example but not limitation, any of the following:

1. Removing graffiti of a sexual or graphic nature from Tri-Valley ROCP property;
2. Providing staff in-service and age-appropriate student instruction concerning sexual harassment awareness;
3. Providing counseling for the individuals involved in a sexual harassment incident;
4. Notifying students, their parents/guardians and employees of the Tri-Valley ROCP's sexual harassment policy and administrative regulation;
5. Notifying child protective agencies of any sexual harassment incident as appropriate under the Mandated Child Abuse Reporter's Act;
6. Taking appropriate disciplinary action against any harasser;
7. Taking appropriate disciplinary measures against any person who is found to have made a complaint of sexual harassment which he/she knew was not true;

Sexual Harassment

8. Providing reasonable interim assistance to the victim of the sexual harassment to protect him/her from further harassment and/or retaliation;

9. Providing additional services to the victim to redress the effects of the harassment

The Tri-Valley ROCP's Superintendent or designee shall maintain records concerning all sexual harassment complaints and investigations record as appropriate.

Regulation**approved:** June 10, 1999**updated:** June 16, 2010renumbered November 30, 2010 (*from 4300*)**TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM****Livermore, CA**

Personnel

Employee Use of Technology

The Governing Board recognizes that technological resources can enhance employee performance by offering effective tools to assist in providing a quality instructional program, facilitating communications with parents/guardians, students, and the community, supporting district and school operations, and improving access to and exchange of information. 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 professional development 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 primarily for purposes related to their employment.

Employees shall be notified that computer files and electronic communications, including email and voice mail, are not private. Technological resources shall not be used to transmit confidential information about students, employees, or district operations without authority.

Online/Internet Services

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 child pornography 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. (20 USC 6777; 47 USC 254)

To ensure proper use, the Superintendent or designee may monitor employee usage of technological resources, including the accessing of email and stored files. Monitoring may occur at any time without advance notice or consent. When passwords are used, they must be known to the Superintendent or designee so that he/she may have system access.

The Superintendent or designee shall establish administrative regulations and an Acceptable Use Agreement which outline employee obligations and responsibilities related to the use of district technology. He/she also may 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 regulation.

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 required to acknowledge in writing that they have read and understood the district's Acceptable Use Agreement.

Personnel

Employee Use of Technology

Legal Reference:

EDUCATION CODE

51870-51874 Education technology

52270-52272 Education technology and professional development grants

52295.10-52295.55 Implementation of Enhancing Education Through Technology grant program

GOVERNMENT CODE

3543.1 Rights of employee organizations

PENAL CODE

502 Computer crimes, remedies

632 Eavesdropping on or recording confidential communications

VEHICLE CODE

23123 Wireless telephones in vehicles

23123.5 Mobile communication devices; text messaging while driving

23125 Wireless telephones in school buses

UNITED STATES CODE, TITLE 20

6751-6777 Enhancing Education Through Technology Act, Title II, Part D, especially:

6777 Internet safety

UNITED STATES CODE, TITLE 47

254 Universal service discounts (E-rate)

CODE OF FEDERAL REGULATIONS, TITLE 47

54.520 Internet safety policy and technology protection measures, E-rate discounts

Employee Use of Technology**Online/Internet Services: User Obligations and Responsibilities**

Employees are authorized to use district equipment to access the Internet or other online services in accordance with Board policy, the district's Acceptable Use Agreement, and the user obligations and responsibilities specified below.

1. The employee in whose name an online services account is issued is responsible for its proper use at all times. Employees shall keep account information, home addresses, and telephone numbers private. They shall use the system only under the account number to which they have been assigned.
2. Employees shall use the system safely, 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, sex, 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. Employees shall not use the system to engage in commercial or other for-profit activities without permission of the Superintendent or designee.
6. Copyrighted material shall be posted online only in accordance with applicable copyright laws.
7. Employees shall not attempt to interfere with other users' ability to send or receive email, nor shall they attempt to read, delete, copy, modify, or forge other users' email.
8. Employees shall not develop any classroom or work-related web sites, blogs, forums, or similar online communications representing the district or using district equipment or resources without permission of the Superintendent or designee. Such sites shall be subject to rules and guidelines established for district online publishing activities including, but not limited to, copyright laws, privacy rights, and prohibitions against obscene, libelous, and slanderous content.

Personnel

Employee Use of Technology

Because of the unfiltered nature of blogs, any such site shall include a disclaimer that the district is not responsible for the content of the messages. The district retains the right to delete material on any such online communications.

9. Users shall report any security problem or misuse of the services to the Superintendent or designee.

Regulation

Approved: September 14, 2011

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM

Livermore, CA

Employee Use of Technology

Tri-Valley Regional Occupational Center/Program
Employee Acceptable Use Agreement for Internet Access

Introduction

It is the responsibility of all Tri-Valley ROCP employees who use company-provided computer equipment and Internet access to understand and follow these policies.

Acceptable use

Internet access through the Tri-Valley ROCP and school sites is intended solely for the support of education, research, and legitimate business purposes that include the following:

1. Communication and exchange for professional development and to maintain currency in a field of knowledge.
2. Subject matters/discipline associations, government advisory, or standard activities related to the user's research, instructional and/or administrative activities.
3. Access to libraries, information resources, and databases.
4. Administrative, academic, and school research-related discussion groups.

Unacceptable Use

Tri-Valley ROCP Internet access is expressly prohibited for any of the following:

1. Access to information, which in any way advocates, instructs, or promotes the violation of any laws of the State of California or the United States of America. This includes, but is not limited to the following: stalking others, transmitted copyrighted material beyond the scope of fair use without permission of the copyright owner, or any communications scope of fair use without permission of the copyright owner, or any communications where the message or its transmission or distribution would constitute or would encourage conduct that is a criminal offense.
2. Access to pornographic or sexually explicit material.
3. Access to information instruction or promoting armed rebellion, racial or ethnic discrimination, or other forms of hate crimes.
4. Use in support of partisan political activities.
5. Use in furtherance of profit-making activities for personal gain or use by for-profit companies, unless specifically authorized by TVROCP.

Employee Use of Technology

6. Activities that interfere with or disrupt network users, services or equipment. Such interference or disruption includes, but is not limited to: distribution of unsolicited advertising or mass mailings (spam); propagation of computer worms or viruses; and attempting to make unauthorized entry to other computational, informational or communications devices or resources.
7. Use of personally owned software or hardware except where authorized by TVROCP.

Privileges

The use of TVROCP information services is a privilege, not a right. Inappropriate use, including any violation of these conditions and rules, may result in cancellation of the privilege and disciplinary action. TVROCP, under this agreement, is delegated the authority to monitor use and determine use and may deny, revoke, suspend, or close any user account at any time based upon a determination of inappropriate use by an account holder or user.

Security

Security on any computer is high priority, especially when the system involves many users.

1. Do not reveal your personal address or phone number, or those of colleagues and students.
2. Email is not guaranteed to be private. The Superintendent, Superintendent's designee, and system administrators have access to all email. Messages relating to, or in support of, illegal activities will be reported to the authorities.
3. Do not use the network in such a way that you would disrupt the use of the network by other users.
4. All communications and information accessible via the network should be assumed to be private property of those who put it on the network.
5. Do not use another individual's account without written permission from that individual.
6. Attempts to login to the TVROCP network as a system administrator will result in cancellation of user privileges.
7. Do not activate any form of packet capture (e.g., sniffer) or devices to monitor traffic passing through the network.
8. Installation of personal desktop firewalls unless authorized by TVROCP is forbidden.

Employee Use of Technology

Vandalism, Cyber-Bullying and Harassment

Vandalism, harassment and cyber-bullying will result in cancellation of privileges. Vandalism includes, but is not limited to, any malicious attempt to harm, modify, and destroy data of another user on the TVROCP network or other networks that are connected to the Internet. Harassment and cyber-bullying includes, but is not limited to, the persistent annoyance of another user, or the interference of another user's work.

Privacy

Users should be aware that their uses of TVROCP computing resources are not private. While TVROCP does not routinely monitor individual usage of its computing resources, the normal operation and maintenance of TVROCP computing resources require the backup and caching of data and communications, the logging of activity, the monitoring of general use patterns and other such activities that are necessary for maintaining service.

TVROCP may also specifically monitor the activity and accounts of individual users of TVROCP computing resources, including individual login sessions and the content of individual communications, without notice when:

1. The user has voluntarily made them accessible to the public, as by posting to a bulletin board or Web page;
2. It reasonably appears necessary to do so to protect the integrity, security, or functionality of TVROCP or other computing resources;
3. There is reasonable cause to believe that the user has violated or is violating this policy;
4. An account appears to be engaged in unusual or unusually excessive activity; or it is otherwise required or permitted by law.

TVROCP makes no guarantee of any kind, whether expressed or implied, for the services it is providing. TVROCP will not be responsible for any damages you suffer. This includes loss of data resulting from delays, non-deliveries, miss-deliveries, or service interruptions caused by TVROCP's own negligence, or your errors or omissions. By signing the Internet Usage form you are bound by the terms and conditions of the TVROCP Employee Internet Policy.

Employee Acknowledgement

TVROCP employees are required to sign the Receipt of Annual Notifications each year, acknowledging that they have read, understand, and are willing to abide by this Employee Acceptable Use Agreement.

Personnel

Staff Social Media Guidelines

The Tri-Valley Regional Occupational Program (hereinafter referred to as “Tri-Valley ROP” or “TVROP” or “District”) supports the use of online social media to facilitate District programs, departments and school sites in building a more successful parent, community, student and employee network. This document contains Tri-Valley ROP’s guidelines regarding the use of online social media.

Official District social media platforms are operated by the District for the purpose of communicating the District’s messages, and shall be used only for their stated purposes and in a manner consistent with this policy and the mission and goals of the District. In using social media, the District does not intend to create a limited public forum or otherwise guarantee an individual’s right to free speech. All official District-authorized communication through social media platforms shall comply with District policies and regulations, and be in accordance with the District’s Acceptable Use Rules and Regulations. (Education Code 35010)

A. Definitions:

“Social Media” means any online platform for collaboration, interaction, or active participation, including but not limited to, social networking sites such as Facebook, Twitter, YouTube, and LinkedIn.

“Official District social media platform and District-authorized social media” are sites authorized by the Superintendent or designee. Sites that have not been authorized by the Superintendent or designee but that contain content related to the District or comments on District operations, such as a site created by a parent-teacher organization, or other school-connected organization, or a student’s or employee’s personal site, are not considered official District social media platforms or District-authorized social media.

“Technology” includes, but is not limited to; computers, notebooks, the Internet, telephones, cellular telephones, personal digital assistants, pagers, MP3 players (e.g., iPods, etc.), USB drives, wireless access points (routers), or any wireless communication device.

“District Technology” is that which is owned or provided by the District, which includes the District’s Internet services.

“Personal Technology” is technology that is not owned or provided by the District.

B. Privacy

The District shall aim to protect the privacy rights of students, parents/guardians, employees, and other individuals in connection with official District social media platforms. (20 U.S.C. 1232g, 34 CFR 99.3, Education Code 49602)

The District’s Board policy pertaining to the posting of student photographs and the privacy of telephone numbers, home addresses, and email addresses, as specified in Board policy

1113: District Websites shall also apply to official District social media platforms. (Education Code 49073)

District-authorized social media and networking sites and other online platforms shall not be used by District employees to transmit confidential information about students, employees, or District operations.

By submitting content to any of the District's social media pages, users understand and acknowledge this information is available to the public. The District may use this information for internal and external purposes, and other users may use posted information in ways beyond the District's control. Users, who do not wish to have the information used, published, copied, or reprinted, should not post on the social media pages.

All posted content is subject to the California Public Records Act. All users of the District's social media pages are also subject to any terms, policies, laws or regulations governing the social media website, platform, media, software, devices, or networks. (Government Code 6250 *et seq.*)

C. Official District Social Media Presence:

The District's Internet home page, located at www.tvrop.org, contains links to District-approved social media pages which are authorized and administered by the Superintendent or designee. The Superintendent or designee has the discretion and right to temporarily or permanently disable, alter settings of, or shut down any social media pages at any time and for any reason.

Social media pages that have not been authorized by the Superintendent or designee and that contain posts, links, or comments related to or about the District, such as a site created by a parent-staff organization, or other similar organization, or by an individual student or employee, are not administered by the District. The District is not responsible for any such social media pages or content.

The Superintendent may determine whether District social media sites or pages will permit "posting" of content by outside users. District-approved social media pages need not accept posts by any user other than an authorized District content owner. This determination shall be made in the best interests of the District and the educational program.

D. Requisite Authorization

1. **Authorization** - District presence on any social media site, including school-related accounts, such as clubs, teams, field trips, course, or other sites associated with the District or a District school must have the prior authorization of the TVROP administration before such a site is established. Any sites, accounts, or pages existing absent prior authorization will be subject to review, editing, and removal. As appropriate, a recommendation for disciplinary action may result.

To request permission for a District-related site, please utilize the following form and identify a "content owner," or individual responsible for performing regular monitoring and maintenance of the website or account, and a responsible administrator assigned to the specific site. Please note that for emergency purposes only, each District-affiliated site or

social media account must name TVROP as an administrator. However, the site, specifically, the content owner and responsible administrator shall be responsible for monitoring and maintaining these sites and accounts.

If asked by media to comment on a school related issue, refer them to school and/or ROP administration.

2. **District Logo** - The use of the TVROP logo(s) on a social media site must be approved by the TVROP administration.

3. **General District Sites and Accounts** - Tri-Valley ROP's general social media sites, including the District's blogs, Facebook and Twitter accounts, will be managed by TVROP administration or their designee. Duplicate, unofficial sites shall be reported, and investigated.

4. **Sponsors and Advertising** - Sponsor logos are permissible on District-related websites, with the prior approval of TVROP administration. The page must also include or link to contact information for an individual who can provide information about sponsorship. Advertising for third-party events or activities unassociated with official District business is strictly prohibited.

5. **Content Disclaimer** – Each site shall contain a statement that specifies the site's purpose along with a statement that users are expected to use the site for only those purposes. Each site shall also contain a statement that users are personally responsible for the content of their posts. These guidelines must be displayed to users or made available by hyperlink. Any content removed based on these guidelines must be retained, including the time, date and identity of the poster when available. The District reserves the right to restrict or remove any content that is deemed to violate this social media policy or any applicable law.

Any approved official presence on social media sites outside of those created and monitored by the District's Communications Department shall include the following text:

“The views expressed on this site do not reflect the views of the Tri-Valley Regional Occupation Program. This site contains user-created content which is not endorsed by the District. Users are personally responsible for the content of their posts. The purpose of this site is” ... (then specify the purpose). Users are expected to use this site only for these stated purposes.

E. Maintenance and Monitoring Responsibilities

The content of all official District online social media pages shall be limited to current and useful information regarding the District's official and sponsored educational programs, activities, and operations. Such content shall support the District's educational mission and be appropriate for all audiences. Official District social media pages consist of District messages and re-messaged District related content (re-tweets) and shall not display or otherwise communicate content not expressly authorized by these guidelines.

The posting on official District social media pages of links to other online platforms or social media sites is permissible if the linked sites' content is of an academic nature, supports the District's educational mission, and is consistent with the District's policies and regulations.

The District is not responsible for the content of external online platforms, not associated with the specifically linked information.

Content owners are responsible for monitoring and maintaining official presences on social media sites as follows:

1. Content must conform to all applicable state and federal laws, as well as all District and board policies and administrative procedures.
2. Content must be kept current and accurate.
3. Content must not violate copyright or intellectual property laws and the content owner must secure the expressed consent of all involved parties for the right to distribute or publish recordings, photos, images, video, text, slideshow presentations, artwork or any other materials. Before posting any photographs of students, content owners shall review the list of students whose parents have not consented to having their child's photograph taken or published. No student photographs should be published for personal, promotional use or any other non-school related purpose. (17 U.S.C. 101 *et seq.*, Education Code 49073)

TVROP administration recommends that content owners request that a second person review all photographs prior to publication. One person may catch issues that the first set of eyes overlooked.

4. Posting Photos or Movies without Permission - Do not post photos or movies of fellow employees without their prior written authorization. Do not use photos or movies taken at school without permission. Do not post photos or movies that contain students without parent consent.
5. All postings and comments by users are monitored and responded to as necessary on a regular basis. Postings and comments of an inappropriate nature or containing information unrelated to official or District business should be deleted promptly. Such postings shall be reported, investigated, and authors will be disciplined as appropriate.

F. Content Guidelines

Although the District does not regularly review or monitor content, the Superintendent or designee, may remove posts based on viewpoint-neutral considerations, such as lack of relation to the site's purpose or violation of the District's policy, regulation, or content guidelines.

Each official District social media platform shall prominently display:

1. The purpose of the site with a statement that users are expected to use the site only for the intended purpose(s).
2. Information regarding how to use the social media platform's security settings.
3. A statement that the site is regularly monitored and any inappropriate content will be removed.
4. A statement that the District is not responsible for the content of external online platforms.

5. A disclaimer that any user's reference to a specific commercial product or service is not the District's endorsement or recommendation of that product or service.
6. The individual(s) to contact regarding violation(s) of District's social media policy and regulation.

If the Superintendent or designee determines user-posted content will be allowed on a specific District social media page, the social media platform shall also:

- a. Prohibit inappropriate posts, including those with content that:
 - i. Is obscene, libelous, or so incites students as to create a clear and present danger of the commission of unlawful acts on school premises, violation of District or school rules, or substantial disruption of the school's orderly operation; or
 - ii. Is not related to the site's stated purpose, including but not limited to, comments of a commercial nature, political activity, and comments that constitute discrimination, harassment, bullying, or otherwise violate federal or state laws, or District policies, procedures, or regulations. (5 C.C.R. 80331 *et seq.*, Education Code 200 *et seq.*, 48907, 48900(r))
- b. Include protocols for users, including expectations that users will communicate in a respectful, courteous, and professional manner.
- c. State that users are personally responsible for the content of their posts and the District is not responsible for the content of external online platforms.
- d. Include a disclaimer that the views and comments expressed on the site are those of the users and do not necessarily reflect the District's views.

G. Off-Campus versus On-Campus Social Media and Internet Use Guidelines

Although staff members enjoy free speech rights guaranteed by the First Amendment to the United States Constitution, certain types of communication, typically by virtue of their subject-matter connection to campus, may relate enough to school to have ramifications for the author or subject at the District site.

When using District technology, electronic communication is governed by the District acceptable use policy, which will be enforced accordingly. Students and staff have no right to privacy in any information stored on or accessed by District technology (e.g., in the contents of personal files on the District's Internet system or other District technology, District email accounts, information accessed through the District's Internet system, etc.). District technology may only be used for educational purposes. Use for non-work purposes, including but not limited to, personal blogging, instant messaging, online shopping or gaming is not allowed. The use of District technology is a privilege and may be revoked at any time.

Use of personal technology/devices may violate the District's acceptable use policy if the District reasonably believes the conduct or speech will cause actual, material disruption of school activities or a staff member's ability to perform his or her job duties.

Courts have held that the off-campus online communications may be connected enough to campus to result in either student or staff-member discipline. (*San Diego Unified School*

District v. Commission on Professional Competence (Lampedusa) (2011) 194 Cal.App.4th 1454)

This section of the guidelines is intended to present to District staff members examples of such situations, and guidelines for responsible, professional internet use.

1. Staff Use of Personal Technology (Best Practices)

- a. Restrict On-Duty Use** – Staff members may not use personal technology for non-work purposes during duty hours. The acceptable use of Personal Technology for non-District business must be limited to off-duty time and designated breaks.
- b. Be Transparent** - How you represent yourself online is an extension of yourself. Do not misrepresent yourself by using someone else's identity or misrepresenting your identity. Be honest about who you are, where you work and what you do.
- c. Always a School Employee** - The lines between public and private, personal and professional are blurred in the digital world. Even when you have a disclaimer or use a different user-name, you will always be considered to be a District employee. Whether it is clearly communicated or not, you will be identified as working for and sometimes representing the school in what you do and say online. Always write in the first person and make it clear that you are speaking for yourself and not on behalf of the District.
- d. Work/Personal Distinction** – Staff members are encouraged to maintain a clear distinction between their personal social media use and any District-related social media sites.
- e. School Values** - Represent the District values. Express ideas and opinions in a respectful manner. All communications should be done in a professional manner. Build trust and responsibility in your relationships. Do not denigrate or insult others including students, staff, administrators, parents, or other Districts. Don't use unprofessional language or any other inappropriate content. Even though you are of legal age, consider carefully what you post through comments and photos. There are school Districts who have taken disciplinary action on staff that made posts relative to alcohol, sexual activities, and inappropriate comments regarding students and staff.
- f. Professional Effectiveness** - District employees must be mindful that any Internet information is ultimately accessible to the world. To avoid jeopardizing their professional effectiveness, employees are encouraged to familiarize themselves with the privacy policies, settings, and protections on any social networking websites to which they choose to subscribe and be aware that information posted online, despite privacy protections, is easily and often reported to administrators or exposed to District students.
- g. Personal Social Networking & Media Accounts** – Before employees create or join an online social network, they should ask themselves whether they would be comfortable if a 'friend' decided to send the information to their students, the students' parents, or their supervisor. Educators must give serious thought to the implications of joining an online social network.

h. Responsible Online Identity Monitoring – Employees are encouraged to monitor their ‘online identity,’ by performing search engine research on a routine basis in order to prevent their online profiles from being fraudulently compromised or simply to track information posted about them online. Often, if there is unwanted information posted about the employee online, that employee can contact the site administrator in order to request its removal.

i. Friending District Students – Employees may not have online interactions with students on social networking sites outside of those forums dedicated to academic use. District employees’ social networking profiles and personal blogs may not be linked to District students’ online profiles. Additionally, District employees should use appropriate discretion when using social networks for personal communications and must limit this activity to off-duty hours and the use of their own electronic communication devices.

j. Use of District Social Media - Staff members who participate in official District social media platforms shall adhere to all applicable District policies and regulations, including but not limited to professional standards related to interactions with students, staff, and the public. Use of official District social media pages in violation of this policy may result in disciplinary action, up to and including termination of employment and referral to the appropriate law enforcement agencies. The District may suspend or terminate user rights for individuals who violate District standards.

k. Contacting Students Off-Hours – When in doubt about contacting a District student during off-duty hours, begin by contacting the student’s parent(s) or legal guardian through their District registered phone number. District employees should only contact District students for educational purposes and must never disclose confidential information possessed by the employee by virtue of his or her District employment.

Because online content can be spread in mere seconds to a mass audience, the District encourages employees to ask themselves before posting any information online whether they would be comfortable having this information printed in the newspaper alongside their photo.

If you would not bring it into the classroom, do not post it online!

SOCIAL MEDIA SITE AUTHORIZATION FORM

Employees of the Tri-Valley Regional Occupation Program who wish to create and maintain an official District or school presence on any social media site must have a copy of this completed form on file in the school/department supervisor's office, and a copy submitted to the TVROP administration, prior to a social media site's activation. Either a hard copy or pdf copy filed electronically is acceptable. Note: Once authorized by TVROP or department supervisor, the social media site administrator and their supervisor are fully responsible for regular monitoring of the site, appropriate online conduct and adhering to the District's policies, regulations, acceptable use policies, and related guidelines, including the official Social Media Guidelines. By submitting this form, you are agreeing to comply with the Terms and Conditions set forth in the Tri-Valley ROP Staff Social Media Guidelines.

Date: _____

Dept. or School Site: _____

Employee Name: _____ ID: _____

Employee Title: _____ District e-mail: _____

Nature of request:

- Website: _____
- Blog: _____
- Other: _____
- Other: _____
- Other: _____

Purpose of presence on social media site:

SITE ACCOUNT INFORMATION:

E-mail address associated with site: _____

User name: _____

Password: _____

All individuals with site account access:

Name: _____ Title: _____
Name: _____ Title: _____
Name: _____ Title: _____

AUTHORIZATION BY SCHOOL PRINCIPAL OR DEPARTMENT SUPERVISOR:

Name: _____ Signature: _____

Title: _____ Date: _____

Policy

approved: October 28, 2015

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM

Livermore, CA

Personnel**RECRUITMENT, SELECTION AND APPOINTMENT**

The Superintendent, or designee, is authorized and directed to establish an administrative regulation(s) that governs the process of Recruitment, Selection and Appointment.

A. Posting

All vacancies for positions will be publicized by means of an announcement to be distributed to each work site for posting for at least five (5) working days. All positions will be open to all applicants both within and outside of the Tri-Valley ROCP.

- B.** Employees are encouraged to apply for positions which would represent the fullest possible use of their skills and abilities.
- C.** Community and staff members are encouraged to refer outstanding candidates to the administrative staff. A referral is not a recommendation or offer of employment.
- D.** All appointments are to be made by the Superintendent, or designee, subject to ratification by the TVROCP Governing Board.
- E.** The-TVROCP Governing Board recognizes the importance of non-discrimination in all areas of public school operations and declares its intent to fully conform to the laws concerning non-discrimination. (See Board Policy and Administrative Regulation regarding "Nondiscrimination in Employment.")
- F.** All applicants for employment must:
 - 1. comply with the current legal requirements for employment including, by way of illustration and not limitation, submission of evidence of freedom from tuberculosis and fingerprinting;
 - 2. submit with his/her application for employment a Release authorizing the Tri-Valley ROCP to obtain information from prior employers and other sources. The application for employment is not complete without a signed Release.
- G.** Upon acceptance of employment, employees will be sent a written notice of employment signed by the Superintendent, or designee, setting forth the terms of employment.

RECRUITMENT, SELECTION AND APPOINTMENT (continued)

Legal References

EDUCATION CODE

- 35161 Powers and duties
- 44010 Sex offense — definitions
- 44011 Controlled substance offense — definitions
- 44066 Limitation on certification requirements
- 45103 Classified service in districts not incorporating the merit system
- 45014 Positions not requiring certification qualifications
- 45105 Positions under various acts not requiring certification qualifications; classification
- 45108 Restricted positions
- 45113 Rules and regulations for classified service in districts not incorporating the merit system
- 45122 Physical examinations
- 45122.1 Classified employees, conviction of a violent or serious felony
- 45123 Employment after conviction of sex offense or controlled substance offense
- 45124 Employment of sexual psychopath
- 45125 Use of personal identification cards to ascertain conviction of crime
- 45169 Employee salary data
- 45303 Additional causes for suspension or dismissal of employees in classified service
- 49406 Examination for tuberculosis

PENAL CODE

- 290 Registration of sex offenders
- 290.95 Disclosure of person required to register as sex offender
- 667.5 Prior prison terms, enhancement of prison terms
- 1192.7 Plea bargaining limitation
- 1203.4 Discharged petitioner, change of plea

GOVERNMENT CODE

- 3100-2109 Oaths or affirmations
- 12940-12950 Unlawful employment practices
- 11135 Unlawful discrimination
- 12900-12996 Fair Employment and Housing Act

WELFARE AND INSTITUTIONS CODE

- 6300-6332 Sexual psychopaths

Policy

approved: June 8, 2000

updated: June 16, 2010

renumbered November 30, 2010 (*from 4212*)

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM

Livermore, CA

MEDICAL EXAMINATION REQUIREMENTS

- A. In order to safeguard the health and welfare of children and pursuant to applicable laws:
1. Each employee of the Tri-Valley ROCP will undergo an examination to determine that he/she is free from active tuberculosis by a physician or surgeon licensed under Chapter 5 of Division 2 of the Business and Professions Code, prior to beginning his/her duties as a new employee and at least once in every four (4) year period thereafter at Tri-Valley ROCP expense. In the event of a change from a negative to positive skin reaction, an employee will be required to provide a physician's verification of non-communicability. (California Education Code section 49406.) Such an examination will be conducted at the applicant's expense. (California Education Code section 49406.)
 2. Any employee may be required to submit to and pass a medical examination conducted by a physician or surgeon designated by the Superintendent, or designee, and licensed under Chapter 5, Division 2, of the Business and Professions Code when there is evidence to show that disabling conditions may exist to impair the employee's ability to maintain an adequate level of service.
 - a. Such an examination will be conducted at the Tri-Valley ROCP's expense. The Superintendent at his/her discretion may accept an examination conducted by the employee's designated medical practitioner. (California Education Code section 45122.)
 - b. The staff member will be placed on leave of absence if the examination indicates he or she is physically unable to carry out the duties for which he or she is responsible with reasonable accommodation and will remain on leave of absence until a subsequent examination indicates an ability to assume the responsibilities of the assignment with reasonable accommodation.
 3. An employee who has been absent from work with a communicable disease shall submit a health certificate and clearance to return to work issued by a licensed doctor of medicine upon return.

Regulation

approved: June 24, 1993

updated: June 8, 2000; June 16, 2010

renumbered November 30, 2010 (*from 4212a*)

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM

Livermore, CA

LOYALTY OATH

Each new employee will complete such statements of non-membership in the Communist Party as prescribed by the California Education Code, and these statements will be completed before the first day of employment. (California Education Code section 45303.)

Regulation
approved: June 8, 2000
updated: June 16, 2010
renumbered November 30, 2010 (*from 4212b*)

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM
Livermore, CA

FINGERPRINTS

- A. State law prohibits employment of individuals who have been determined to be sexual psychopaths under the Welfare Institute Code or who have been convicted of specific sex or controlled substance, or violent or serious felonies unless such determination or conviction has been subsequently reversed or dismissed in a new proceeding or trial. (California Education Code sections 45123, 45124.)
 1. Employment of persons convicted of a controlled substance offense involving use or possession of marijuana is also prohibited by law, unless the TVROCP Governing Board determines from the evidence presented that the person has been rehabilitated for at least five (5) years. (California Education Code section 45123.)
 2. All applicants for a position will be fingerprinted. (California Education Code section 45125.5.)
 3. State law requires fingerprinting of applicants for positions to ascertain arrests and conviction of any crime. (California Education Code section 45125.)
 4. Before the first day of employment, each employee must be fingerprinted by the appropriate public law enforcement or school district agency. The fingerprints must then be cleared by the Department of Justice.
 5. The costs of the fingerprinting process are to be paid by the applicant.

APPLICATION PROCEDURE

- A. Regular Tri-Valley ROCP positions will be open to all applicants both within and outside of the Tri-Valley ROCP.
- B. Job postings are to be posted in all schools and district offices of the Joint Powers Authority for a minimum of five (5) working days. It is the applicant's responsibility to check and respond to job postings that have been posted.
- C. The personnel office may broaden its recruitment effort by sending job postings to other public placement offices in the job market areas of the Tri-Valley area. During the summer recess, the personnel office will issue one general mailing to employees notifying them of any job postings in the Tri-Valley ROCP.
- D. All responses to the postings shall be in writing and shall be submitted to the personnel office by the deadline date stated in the job posting.
- E. The personnel office will accept applications from candidates at any time prior to the deadline date stated in the job posting. Applications are to be submitted directly to the personnel office.
- F. Verification of references is the responsibility of the personnel office/Superintendent, or designee.
- G. The applicant must be able to verify that all statements with respect to qualifications, preparations, experience and previous employment are factual and accurate.
- H. If an applicant for a position is a regular Tri-Valley ROCP employee who comes from within the existing classified staff, it is the responsibility of the applicant to inform his/her present supervisor of his/her desire to apply for another position in the Tri-Valley ROCP in order that a transfer can be achieved with a minimum loss of work time if applicant is offered the position.
- I. Applications of unsuccessful applicants are destroyed after one (1) year.

SELECTION PROCEDURES**A. General Criterion Policies**

1. The best qualified applicants as determined by the Tri-Valley ROCP will be selected to fill the positions.
2. Applicants may be required to submit a license or card or other appropriate evidence signifying competence in a particular trade or skill. Applicants may also be required to perform and pass manipulative tests in order to demonstrate their ability to complete tasks required of the position. Standards of performance for these tests will be listed as part of the job description for the position.

B. Procedures

1. Upon receipt of an application (including the required Release), and letters of reference, the material is reviewed by the Superintendent/personnel office.
2. At the completion of screening, a reasonable number of candidates will be selected for participation in the testing procedure and/or for a personal interview. An interview committee will be selected by the Superintendent.
3. Upon completion of the testing and/or interview process, the interview committee will make recommendations for employment to the Superintendent who will review the recommendations and make a final decision. This decision is subject to ratification by the TVROCP Governing Board.

PERSONNEL RECORDS

The Superintendent, or designee, is authorized and directed to establish an administrative regulation(s) that governs personnel files.

An official personnel file for each employee will be kept in the Tri-Valley ROCP office. Personnel records will be maintained by the Superintendent.

Material in the personnel file will be confidential and will be maintained in accordance with provisions of state law.

Legal References:

EDUCATION CODE

35161 Powers and duties

44031 Personnel file contents and inspection

LABOR CODE

1198.5 Right to inspect records

PERSONNEL RECORDS**A. Official Personnel File**

1. The official personnel file of each employee shall be maintained in the Tri-Valley ROCP office. Unless the Tri-Valley ROCP is confronted with special legal requirements or other extraordinary circumstances, no adverse action may be taken against an employee based on materials which are not in his/her official personnel file.

B. Derogatory Material

1. An employee shall be given a copy of any derogatory document prior to its placement in his/her personnel file.
2. He/she may provide a written response to any such document. If submitted within ten (10) working days, such response shall be attached to the derogatory document.

C. Inspection of Personnel File

1. An employee (or his/her representative, if authorized in writing) shall be permitted to inspect the employee's personnel file.
 - a. Such inspection shall take place at a mutually acceptable time — typically at a time when the employee is not required to render service to the Tri-Valley ROCP.
 - b. An employee may examine and/or receive a copy of materials from his/her personnel file. This shall not include ratings, reports, records or other materials which were obtained prior to employment.
 - c. The file shall be made available for inspection by persons other than the employee only when reasonably necessary in the conduct of the Tri-Valley ROCP's affairs or the supervision of the employee.

Regulation

approved: June 8, 2000

updated: June 16, 2010

renumbered November 30, 2010 (*from 4217*)

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM

Livermore, CA

RESIGNATIONS

Any employee who desires to resign from employment shall submit a letter of resignation which specifies the date that the employee intends as his/her last day at work.

Employees are encouraged to provide advance notice that is appropriate for the position they hold.

The Tri-Valley ROCP Governing Board authorizes the Superintendent, or designee, to accept an employee's written resignation. Once the Superintendent, or designee, has accepted the resignation, the resignation may not be withdrawn by the employee.

The Superintendent, or designee, is authorized and directed to establish administrative regulations that govern the resignations of classified employees.

Legal References:

EDUCATION CODE

35161 Powers and duties

45201 Power to accept resignations

RESIGNATIONS

A. Resignations

1. When a resignation is submitted, the employee shall also submit the following information to the personnel office:
 - a. Instructions for delivery of final salary warrant.
 - b. When retirement deductions have been taken, instructions as to the disposition of retirement contributions.
 - c. A forwarding address for future contact.

B. Abandonment of Employment

1. Absence by an employee from his/her duties for a period of three (3) or more consecutive working days, without approved leave and without oral or written notice to the Tri-Valley ROCP, shall constitute an automatic resignation as of the last day on which the employee actually rendered service.
 - a. Any absence without approved leave, whether with or without notification, may still subject the employee to discipline up to and including termination.
2. When an employee is absent from his/her duties for a period of three (3) or more consecutive working days, without approved leave and without oral or written notice to the Tri-Valley ROCP, the Superintendent, or designee, shall send written notice to the employee that the employee is deemed to have automatically resigned his/her employment.
 - a. The notice shall be sent by certified mail to the employee's last known residential mailing address.
 - b. The notice shall grant the employee fourteen (14) calendar days to request reinstatement of employment by providing the Tri-Valley ROCP with an explanation for the absence and failure to provide notice.
 - c. The employee will only be considered for reinstatement if he/she provides a written explanation which is acceptable to the Tri-Valley ROCP.

RESIGNATIONS

- d. If the employee provides a written explanation for his/her absence which is acceptable to the Tri-Valley ROCP, and is eligible for reinstatement, the employee must be able to return to the full range of his/her duties on the date on which he/she seeks reinstatement or must have prior approval of a continued leave of absence from the Superintendent or his/her designee.
3. If an employee requests reinstatement within the fourteen (14) calendar day period specified above (B.2.a.), provided the Tri-Valley ROCP determines that the explanation provided is acceptable, the employee will be eligible for immediate reinstatement to his/her position.
4. An employee who requests reinstatement after the fourteen (14) calendar day period specified above (B.2.a.) may be considered for reinstatement but only under such terms and conditions as are deemed appropriate in the sole discretion of the Tri-Valley ROCP.
5. Any employee reinstated pursuant this regulation shall not:
 - a. be compensated for the period of his/her absence or separation; and
 - b. accrue seniority, or entitlement to any other benefit, for his/her period of absence or separation.

STAFF MEMBERS

All staff members hired by the ROP, unless under a special contract initiated by the Board, are classified as temporary employees, and, based upon satisfactory service, are reviewed for continuing service for the following school year.

STAFF MEMBERS

Teachers can be granted an annual contract by the Board, but it will not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee in accordance with EC 44910

ASSIGNMENT AND TRANSFER

Assignment and transfer of personnel will be made only upon recommendation of the Superintendent and approval by the Board.

Staff members will be assigned to specific positions according to their certification, qualifications, and the best interests of the ROP.

Legal Reference:**Education Code**

35020 Duties of employees fixed by governing board

35025 Additional powers and duties of Superintendent

35035(c) Additional powers and duties of Superintendent (clarifies power of district Superintendent to transfer teacher from one school to another)

44032 Payment of expenses; advance on funds; direction of travel by governing board

44033 Reimbursement on a flat rate or mileage basis

44256 Authorization for teaching credentials; kinds

44257 Authorization for teaching assignment

44258-44264 (reassignment of teachers)

45102 Assignment at times other than regular academic year

45109 Fixing of duties

45110 Inconsistent duties; compensation

45127 Work week (conditions of service)

45132 Four-consecutive-day work week

45169 Data furnished employee, copies; application

45183 Basis for assignment of duties

44863 Subjects authorized in special certificate

3543.2 Scope of representation (re-transfer/re-assignment)

TEACHING HOURS

The Superintendent will establish the hours of employment, duties, and periods of assignment.

EVALUATION

The Superintendent or his/her designee will have the responsibility to evaluate all teaching staff bi-annually.

EVALUATION (continued)**A. Administrative Competence in Evaluation**

Criteria for certification of qualified evaluators will include but not be limited to:

1. Possession of a valid administrative or supervision credential.
2. Demonstrated understanding of adopted curriculum priorities, policies, and practices; including development, implementation and evaluation.
3. Demonstrated understanding of adopted standards on student progress.
4. Demonstrated competence in instructional methodologies.
5. Understanding of adopted policies and procedures for personnel supervision, performance evaluation, and staff development.
6. Demonstrated skills in supervision of instruction.
7. Demonstrated skills in techniques of evaluation of instruction.

B. Procedures Leading To Evaluation Certification

The Superintendent will:

1. Identify individual evaluators.
2. Determine that the following qualifications for certification have been met.
 - a. Possession of a valid administrative or supervision credential.
 - b. Existence of appropriate adopted policies and procedures.
 - c. Competencies in instructional methodologies.
 - d. Competencies for supervision of instruction.
 - e. Techniques and procedures for evaluation and instruction.
3. Assess individual evaluator's demonstration of competencies.

EVALUATION (continued)

4. Develop a professional improvement program for/with each evaluator.
5. Implement professional improvement programs.
6. Develop and implement system for monitoring each evaluator's skills and progress.
7. Recommend to the Board those administrators who in his/her opinion qualify for evaluation certification.

Legal Reference:

Education Code

33039 State guidelines for teacher evaluation procedures

35160.5 Requirement of district policies for competency of personnel assigned to evaluate

35171 Availability of rules and regulations for evaluation of performance

44660-44665 Evaluation and assessment of performance of certificated employees

Government Code

3543.2 Scope of representation (re-evaluation procedures)

SEPARATION

Recommendations regarding the continued employment of teachers will be made by the Superintendent to the Board. If the recommendation is made not to re-employ a teacher, the teacher and the Board must be given written notice prior to January 15th.

SALARY SCHEDULE PLACEMENT

Placement on Teacher's Salary Schedule

The Superintendent or designee is authorized to credit past service of an applicant in determining placement on the teachers' salary schedule upon being employed by the Tri-Valley ROP.

SALARY SCHEDULE PLACEMENT

1. One year of credit for each year of teaching in a public school or private school, which meets the standards of the appropriate accreditation agency located in this state, or in any other state or territory under United States cognizance to a maximum of six years credit. This experience shall have been within the ten (10) years prior to employment. Equivalent credit may be given for related working experience.
2. For service in the military of this country during time of war or national emergency, one year credit on schedule for each two (2) years served to a maximum of six (6) years credit.
3. On initial placement, credit for advanced training beyond the Bachelor's Degree will be permitted for graduate level courses only, for which the applicant received a grade of "C" or better.
4. Credit for work experience will be restricted to related work and employment after age 18.

RETIREMENT

There will be no compulsory retirement age for any employee.

Legal Reference:

Education Code

9134 No age limit on continuation of employment

Public Law 95-256 Age Discrimination in Employment Act Amendments of 1978

OTHER PERSONNEL

Staff members may be employed by the ROP on an hourly basis, designed for courses requiring teaching staff of less than 18 hours per week or for special projects requiring additional funding.

SUBSTITUTE TEACHERS

Certificated personnel will be employed by the prevailing ROP hourly or substitute rate for the purpose of substituting for regular teachers ill or absent because of emergencies.

STUDENT TEACHERS

College students receiving classroom training from teacher-training institutions will be permitted to assume the role of student or practice teacher in ROP courses under the direction of a master teacher so designated by the Superintendent or his/her designee.

Arrangements for placing student teachers in ROP classes will be made only through the Superintendent or his/her designee.

EXCHANGE TEACHERS

Subject to Board review and approval, the exchange of teachers within personnel of other ROP's may be arranged provided the incoming exchange teacher can fit the needs of the ROP.

ACTIVITIES

The Board encourages staff members to take an active part in community affairs and professional organizations and to expand their breadth of experience and depth of training.

PROFESSIONAL GROWTH

All employees may be provided opportunities for the development of increased competence beyond that which they may attain through the performance of their assigned duties.

cf 4146, Salary Moves

PROFESSIONAL GROWTH

Staff development is viewed by the Board as a continuous, systematic effort to improve the ROP through staff involvement in organized program planning, implementation, and evaluation efforts and activities to upgrade the knowledge and ability of the total ROP staff.

In our rapidly changing society, teachers must constantly review curricular content, teaching methods and materials, educational philosophy and goals, social change and other topics related to education and training. The Board recognizes that it shares with its certificated staff responsibility for the upgrading and updating of teacher performance and attitudes. The Board supports the principle of continuing training of teachers and the improvement of instruction.

Staff development activities should respond directly to the educational needs of students, including: (a) currency of occupational training, (b) methodological areas such as motivation, teaching techniques and classroom management, and (c) affective areas of interpersonal relations of students and staff, student growth and development, and staff communication, problem solving, and decision-making.

The Superintendent is encouraged to provide the staff with developmental opportunities in areas such as the following:

1. Visits to other classrooms and other ROP's.
2. Conferences involving other personnel from the districts served, county, state, region, or nation.
3. Membership in committees drawing personnel from various sources.
4. Training classes and workshops offered by the ROP, county, or other appropriate agency.
5. Further training in institutions of higher learning, including credit courses conducted in the ROP region or nearby, instead of the college campus, whenever possible.
6. Professional conferences.

Legal Reference:**Education Code**

44032 Payment of expenses; advance of funds; direction of travel by governing board

44570-44578 In-service training - personnel, secondary education

44670-44680.9 School personnel staff development and resource centers

TUTORING

Teachers who engage in tutoring activities for pay will under no circumstances provide this service to students enrolled in their regular school classes.

ORGANIZATIONS

Community organizations, such as service clubs, parent-teacher organizations, etc., are recognized by members of the Board as being an essential part of community life. Staff members are urged to participate in activities of such organizations and to be members if membership does not reduce the effectiveness of the staff member in his/her assignment.

SALE OR PROMOTION OF PRODUCTS

Teachers will not allow sales personnel to visit their classes for the purpose of promoting their products or soliciting orders, nor will employees take orders from students for supplies or equipment. Students may be asked to provide supplies or equipment of an acceptable standard.

LIABILITY OF STAFF FOR STUDENT WELFARE

Teaching staff members, because of their proximity to children, are frequently confronted with situations which, if handled incorrectly, could result in liability to the ROP and personal liability to the staff member. It is the purpose of this policy to provide the guidelines for minimizing that possibility.

LIABILITY OF STAFF FOR STUDENT WELFARE

1. Each teacher must maintain a standard of care for supervision, control, and protection of students commensurate with assigned duties and responsibilities.
2. Each teacher must provide proper instruction for safety matters presented in assigned curriculum guides.
3. Each teacher must immediately report an accident or a safety hazard he or she detects to the Administrative Secretary.
4. No certificated employee will send students on personal errands.
5. No certificated employee will transport students in a personal vehicle without the approval of the Superintendent or his/her designee.
6. No pupil will be required to perform work or services that may be detrimental to his or her health, or the health of others, (Title 5 California Am. Code 351.)

Administrative staff and teachers are responsible for the safety of pupils while they are within the ROP classrooms.

COMPENSATION AND RELATED BENEFITS

Final determination of compensation for staff members will be solely the responsibility of the Board. The Superintendent will make recommendations for compensation based upon approved salary guides.

SALARY GUIDELINES

After appropriate investigation and deliberation, the Board will adopt guidelines for the setting of certificated salaries. These guidelines will be so designed as to place the Board in a position to compete for both beginning and experienced professional personnel.

Salary schedules will be adopted for teachers and administrative staff.

SALARY WARRANTS

Staff members will be paid by warrants. The salary paid to each staff member will be determined by the number of hours of instruction and/or by placement on the salary schedule.

Certificated Personnel

SALARY DEDUCTIONS AND EMPLOYEE INSURANCE COVERAGE

Eligible certificated employees of the TVROCP will have deductions from earnings withheld as payment for all approved health and welfare benefits the employees select through TVROCP's section 125 plan established for the benefit of all eligible employees.

Policy
adopted:
revised: March 9, 2011

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM
Livermore, CA

Certificated Personnel

SALARY DEDUCTIONS AND EMPLOYEE INSURANCE COVERAGE

The TVROCP has established and will maintain an IRC section 125 Plan for the benefit of all eligible employees, including eligible certificated employees. Salary deductions from earnings will be withheld to purchase benefits selected by the employee from the IRC section 125 Plan.

The maximum amount of the deduction is subject to annual adjustment by the TVROCP Governing Board. The TVROCP Governing Board will typically consider adjusting the maximum amount of deductions in June of each year with the adjustment in deductions withheld (if any) effective July 1.

Each eligible employee must participate in the core level of benefits established by the IRC section 125 Plan. Core benefits and other Plan offerings will be established annually by the Governing Board.

Each eligible certificated employee must participate in the IRC section 125 Plan by purchasing health and welfare benefits offered through the Plan unless an employee provides evidence of comparable coverage through a spouse or domestic partner. If an employee loses comparable coverage through divorce, death of a spouse or domestic partner, or loss of coverage though a spouse or domestic partner, the employee may convert to medical coverage during the next open enrollment period, or earlier, if the carrier will approve the conversion to medical coverage prior to open enrollment.

Legal Reference:

California Correctional Peace Officers' Association v. State of California (2010) 188 Cal.App.4th 646

RETIREMENT BENEFITS

To be developed with employee wage and benefit package.

Policy
adopted:

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM
Livermore, CA

PAYMENT FOR DAMAGED PROPERTY

The Governing Board will consider payment of the cost of replacing or repairing personal effects of an employee (Certificated and Classified) such as eyeglasses, hearing aids, dentures, or watches, etc., when such items are damaged in the line of duty without fault of the employee.

Legal Reference:

Education Code 35176 Replacing or repairing employees' property

SALARY MOVES

All certificated and designated subject personnel are to be placed on the instructor salary schedule adopted by the Joint Powers Governing Board.

Employees will be paid in accordance with their placement on the salary schedule according to provisions in effect at the time of placement, their training, experience and length of service. For the purpose of proper placement on a salary schedule, each employee will submit to the Superintendent, his/her files, official transcripts and credentials, plus verification of experience.

Legal Reference:

Education Code
45028 Teachers' salaries
45033 Prohibition against salary decrease

SALARY MOVES**I. Application of Regulations**

These regulations apply to certificated and designated subject employees.

II. Placement and classification of instructors is determined by academic training and experience and is the responsibility of the Superintendent.**III. Instructors Placed on Certificated or Standard Designated Subject Salary Schedule****A. Initial Salary Schedule Placement**

For the purpose of salary schedule placement, a "unit" is equivalent to one semester of college credit for upper division or graduate level work with a grade of "C" or better from an accredited institution. Only units acquired after a Bachelor's degree has been awarded will qualify for the instructors salary schedule.

B. Subsequent Movement on the Salary Schedule

1. Verification of completion of units or the completion of the Designated Subject Credential must be made by October 15 or the column move will be made for the following school year. Verification is through submission of official transcripts from an accredited college or university. No grade lower than a "C" will be acceptable for consideration of salary schedule placement.

2. Upon qualification, an instructor may move into a higher column for that school year. He/she will be placed on a column that is one or more columns higher on the salary schedule than that upon which he/she was the previous year.

3. All salary units taken for purposes of placement of advancement on the salary schedule must be evaluated and pre-approved by the Superintendent.

Workshops/inservices pre-approved by the Superintendent will be counted as units on the salary schedule at the equivalent of 16 hrs. equaling one credit.

SALARY MOVES (continued)

Salary units taken for placement on the salary schedule must not be taken any time during the hours that school is in session.

4. Salary units or hours reimbursed by Tri-Valley ROP cannot be used for advancement on the Salary Schedule.
- C. Service Advancement for Certificated and Designated Subject Contracted Personnel on the Certificated and Standard Designated Subject Salary Schedule
 1. After placement on the salary schedule, certificated and designated subject employees will advance at the rate of one step for each year of service upon necessary and satisfactory evaluation by the administration.
 - a. One year of service will be defined as completion of 75 percent of the number of days that the ROP is in session or 75 percent of the number of days of service designated for that position.
 2. For teaching experience done outside the local school district (including teaching done in non-public schools with a credential), entering teachers and other certificated or designated subject employees on the certificated or standard designated subject salary schedule will be granted up to six years service credit.
 3. Employees on sabbatical or military leave will progress on the salary schedule as if they were on active service with the ROP.

Legal Reference:**Education Code****45028 Teachers' salaries****45032 Governing Board's power to increase salaries****45033 Prohibition against salary decrease****45041 Computation of salary****Regulation****TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM**

approved: April 6, 1994

revised: December 6, 2001; January 24, 2002

Livermore, CA

ABSENCES AND LEAVES

Absences and leaves will be governed by provisions contained in the Education Code, supplemented by local Board policies.

"Immediate Family" as used in the following sections refer to:

Mother, father, mother-in-law, father-in-law, husband, wife, ward, son, daughter, brother, sister, grandmother, grandfather, grandchild, spouse, son-in-law, daughter-in-law or any relative permanently residing in the household of the employee.

ABSENCES AND LEAVES**A. Sick Leave****1. Full Time Employees:**

- a. Ten (10) days of sick leave for 10 month employees and 11 days for 12 month employees at full pay will be available to each regular certificated employee of the district for personal illness or injury at any time during the school year. However, an employee beginning service for the District after the start of a fiscal year or of a school year, as the case may be, will be eligible only for the number of days of sick leave computed at the rate of one day of sick leave for each month of service.
- b. For those employees beginning service after the start of the school year, major fractional parts of a month which constitute 50% or more of the school days will be regarded as a full month.
- c. This leave may be accumulated without limit.
- d. The ROP will provide each teacher with a written statement of 1) accrued sick leave total and 2) sick leave entitlement for the school year. Such statement will be issued with the annual contract of employment.
- e. In the case of three (3) consecutive days of absence, the ROP may require verification of illness or injury by a licensed physician.
- f. Upon notification by an employee, the Personnel Office will send a certified statement of accumulated unused sick leave to another school district. In order to be eligible for this transfer of accumulated sick leave, the employee must have accepted employment in a second school district no later than one year after terminating employment within this school district.

2. Part-Time Employees:

Part-time certificated employees will accrue sick leave as time served is proportional to the time served by a full-time employee.

3. Extended Illness:

A regular certificated employee who is absent from duty on account of illness or injury will receive for a period not to exceed five (5) school months beyond his or her accumulated sick leave, the difference, if any, between his/her regular salary and the day-to-day substitute rate.

ABSENCES AND LEAVES**B. Personal Necessity Leave**

1. Six (6) days of annual sick leave, or any additional sick leave days at the discretion of the Superintendent, may be used by the employee at his/her election for the following reasons:
 - a. Death or serious illness of a member of the employee's immediate family.
 - b. Accident involving the person or property of the employee or of a member of the employee's immediate family.
 - c. The appearance in court as a litigant or under an official order from a court or other governmental jurisdiction for reasons not brought about through misconduct of the employees.
 - d. Maternity, paternity and adoption leave
 - e. Medical incapacity of a member of the employee's immediate family.
 - f. Personal business that cannot be taken care of before or after duty hours or on Saturdays or Sundays (three days).
2. If a personal necessity that requires not more than one period/hour exists, an employee, on approval from the Superintendent or Director, may arrange for another employee to cover his/her classes. Such one period/hour absences will not be charged to personal necessity leave nor will an employee suffer any loss of pay. If a personal necessity requires two periods/hours or more of absence, an employee will be charged proportionately for the time absent.
3. An employee will be required to obtain advance permission from the Superintendent or Director except for reasons I(a) and I(b) above or for emergencies that arise under reasons I(d) and I(e) above. An employee may use one day of personal business leave under I(f) above without stating the reasons for such leave or obtaining advance permission, provided that this day will not be used during the first or last five (5) work days of school.
4. At the Superintendent's approval, certificated staff may be granted leave for extraordinary circumstances.

C. Leave of Absence

Leaves of absence for personal reasons may be granted without pay. All leaves of absence must be for a full school year unless specific approval for a shorter period of time has been granted by the Board. An employee must be employed a minimum of three years of contracted service at 50% or more time in order to qualify for a leave of absence.

ABSENCES AND LEAVES**D. Other Absences**

No salary deduction will be made for an absence previously approved by the Superintendent or designee if it qualifies under one of the following provisions:

1. Attendance at a professional meeting in the teacher's field of instruction.
2. Attendance at a meeting as a delegated representative of the ROP.
3. Participation in state or regional education committee work as a representative of the ROP.

The Superintendent or designee may approve the attendance of an employee at a convention, association meeting, or organizational conference if, in the opinion of the Superintendent or designee, attendance is warranted.

Unexcused absence of a purely personal nature will always require a salary deduction.

E. Jury Duty

An employee will be entitled to leave without loss of pay for the time required for jury duty. The employee must reimburse to the ROP the amount of payment received for jury duty. Any meal, mileage, and/or parking allowance provided the employee for jury duty will not be considered in the amount received for jury duty.

Legal References (next page)

ABSENCES AND LEAVES

Legal References:

Education Code

Government Code

- ### **3543.2 Scope of Representation**

BP 4154 (a)
4254
4354

All Personnel

HEALTH AND WELFARE BENEFITS

The TVROCP shall provide health and welfare benefits for certificated and classified employees in accordance with state and federal law.

For purposes of granting benefits pursuant to state law, a registered domestic partner and his/her child shall have the same rights, protections, and benefits as a spouse and spouse's child. (Family Code 297.5.)

The Superintendent or designee shall not use or disclose any medical information the TVROCP possesses pertaining to an employee without the employee's authorization obtained in accordance with Civil Code 56.21, except for the purpose of administering and maintaining employee benefit plans and for other purposes specified in law. (Civil Code 56.20.)

To receive continuation coverage, covered employees and their qualified beneficiaries shall pay the premiums, dues, and other charges, including any increases in premiums, dues, and costs incurred by the TVROCP in administering this program.

Medical and Dental Benefits After Retirement

The Tri-Valley ROCP, subject to lawful rules of the insurance provider, shall permit an eligible retiree to enroll in Tri-Valley ROCP-sponsored medical and dental plans. The entire cost of the selected plans shall be borne by the retiree.

AR 4154 (a)
4254
4354

All Personnel

HEALTH AND WELFARE BENEFITS

COBRA/CAL-COBRA Continuation Coverage

Covered TVROCP employees and their qualified beneficiaries shall be offered the opportunity to continue health and disability insurance coverage when they otherwise would lose coverage due to one of the following qualifying events: (Health and Safety Code 1366.21, 1366.23, 1373; Insurance Code 10128.51, 10128.53, 10277; 26 USC 4980B; 26 CFR 54.4980B-4.)

1. Death of covered employee
2. Termination or reduction in hours of the covered employee's employment, other than termination by reason of the employee's gross misconduct
3. Divorce or legal separation of the covered employee
4. Covered employee's becoming entitled to Medicare benefits
5. A dependent child ceasing to be a dependent child of a covered employee

Continuation health coverage shall be the same as provided to similarly situated individuals under the group benefit plan. (Health and Safety Code 1366.23; Insurance code 10128.53; 26 USC 4980B.)

The Superintendent or designee shall notify the health care service plan administrator of a qualifying event listed in item #1, 2 or 4 above, within 30 days of the event. A qualified beneficiary shall notify the service plan administrator of a qualifying event listed in item #3 or 5 above within 60 days of the event or of the date that the beneficiary would lose coverage, whichever is later. (26 USC 4980B; 29 USC 1163, 1166.)

Continuation coverage shall be terminated in accordance with the TVROCP's insurance plan and federal and state law. (26 USC 4980B; 29 USC 1163, 1166; 26 CFR 54.4980B-6; Health and Safety Code 1373.621; Insurance Code 10116.5.)

The Superintendent or designee shall notify covered employees and qualified beneficiaries of the availability of conversion and continuation coverage. This notification shall include the statement in Labor Code 2800.2 encouraging individuals to examine their options carefully before declining such coverage. (Labor Code 2800.2)

Disability Insurance

The Superintendent or designee shall give notice of disability insurance rights and benefits to each new employee and each employee leaving work due to pregnancy, nonoccupational illness or injury, the need to provide care for any sick or injured family member, or the need to bond with a minor child within the first year of the child's birth or placement in connection with foster care or adoption. (Unemployment Insurance Code 2613.)

AR 4154 (b)
4254
4354

Personnel

HEALTH AND WELFARE BENEFITS

Medical and Dental Benefits After Retirement

Subject to the following conditions, the Tri-Valley ROCP will permit a retiree to enroll in, and pay for, medical and dental benefits:

To be eligible, an employee must be at least fifty-eight (58) years of age with a minimum of ten (10) years of service within the Tri-Valley ROCP on the date of retirement from Tri-Valley ROCP.

1. Eligibility to enroll, and to purchase the benefits, shall cease upon the death of the retiree, or at the end of the month in which the employee reaches the age of 65, whichever occurs first.
2. The retiree must choose from a plan available to active employees in the IRC 125 in the month the benefit is received or from PERS. Only plans which accept retirees will be available.
3. The entire cost of the selected plans shall be borne by the retiree.

Legal References: (next page)

AR 4154 (c)
4254
4354

Personnel

HEALTH AND WELFARE BENEFITS

Legal References:

CIVIL CODE

56.20-56.245 Use and disclosure of medical information by employers

FAMILY CODE

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

HEALTH AND SAFETY CODE

1366.20-1366.29 Cal-COBRA program, health insurance

1373 Health services plan, coverage for dependent children over 18 who are full-time students

1373.621 Continuation coverage, age 60 or older after five years with TVROCP

INSURANCE CODE

10116.5 Continuation coverage, age 60 or older after five years with TVROCP

10128.50-10128.59 Cal-COBRA program, disability insurance

10277-10278 Group and individual health insurance, coverage for dependent children

LABOR CODE

2800.2 Notification of conversion and conversion and continuation coverage

UNEMPLOYMENT INSURANCE CODE

2613 Education program; notice of rights and benefits

UNITED STATES CODE, TITLE 26

4980B COBRA continuation coverage

CODE OF FEDERAL REGULATIONS, TITLE 26

54.4980B-1-54.4980B COBRA continuation coverage

Regulation

approved: **March 9, 2011**

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM

Livermore, California

BASIC SKILLS PROFICIENCY REQUIREMENT**Basic Skills Proficiency Requirement For Designated Subjects Vocational Credentials**

The Tri-Valley Regional Occupational Program shall employ properly credentialed individuals as required by the State Education Code.

To comply with the State Education Code requiring demonstration of basic skills proficiency, a Basic Skills Inventory will be required of all instructors holding a Designated Subjects Vocational Credential.

Education Code requires that the State Superintendent of Public Instruction adopt an appropriate state instrument to measure basic skills (reading, writing and math) for individuals who apply or reapply for credentials. The California Basic Education Skills Test (CBEST) was developed and implemented for this purpose. School employers are prohibited from hiring credentialed persons unless they have successfully passed the CBEST; however, amended law exempted Designated Subjects Vocational Credential holders from the CBEST requirement.

The intent of the law is to ensure that basic skills proficiency standards are met for all teachers. Teachers holding credentials which require a baccalaureate must pass CBEST. Teachers whose principle credential qualification is successful occupational experience are required to demonstrate basic skills proficiency at least equivalent to the standard set by the board for graduation from high school.

The governing board which hires persons holding Designated Subjects Vocational Credentials is required to establish its own basic skills proficiency criteria and arrange for individuals to be assessed.

An individual may be hired for a position requiring a Designated Subjects Vocational Credential prior to demonstrating basic skills proficiency on the condition that he/she will take the test at the next administration. Persons who do not pass the Tri-Valley ROP's basic skills proficiency test shall be given one year in which to retake and pass the test. If at the expiration of the one year period he/she has not passed the test, he/she shall be subject to dismissal under procedures established in Article 3 (commencing with Section 44930) of Chapter 4 of the Education Code.

BASIC SKILLS PROFICIENCY REQUIREMENT**Basic Skills Proficiency Requirement For Designated Subjects Vocational Credentials**

The Tri-Valley ROP will utilize as a test instrument Level VIII of the Basic Skills Inventory (BSI) which was developed by the Research and Evaluation Unit of the Los Angeles County Office of Education. The Basic Skills Inventory measures skills in reading, language arts and math at the 12th grade level.

Further, the Tri-Valley ROP will require a passing score at the 50th percentile on Level VIII. The rationale for the 50th percentile passing score is it generally represents the skill level of an entering college freshman.

Individuals taking test will be charged a fee in order to recoup the cost of test administration and materials.

Legal Reference:
Education Code 44830

Policy
adopted: **February 25, 1993**
revised: **December 9, 1993**

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM
Livermore, CA

GENERAL PROVISIONS

The Board shall classify all employees and positions not requiring certification qualifications as the classified service. This shall not apply to those employees and positions that are specifically exempt from the classified service. (California Education Code section 45103.)

The Superintendent, or designee, is authorized and directed to establish administrative regulations that govern the designation of classified employees, the designation of full or part-time status, and to determine how such status affects entitlement to receive fringe benefits.

Legal Reference:

EDUCATION CODE

35161 Powers and Duties
45100-45139 Employment of classified staff

GENERAL PROVISIONS

A. Classification Descriptions

1. There will be one or more classification descriptions approved by the Governing Board of the Tri-Valley Regional Occupational Center/Program ("Tri-Valley ROCP") which shall apply to each position in the Tri-Valley ROCP.
2. A copy of the appropriate classification description will be given to each employee.
 - a. A classification description shall describe the typical duties and the education/abilities that are required and/or desirable for persons employed in positions in that classification.
 - b. Not all tasks will necessarily be performed by each person in each position in the classification.

B. Employment Classifications

1. Regular Employees

A regular employee is one who has either probationary or permanent status.

2. Full-Time and Part-Time

Regular employees may be either full-time or part-time.

3. Exclusions from the Classified Service

The following types of employees are not a part of the classified service:

- a. Employees who are required to have certification qualifications.
- b. Substitute and short-term employees.
- c. Part-time playground positions, where the person is not otherwise employed in a classified position.
- d. Apprentices and professional experts employed on a temporary basis for a specific project, regardless of length of employment.

GENERAL PROVISIONS

- e. Full-time students employed part time, and part-time students employed part time in any college workstudy program, or in a work experience education program conducted by a community college district pursuant to Article 7 (commencing with Section 51760) of Chapter 5 of Part 28 and that is financed by state or federal funds, shall not be a part of the classified service.
- f. Any other classification of employment excluded by statute or case law.

4. Substitute Employees

A substitute employee is any person employed to replace any classified employee who is:

- a. temporarily absent from duty, or
- b. as otherwise authorized by law.

5. Short-term Employees

A short-term employee is any person who is:

- a. employed to perform a service, upon completion of which, the service (or similar services) will not be extended or needed on a continuing basis, or
- b. as otherwise authorized by law.

C. Probationary Period

1. Initial Employment

The first twelve (12) calendar months of continuous employment with the Tri-Valley ROCP in a regular position constitutes the initial probationary period.

GENERAL PROVISIONS

2. Promotion

The probationary period for an employee who receives a promotion shall also be twelve (12) calendar months. A permanent employee who accepts a promotion and fails to complete the probationary period for the promotional position, may (at the discretion of the Tri-Valley ROCP) be re-employed in the classified from which he/she was promoted.

3. Continuation of Selection Process

a. The probationary period is a continuation of the selection process. As a result, release during the probationary period is:

- 1) not an adverse action or disciplinary in nature; and
- 2) at the sole discretion of the Tri-Valley ROCP.

b. No reason need be given for the release.

D. Fitness for Duty Examinations

1. When a medical (physical or psychological) condition exists which may affect the employee's ability to work, the employee may be required to undergo an examination to determine fitness for duty.
2. The results of the examination shall be confidential and the Tri-Valley ROCP shall only be advised whether the employee is fit, or not fit, for duty.
3. The examination shall be performed by a medical practitioner selected by the Tri-Valley ROCP.

APPOINTMENT PROCEDURES

- A. All new regular classified employees will be appointed to probationary status for a period of one (1) year [twelve (12) calendar months]. The probationary period is a continuation of the selection process. As a result, release during the probationary period is at the sole discretion of the Tri-Valley ROCP and no reason need be given for the release. Upon completion of the probationary period at a performance level which meets or exceeds standards of the Tri-Valley ROCP, the employee will be termed a permanent employee of the Tri-Valley ROCP.
- B. Upon acceptance of the employment offer, the appointee and the payroll department will receive a written notice of employment which will contain, at a minimum, the following information:
 1. Employee's name, address, telephone number, birth date and social security number.
 2. Starting date and anniversary date. The dates will be determined as follows:
 - a. Starting Date: The date that the employee reports for service.
 - b. Anniversary Date: For employees reporting for service between the first and 15th of the month, the anniversary date will be designated as the first day of the month. For employees whose first day of service is after the 15th of the month, the anniversary date will be the first day of the succeeding month.
 3. Status (probationary or short term, full or part time).
 4. Salary classification and amounts (classification, range, step, monthly or hourly salary).
 5. Assignment by school, department and supervisor.
 6. Appended material (W-4 form, DE 4 form, loyalty oath, fingerprints, medical insurance).

ASSIGNMENT/TRANSFER/PROMOTION

The Superintendent, or designee, is authorized and directed to establish an administrative regulation(s) that governs the process of Assignment, Transfer, and Promotion.

Assignment and transfer of personnel will be made only upon recommendation of the Superintendent.

Employees will be assigned to specified positions within the Tri-Valley ROCP according to their qualifications and the best interests of the Tri-Valley ROCP.

Legal References:

EDUCATION CODE

35161 Powers and duties

Policy
adopted: June 24, 1993
revised: June 8, 2000; June 16, 2010

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM
Livermore, CA

ASSIGNMENT/TRANSFER/PROMOTION

A. Definition of Terms

1. Assignment

Assignment is the initial placement of classified personnel new to the Tri-Valley ROCP.

2. Change in Assignment

Change in Assignment is the placement of a classified employee in a position that is different from that presently held.

3. Position

Any job assignment which has been formally designated by the Tri-Valley ROCP.

4. Transfer

Transfer is a change or movement from one school or departments with no change in classification.

5. Promotion

Promotion will be deemed to mean a reassignment to a classification which is on a higher range of the salary schedule.

B. General Provisions

1. These provisions apply to assignments, transfers and promotions.

2. When a new classified position is created or an existing classified position becomes vacant, and the Tri-Valley ROCP determines to fill the vacancy, the job vacancy will be posted in all schools and district offices of the Tri-Valley ROCP Authority, prior to being filled.

a. The final date for filing applications will not be less than five (5) days after posting, with the exception of the last two (2) weeks before school starts and the first two (2) weeks after school starts when a shorter posting time may be determined by the Superintendent.

ASSIGNMENT/TRANSFER/PROMOTION (continued)

- b. No position will be filled by either an employee-initiated transfer, district-initiated transfer, a promotion, or new hire until after the closing date.
3. A job posting will contain job title, a description of the position and duties, the minimum qualifications required for the position, licenses and certificates, assigned job site, number of hours per day, work shift (if other than standard day-time hours), days per week, months per year, salary range and deadline for filing an application.
4. All applicants will be evaluated based upon standards which relate directly to the duties, responsibilities and requirements of the position.
 - a. While the Tri-Valley ROC supports the concept of promotion from within, that person deemed most qualified will be appointed.
 - b. All other considerations being equal, existing permanent employees will be given preference over new applicants in filling vacant classified positions.
 - c. An employee may request either a conference or a written statement regarding the reasons for:
 - 1) denial of an employee-initiated transfer request;
 - 2) a district-initiated transfer; or
 - 3) non-selection for promotion.
5. Only employees whose most recent performance evaluation is satisfactory or better may apply for either transfer or promotion.

C. Change in Assignment and Transfers

1. Employee-Initiated Change in Assignment and Transfer
 - a. Criteria to be utilized for evaluating an employee-initiated transfer:
 - 1). The needs and efficient operation of the Tri-Valley ROC;
 - 2) The contribution the employee can make in the new position;

ASSIGNMENT/TRANSFER/PROMOTION (continued)

- 3) The qualifications, including experience and recent training of the employee, compared to those of other candidates for the position to be filled and (if relevant) the position to be vacated;
 - 4) The length and quality of the service rendered to the Tri-Valley ROCP by the employee;
- b. Procedure for employee-initiated request:
- 1) Any permanent employee may apply for transfer to a vacant position by submitting to the Superintendent a written request including reasons for seeking the requested transfer.
 - 2) The filing of a request for transfer is without prejudice to the employee and will not jeopardize the present assignment. A request for transfer may be withdrawn by the employee, in writing, at any time prior to official notification of transfer approval.
 - 3) An employee may request a transfer within his/her classification that represents a longer work schedule, and such requests will be given priority consideration subject to the provisions of this regulation.
2. Tri-Valley ROCP-Initiated Change in Assignment and Transfer
- a. The Tri-Valley ROCP may transfer an employee on the basis of any of the following:
 - 1) disciplinary action;
 - 2) layoff;
 - 3) work load conditions;
 - 4) budgetary considerations;
 - 5) changes in scope and quality of services;

ASSIGNMENT/TRANSFER/PROMOTION

- 6) physical or mental ability to perform duties required of the position;
 - 7) to alleviate a significant detriment to a program;
 - 8) any basis deemed to be in the best interest of the Tri-Valley ROCP; and
 - 9) any other basis deemed relevant by the Superintendent or designee(s).
- b. While such transfers are at the discretion of the Tri-Valley ROCP, the Tri-Valley ROCP will not be arbitrary or capricious.
 - c. Whenever possible, volunteers for transfers will be sought before selection is made by the Superintendent or designee(s).
 - d. Employees who are to be transferred will be notified as soon as possible and on an individual basis.
 - e. An employee to be transferred may request a conference or a written statement regarding the reasons for the transfer.

3. Medical Transfers

- a. The Tri-Valley ROCP may provide alternate work, if a position is available, to an employee who has become medically unable to satisfactorily perform his/her regular job duties.
- b. Any permanent employee dismissed because of medical impairment will be placed on a re-employment list for thirty-nine (39) months.

D. Promotions

1. Definition

- a. A promotion is movement to a new position in a classification which is at least one (1) range higher than the employee's current classification.

ASSIGNMENT/TRANSFER/PROMOTION (continued)

- b. Opportunities to apply for positions within the classified service that constitute a promotion will be available to all employees who have the necessary prerequisites, interests, skills and abilities.

2. Step Placement

- a. Upon promotion, an employee will be placed on the lowest step of the new range which would result in an increase in the employee's monthly salary.
- b. The employee will receive a new anniversary date which will be the effective date of appointment to the new classification (for the purpose of granting future step increments only).

3. Trial Period

- a. The employee will serve in a new twelve (12) calendar month trial period (excluding the summer recess if the employee is not assigned to perform duties during that period).
- b. If the employee is deemed by the Tri-Valley ROCP to be progressing unsatisfactorily, the employee may be offered the opportunity to return to their previous classification. An employee's return to his or her previous classification may have a "domino" effect.

4. Reclassification

- a. Reclassification, for purposes of this procedure, is a change in the range and/or the job title assigned to a position.
- b. An employee is entitled to request that his/her position be reclassified after he/she has served at least one (1) year in that position.
- c. The basis for reclassification must document that the duties being performed are outside the incumbent class and must be the result of:
 - 1) A gradual accretion of duties; or
 - 2) A management reorganization that has resulted in a significant change in job duties.

ASSIGNMENT/TRANSFER/PROMOTION

d. Criteria for evaluation may include, but is not limited to, the following:

- 1) Job specifications
- 2) Significant job duties actually performed
- 3) Added responsibilities
- 4) Increased level of decision-making responsibilities

e. A reclassification packet must include:

- 1) Letter of request with detailed justification from employee
- 2) Completed form
- 3) Written approval with detailed justification from supervisor or written statement from supervisor indicating he/she is aware of the request of the employee.

5. Procedure for Reclassification

- a. An employee, or an initiating supervisor, may request a reclassification packet from Personnel at any time.
- b. The completed request for reclassification must be submitted to the Tri-Valley ROCP personnel office.
- c. Personnel will send the employee's reclassification packet to the Superintendent to complete Sections B and C of the Request for Reclassification form. When returned to personnel, a copy will be sent to the employee.
- d. The Superintendent/Cabinet will review the reclassification request and make a decision.
- e. Following the Superintendent/Cabinet action, personnel will notify the employee of the action taken.

ASSIGNMENT/TRANSFER/PROMOTION

- f. In cases where the employee is working out of class but there currently does not exist a classification that is applicable, the Tri-Valley ROCP may make a recommendation on a new classification to the TVROCP Governing Board.

SUSPENSION, DEMOTION, RELEASE AND DISMISSAL

The Superintendent will have the responsibility of recommending suspension, demotion, release, and dismissal.

The Superintendent or designee is authorized and directed to establish administrative regulation(s) governing the suspension, demotion, release, and dismissal of classified employees.

Legal References:

EDUCATION CODE

- 35161 Powers and duties
- 45101 Definitions
- 45113 Rules and regulations governing personnel management of classified service in districts not incorporating merit system; designation as permanent employee; disciplinary action
- 45116 Notice of disciplinary action

Policy

adopted: June 24, 1993

revised: June 8, 2000; June 16, 2010

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM

Livermore, CA

SUSPENSION, DEMOTION, AND DISMISSAL

A. Definition

1. Discipline, as used in this Regulation, includes dismissal, demotion, suspension (with or without pay), reassignment, reduction in pay step, and/or reduction in classification for performance related reasons without the permanent employee's consent.
 - a. A layoff or reduction of hours, based on lack of work or lack of funds, shall not be considered discipline.
 - b. This Regulation shall not limit the Tri-Valley ROCP's right to evaluate or to reprimand or to counsel, whether orally or in writing; nor shall anything in the Tri-Valley ROCP's evaluation procedures limit the Tri-Valley ROCP's right to discipline employees pursuant to this Regulation.
2. Permanent/Probationary
 - a. Employees with permanent status shall be subject to discipline only for cause pursuant to this Regulation.
 - b. The probationary period is an extension of the selection process. As such, a probationary employee may be released, at any time, at the sole discretion of the Tri-Valley ROCP, and without a right to a hearing.
3. Progressive Discipline

In accordance with the concept of "progressive discipline," counseling and an opportunity for improvement shall typically precede disciplinary action. This concept, however, specifically does not apply in cases involving gross misconduct or other circumstances deemed appropriate by the Tri-Valley ROCP.

B. Causes for Discipline of Permanent Employees

1. The continued employment of a permanent employee is contingent upon satisfactory performance and personal fitness. A permanent employee may be disciplined for just cause. Just cause includes, by way of illustration and not limitation:

SUSPENSION, DEMOTION, AND DISMISSAL

- a. Falsifying any information supplied to the Tri-Valley ROCP. This includes, but is not limited to, information supplied on application forms, employment records, time sheets or cards, absence forms or any other Tri-Valley ROCP records.
- b. Unsatisfactory performance of the duties of his/her position.
- c. Inefficiency in performance of the duties of his/her position.
- d. Neglect of duty.
- e. An act of insubordination. This shall include, by way of illustration and not limitation, refusal or other failure to either comply with a direct order and/or to perform regular or other assigned work and/or refusal to cooperate fully.
- f. Dishonesty or theft, including deliberate destruction, damage or removal of the property of the Tri-Valley ROCP or another person.
- g. Consumption of an alcoholic beverage, or an intoxicant of any kind, either 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/her.
- h. Possession of an alcoholic beverage, or an intoxicant of any kind, at a Tri-Valley ROCP facility, or on Tri-Valley ROCP or member district property.
- i. While on duty: either used, sold/furnished, or was under the influence of, or unlawfully possessed any controlled substance (as defined in Health and Safety Code Section 11007 *et seq.*).
- j. While off duty: unlawfully sold/furnished, was under the influence of, or possessed any controlled substance (as defined in Health and Safety Code Section 11007 *et seq.*).
- k. Conviction of:
 - any felony; or
 - the conviction of a misdemeanor involving moral turpitude; or

SUSPENSION, DEMOTION, AND DISMISSAL

- the conviction of any sex offense or substance abuse offense made relevant by provisions of the Education Code; or
- any other offense if there is a nexus to the employee's work.

A plea of guilty, or a conviction following a plea of *nolo contendere*, is deemed to be a conviction within the meaning of this section.

- I. Abandonment of position/employment. Three (3) of the affected employee's work days of continuous absence without approved leave shall be deemed abandonment and shall result in termination as a voluntary resignation. (See Section F, below.)
 - m. Immoral conduct.
 - n. Discourteous, offensive, or abusive conduct or language toward the public, a pupil, or another employee of the Tri-Valley ROCP.
 - o. Misuse of Tri-Valley ROCP property.
 - p. Violation of Tri-Valley ROCP rules, regulations, policies or procedures. This shall also include refusal to obey the Tri-Valley ROCP's safety rules or regulations and those made applicable to public schools by the State Board of Education or by any other appropriate state or governmental agency.
 - q. Failure to possess or keep in effect any license, certificate, or other similar requirement specified in the employee's classification specification or otherwise necessary for the employee to perform the duties of the position.
 - r. Refusal to take and subscribe any oath or affirmation which is required by law in connection with his/her employment.
 - s. Unlawful discrimination and unlawful harassment (as set forth in Tri-Valley ROCP policies, regulations, rules or in law) while acting in the capacity of a Tri-Valley ROCP employee.

SUSPENSION, DEMOTION, AND DISMISSAL

- t. Unlawful retaliation against a pupil or any Tri-Valley ROCP 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 actual or suspected violation of any law of this State or the United States occurring on the job or directly related thereto.
 - u. Repeated and/or unauthorized absenteeism and/or tardiness, including abuse of illness or other leave provisions.
 - v. Knowingly provided, in a verbal or written manner, confidential employee and/or student records to an unauthorized person or persons.
 - w. Conduct, either during or outside of duty hours, which negatively impacts the employee's ability to render service to the Tri-Valley ROCP and/or causes discredit to the Tri-Valley ROCP.
 - x. Any cause set forth in the California Education Code which mandates discipline, dismissal, or prohibits hiring.
2. No disciplinary action shall be taken solely based upon:
- a. a cause which arose prior to the employee attaining permanent status; or
 - b. for any cause which arose more than two (2) years preceding the date of the filing of the notice of cause.
 - c. The preceding shall not apply if:
 - such cause was concealed; or
 - not disclosed by such employee when it could be reasonably assumed that the employee should have disclosed the facts to the Tri-Valley ROCP.
- d. Such prior cause(s) may be utilized in determining the appropriate level of discipline for a current cause for discipline.

SUSPENSION, DEMOTION, AND DISMISSAL**C. Procedure for Imposing Disciplinary Action on an Employee****1. Informal Conference**

- a. An employee against whom disciplinary action is being considered may be requested to attend a conference with the Superintendent or his/her designee prior to official written notification of any proposed disciplinary action. At such conference, the employee will be informed orally of the specific disciplinary action being considered as well as the reasons therefore and be given an opportunity to respond thereto.
- b. The employee may be represented at such conference by a representative of his/her choice. Holding such an informal conference is discretionary with the Tri-Valley ROCP and failure to do so will not invalidate any disciplinary action taken pursuant to this regulation.

2. Pre-Disciplinary Safeguards

Prior to the imposition of disciplinary action, the Tri-Valley ROCP will give written notice to the employee. This written notice of disciplinary action will be deemed sufficient if personally delivered or sent to the employee by certified mail, return receipt requested, at least five (5) calendar days prior to the date when the disciplinary action is proposed to be effected.

3. Notice to the Employee

This written notice of disciplinary action shall be deemed sufficient if:

- a. personally delivered;
- b. actually received by the employee;
- c. sent to the employee by certified mail, return receipt requested, at the employee's last known address.

SUSPENSION, DEMOTION, AND DISMISSAL**4. Contents of the Written Notice**

The contents of the written notice shall include, but need not be limited to, the following:

- a. A statement of the specific acts and omissions upon which the disciplinary action is based.
- b. A statement of the cause, or causes, for the action taken.
- c. If it is claimed that the employee has violated a rule or regulation of the Tri-Valley ROCP, a statement of the rule or regulation.
- d. A statement of the discipline proposed, including beginning and ending date(s), if appropriate.
- e. A statement that the employee may file, with the Superintendent or his/her designee, a request for hearing before the Tri-Valley ROCP Governing Board. Such request must be filed within five (5) days (see Policy No.4224: Complaint Procedure) after receipt of the written notice by the employee.
- f. A card or paper, the signing and filing of which shall constitute a demand for hearing and a denial of all charges.
- g. A statement that if the employee does not respond pursuant to Section C.3.e. above, the Tri-Valley ROCP will impose the discipline as noticed.

D. Employment Status Pending Hearing

1. Except as set forth in Section D.2. below, an employee who has requested a hearing regarding a recommendation of disciplinary action shall remain on active duty status and shall remain responsible for fulfilling his/her assigned duties pending his/her hearing. Active duty may, at the Tri-Valley ROCP's discretion, include a special or changed assignment.
2. After compliance with Sections C.1 through C.4, if the Tri-Valley ROCP recommends dismissal, the employee may be suspended, without pay, pending completion of the hearing set forth in Section E., below.

SUSPENSION, DEMOTION, AND DISMISSAL**E. Hearing Before the Tri-Valley ROCP Governing Board**

1. If the employee served with a notice of disciplinary action files a timely request for hearing, a hearing will be granted. The Tri-Valley ROCP Governing Board may conduct such a hearing itself or may appoint a hearing officer to conduct such a hearing.
 - a. Any decisions rendered by a hearing officer shall be advisory to the Tri-Valley ROCP Governing Board.
 - b. The hearing shall be conducted in closed session unless the employee requests a public hearing. The Tri-Valley ROCP Governing Board, or the hearing officer, may deliberate in the absence of the employee and the Tri-Valley ROCP administration.
2. At such hearing, the employee shall be entitled: to appear personally; to be represented by a person of his/her choice; to introduce relevant evidence on his/her behalf; to cross-examine witnesses; and to challenge evidence presented by the Tri-Valley ROCP.
3. The Tri-Valley ROCP Governing Board's determination of the sufficiency of the cause for disciplinary action, as well as the level of discipline imposed, shall be conclusive.
4. If an employee requests a hearing, and subsequently fails to appear at the hearing, the employee shall be deemed to have waived any right to participate or be represented at the hearing. Thereafter, action may be taken without further notice to the employee in accordance with the recommendation for disciplinary action which was previously served upon the employee.

F. Abandonment of Position/Employment

Absence without approved leave (without notification to the Tri-Valley ROCP) shall constitute and result in an automatic resignation as of the last day on which the employee actually rendered service.

G. General Provisions

1. Suspension pursuant to this Regulation will not reduce or deprive the employee of seniority or health benefits until a decision is made by the Board.

SUSPENSION, DEMOTION, AND DISMISSAL

2. Nothing in this Regulation will limit the Tri-Valley ROCP's right to institute dismissal and/or immediate suspension and mandatory leave of absence proceedings as set forth in the California Education Code, nor will discipline under this Regulation be regarded as a precondition of any proceedings under the California Education Code.
3. A proposed disciplinary action may be settled at any time. The terms of such settlement will be reduced to writing. An employee offered a disciplinary settlement by the Tri-Valley ROCP will, if requested by the employee, be granted a reasonable amount of time to have the proposed settlement reviewed by his/her chosen representative prior to signing it.
4. All proceedings involving proposed discipline will be private, and all parties will keep the matter as confidential as reasonably possible under the circumstances.

LAYOFF AND REEMPLOYMENT

Classified employees are subject to layoff because of lack of work and/or lack of funds.

The Superintendent, or designee, is authorized and directed to establish administrative regulations that govern the layoff and reemployment process.

Legal References:

EDUCATION CODE

- 35161 Powers and duties
- 45101 Definitions
- 45103 Classified service in districts not incorporating the merit system
- 45105 Positions under various acts not requiring certification qualifications; classification
- 45114 Layoff and reemployment procedures; definitions
- 45115 Layoff: Reinstatement from service retirement
- 45117 Notice of layoff due to expiration of specially funded programs or bona fide reduction or elimination of service
- 45297 Right to take equivalent examination for position placed within classified service while employee in military service, Military Reserve or National Guard
- 45298 Reemployment and promotional examination preference of persons laid off; voluntary demotions or reductions in time
- 45308 Order of layoff and reemployment; length of service
- 45309 Reinstatement of permanent noncertified employees after resignation

UNITED STATES CODE, TITLE 38

- 4301-4307 Veterans' Reemployment Rights

LAYOFF AND REEMPLOYMENT**A. Definitions****1. Layoff**

- a. A layoff is a separation from the classified service for lack of work and/or lack of funds.

2. Seniority

- a. Seniority for classified employees is determined in accordance with the provisions of Education Code section 45308.

- b. By way of example, on the date of adoption of this Regulation:

- 1) Seniority for classified is based on hours in paid status. "Hours in paid status" includes:

- hours during the school year, a holiday, recess, or during any period that a school is in session or closed;
- hours granted pursuant to California Education Code section 45297 for time spent on a military leave of absence.

- 2) "Hours in paid status" does **not** include:

- any hours compensated solely on an overtime basis (California Education Code section 45308);
- any service performed prior to entering into a probationary or permanent status in the classified service.

- c. If two (2) or more employees subject to layoff have equal seniority in the classification of layoff, the determination of who will be laid off will be made on the basis of Tri-Valley ROCP hire date and if that be equal, then the determination will be made by lot.

LAYOFF AND REEMPLOYMENT (continued)3. Bumping

- a. Bumping is defined as the displacement of a junior employee by a more senior employee to avoid the layoff, or reduction in hours, of the senior employee.

B. General Provisions

1. Employees are subject to layoff by the TVROCP Governing Board for lack of work or lack of funds or as otherwise permitted by applicable law:
2. When a specially funded program expires at the end of a school year, classified employees who are subject to layoff shall be given written notice on or before April 29 informing them of their layoff effective the end of the school year. However, if the termination date of any specially funded program is other than June 30, the notice shall be given not less than forty-five (45) days prior to the effective date of their layoff. (California Education Code section 45117.)
3. Classified employees subject to layoff for lack of work or lack of funds shall be given notice of layoff as required by law (currently not less than forty-five (45) calendar days prior to the effective date of layoff), and informed of their displacement rights, if any, and reemployment rights. (California Education Code section 45117.)
4. Pursuant to California Education Code section 45308, whenever an employee is laid off, the order of layoff within the classification will be determined by length of service. The employee with the least seniority in the affected classification, plus seniority in a lateral or higher classification, will be laid off first.
5. A permanent employee who is laid off from a classification, and who has previous service as a permanent employee in an equal or lower classification, will have the right to bump an employee with less seniority in that classification. Seniority in the equal or lower classification will include:
 - a. the total of the previous service in the equal or lower classification;
 - b. plus, service in the classification from which layoff occurs and in higher classification.

LAYOFF AND REEMPLOYMENT

6. An employee whose position is eliminated or whose hours are reduced or who is bumped from his/her present position may bump a lesser length of service employee in a position of equal or less hours (ex: same job profile) within his/her classification. If no such position is available, the employee may bump into a position of the same job profile in an equal or lower classification in which the employee previously gained permanent status provided his/her seniority is greater than the least senior employee in that equal or lower classification.
7. An employee displaced from his/her classification as a result of being bumped will have the same bumping rights as set forth in A.3. above.
8. A permanent employee may voluntarily consent to a reduction in hours of employment or to an assignment to a lower classification in order to avoid layoff.
 - a. Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff or to remain in their present position rather than be reassigned, will be granted the same rights as persons laid off and will retain eligibility to be considered for re-employment for an additional period of twenty-four (24) months. (California Education Code section 45298.)
 - b. Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff will be, at the option of the employee, returned to a position in their former class to positions with increased assigned time as vacancies become available and without limitation of time, but if there is a valid re-employment list, they will be ranked on that list in accordance with their proper seniority.
9. Employees laid off because of lack of work or lack of funds are eligible for re-employment for a period of thirty-nine (39) months and will be re-employed in preference to new applicants. In addition, such laid off persons have the right to anticipate in promotional examinations within the Tri-Valley ROCP during the period of thirty-nine (39) months. (California Education Code section 45298.)
10. An employee who is laid off, and subsequently re-employed from a valid re-employment list within thirty-nine (39) months after a layoff, will retain that seniority and status earned prior to the effective date of the layoff.

LAYOFF AND REEMPLOYMENT

- a. This seniority will be utilized to compute entitlement to vacation accrual, to longevity steps, and to other benefits and burdens which are specifically mandated by the Education Code.
11. An employees may request a voluntary demotion to a vacant position in a classification not previously held in lieu of layoff
 - a. The determination of eligibility for re-classification will be made by the Superintendent on a case by case basis.
 - b. Affected employees will be given consideration before the hiring of any person who has not previously held a position in the Tri-Valley ROCP.
 - c. Affected employees may be granted specialized training which would qualify them for other positions in the Tri-Valley ROCP for which they do not currently qualify. This may be accomplished by in-service training and/or other educational courses.
12. Subject to the rules of PERS, an employee may choose service retirement in lieu of layoff or voluntary demotion, or reduction in assigned time in connection with a layoff,
 - a. Such employee will, within ten (10) calendar days prior to the effective date of the proposed layoff, complete and submit a form provided by the Tri-Valley ROCP for this purpose.
 - b. The employee will then be placed on a thirty-nine (39) month re-employment list; however, the employee will not be eligible for re-employment during such other period of time as may be specified pertinent by Government Code Sections.
 - c. If an offer of re-employment is made to an eligible retired person under this Regulation, and the Tri-Valley ROCP receives a written acceptance of the offer within ten (10) working days, the position will not be filled by any other person, and the retired person will be allowed sufficient time to terminate his/her retired status. (California Education Code section 45115.)
 - d. Any election to retire after being placed on a re-employment list will be retirement in lieu of layoff within the meaning of this section.

LAYOFF AND REEMPLOYMENT

C. Notice

1. Pursuant to governing law, a written notice of layoff will be given to affected employees no later than forty-five (45) calendar days prior to the effective date of the layoff by Certified Mail. (California Education Code section 45117.)
2. The notice will contain:
 - a. The employee's seniority;
 - b. The employee's displacement rights, if any;
 - c. The employee's re-employment rights;
 - d. The employee's right to discuss the layoff with the Superintendent;
 - e. The employee's right to apply for benefits under the unemployment insurance code;
 - f. Employees who have been given notice of layoff will respond in writing within ten (10) working days, after receiving such notice by Certified Mail, of their intent to exercise seniority rights for displacement, to lateral or lower classification or reduction of assignment in hours.

D. Re-employment Rights

1. The names of employees laid off will be placed on re-employment lists in the reverse order of layoff.
2. Re-employment will be in the reverse order of layoff. (California Education Code section 45308.)
3. Offers of re-employment will be made on the basis of re-employment lists based on the highest seniority.
4. Such employee's will be notified by Certified/Registered Mail at the last known address of record. Employees will be responsible for notifying Tri-Valley ROCP for any change of address.

LAYOFF AND REEMPLOYMENT (continued)

5. An employee will notify the Tri-Valley ROCP of his/her intent to accept or refuse re-employment within ten (10) working days following notice of re-employment. Failure to respond by the employee will be deemed a refusal of the re-employment offer.
6. An employee on a re-employment list may decline three (3) offers of re-employment in his/her former classification. After the third refusal, no additional offers need be made except that an employee may, during the period of entitlement, notify the Tri-Valley ROCP of availability and will thereafter be entitled to offers of employment for which the employee is eligible.

E. Salaries-Benefits in the Event of Layoff

1. a. A full-time permanent employee will be entitled to receive medical/dental insurance for a period of two (2) months from the effective date of layoff.
b. The Tri-Valley ROCP will pay, on behalf of the employee, the same amount that was paid in the month preceding the layoff. Part-time employees will be entitled to the same coverage on the basis of their pro-ration of benefits.
c. The coverage will be equal to that purchased by the Tri-Valley ROCP and/or the employee during active employment status.
2. Employees will be referred to COBRA for additional coverage.

F. Long-Term Substitutes

Employees on a layoff list may substitute in the classification from which they were laid off when a long-term substitute is required to work in the absence of the incumbent. Long-term is defined as work of at least five (5) continuous work days in duration.

PROFESSIONAL GROWTH

Employees may be provided opportunities for the development of increased competence beyond that which they may attain through the performance of their assigned duties.

Legal References:

EDUCATION CODE

35161 Powers and duties

44032 Payment of expenses; advance of funds; direction of travel by governing board

45380-45387 Retraining and study leave (classified)

PROFESSIONAL GROWTH

A. Opportunities to Improve Job Skills

1. Classified staff members may be provided with opportunities to improve their job skills so they can perform their duties more efficiently and/or prepare themselves for more responsible, higher-paying positions within the Tri-Valley ROCP.
2. Such opportunities may include, but are not limited to the following:
 - a. Visits to other ROCPs
 - b. Conferences involving other classified personnel from other ROCPs, the county, state, region, or nation, either in the employee's job classification or in a higher classification.
 - c. Training classes and workshops offered by the ROCP, county, or other appropriate agency.

B. Professional Growth Compensation

1. Professional growth compensation may be earned by completion of:
 - a. academic courses taken in college, junior college, adult education; or
 - b. other approved educational experiences, such as attendance at institutes, lectures, workshops, seminars, sponsored by educational or professional associations that relate to their employment.
2. All professional growth activities must be submitted to the Superintendent for approval prior to enrollment.
3. Workshops/inservices that have been pre-approved for Professional Growth by the Superintendent will be counted as units on the salary schedule at the equivalent of sixteen (16) hours equaling one semester credit.
4. Upon verification of completion of ten (10) semester units of course work (including workshops and other training) that meet the requirements as set forth above, the employee will be granted Professional Growth increment of Five Hundred Dollars (\$500) per year.

PROFESSIONAL GROWTH (continued)

- a. Employees who work less than eight (8) hours per day and less than twelve (12) months per year will receive a prorated portion of the professional growth increment equal to the proportion of the total number of hours worked per year as compared to 2080 hours.
- b. Transcripts of work completed, or verification of work to be completed or in progress, must be submitted to the Superintendent on or before October 15 to be effective retroactive to July 1. The Professional Growth increment is on-going and will remain in effect for each succeeding school year.
- c. To be eligible for Professional Growth compensation, the activity must have been completed during non-work time and within the prior school year.
5. The properly pro-rated Professional Growth increment will be added to the employee's annual salary at the commencement of each school year and included in the employee's regular monthly pay warrant.
6. Professional Growth increments can be earned annually, not to exceed one (1) award per school year, to a maximum of four (4) increments.
7. Consideration for credit will be given for courses taken at no Tri-Valley ROCP expense and during non-work hours.
8. Stipends will be awarded for Associate, Bachelor, Masters—or Doctorate degrees pursuant the Tri-Valley ROCP Governing Board adopted salary schedule established for the employee's classification. The monetary amount will be included on the classified salary schedule. The holder's original degree must be submitted to the Superintendent, or designee, for verification.

SALARY GUIDELINES AND COMPENSATION

Final determination of compensation for classified personnel is solely the responsibility of the TVROCP Governing Board. The Superintendent will make recommendations for compensation based on approved salary guidelines.

The Superintendent, or designee, is authorized and directed to establish administrative regulations that govern the salary guidelines and compensation of classified employees.

Legal References:

EDUCATION CODE

- 35161 Powers and duties
- 45160 Power of governing board to fix compensation
- 45162 Salary of employees not requiring certification qualifications
- 45163 Revisions of salaries; alternative methods
- 45165 Payment of compensation of employees employed for less than 12 months a year
- 45166 Time of payment of compensation
- 45167 Error in salary
- 45169 Employee salary data

SALARY GUIDELINES AND COMPENSATION

A. Regular Rate of Pay

1. The regular rate of pay for each employee will be based on his/her placement on the salary schedule established for his/her classification.
2. At Tri-Valley ROCP discretion, employees in a classification may be compensated at a daily/hourly rate which will include earned vacation for full time and part-time employees.

B. Step Increases

1. Typically, each classification will have a pay range that is comprised of between five (5) steps and Seven (7) steps with three percent (3%) to five percent (5%) between each step.

C. Out of Class Pay

1. An employee may be required to perform duties which are not fixed and prescribed for his/her classification.
2. If an employee is required to perform out-of-class duties for an existing higher classification, for more than five (5) working days in any fifteen (15) day period, his/her salary shall be adjusted upward for the entire period he/she is required to work out of classification. Rate of compensation will be either five percent (5%) above the employee's regular rate of pay or the difference between the employee's regular rate and the temporary rate, whichever is greater.

D. Payroll Period

Wages for regularly scheduled hours will be paid once per month for services rendered during the month. Such wages will be payable on or before the last working day of the month. If the normal pay date falls on a holiday, the paycheck will be issued on the preceding workday. (California Education Code section 45166.)

E. Payroll Errors

1. Salary Underpayment

- a. Any salary underpayment will be corrected and a supplemental check issued within five (5) workdays following the determination that an error was made. (California Education Code section 45167.)

SALARY GUIDELINES AND COMPENSATION2. **Salary Overpayment**

Any salary overpayment will be corrected by payroll deduction pursuant to a mutually agreed upon repayment schedule. The repayment schedule will not exceed one (1) year/twelve (12) calendar months.

F. Special Payments

Any payroll adjustment due as a result of reasons other than "salary errors" pursuant to California Education Code section 45167 will be made and a supplemental check issued not later than thirty (30) days following written notice to the payroll department.

G. Lost Checks

Any paycheck which is lost after receipt or which is not delivered within five (5) days of mailing, if mailed, will be replaced not later than twenty (20) days, from the date of issue, following the employee's written request to the payroll department for replacement of check.

H. Mileage, Meals and Lodging1. **Mileage**

- a. Any employee required to use his/her vehicle in the course of duties will be reimbursed at the Tri-Valley ROCP's established rate per mile for actual miles driven on behalf of the Tri-Valley ROCP.
- b. The mileage computation will include mileage necessary to return to the employee's normal job site or home, whichever is less, after the completion of the Tri-Valley ROCP's business.
- c. This amount will be payable in a separate warrant pursuant to the employee's claim.

2. **Meals**

- a. Any employee who, as a result of work-related travel outside of Alameda County, will be reimbursed for reasonable meal expenses in connection with the travel not to exceed the Tri-Valley ROCP established per diem rate.

SALARY GUIDELINES AND COMPENSATION3. Lodging

- a. Any employee who, as a result of work-related travel, must be lodged away from home overnight will be reimbursed for reasonable lodging expenses. Lodging receipts are required for reimbursement.
4. Claims for reimbursement of miles, meals and lodging shall be made by the 10th of the month for expenses in the preceding month. Claims shall be submitted on the Tri-Valley ROCP approved form.

I. Longevity

1. Classified employees will, as a longevity increment, receive additional compensation pursuant the Tri-Valley ROCP Governing Board adopted salary schedule established for the employee's classification.
2. Longevity percentages are **NOT** cumulative.
3. An employee who first rendered service on days 1 - 15 of a month will have the first of the month established as their anniversary date; an employee who first rendered service on days 16 - 31 of any month will have the first of the following month established as their anniversary date.

J. Other Payments

1. Employee-Expense and Materials
 - a. Should the employment duties of an employee require use of any equipment or gear to insure the safety of the employee or others, the Tri-Valley ROCP shall furnish such equipment or gear, (as required) to meet minimum Cal OSHA requirements.
2. Personal Property Loss - Reimbursement
 - a. The Tri-Valley ROCP will not be responsible for employee's personal property damaged in the performance of duties.
 - b. The Tri-Valley ROCP will not assume liability for damage(s).

SALARY GUIDELINES AND COMPENSATION

K. Optional Salary Deductions

1. Employees of the Tri-Valley ROCP may elect to have amounts withheld from earnings as payment for all Tri-Valley ROCP-approved benefits.
2. Deductions are optional with each employee.

HOLIDAYS

Probationary and permanent classified employees are entitled to paid holidays as required by law or by policies and/or administrative regulations of the Tri-Valley ROC.

Legal References:

EDUCATION CODE

- 35161 Powers and duties
- 1318 Declaration of holidays
- 37220 School holidays
- 45203 Paid holidays

COURT DECISIONS

- California School Employees Ass'n v. Azusa Unified School Dist.* (1984) 152 Cal.App.3d 580.
- California School Emp. Ass'n v. Trona Joint Unified School Dist.* (1977) 70 Cal.App.3d 592.
- California School Employees Ass'n v. Oakland Unified School Dist.* (1983) 141 Cal.App.3d 624.
- California School Emp. Ass'n v. New Haven Unified School Dist.* (1979) 91 Cal.App.3d 919.
- California School Employees Ass'n v. Tamalpais Union High School Dist.* (184) 159 Cal.App.3d 879.
- California School Employees Ass'n v. Santee School Dist.* (1982) 129 Cal.App.3d 785.

HOLIDAYS

A. Scheduled Holidays

1. Permanent and probationary employees shall receive the following paid holidays:
 - 1) New Year's Day
 - 2) The day preceding or following New Year's Day
 - 3) Martin Luther King Jr. Day (3rd Monday in January)
 - 4) Lincoln's Birthday
 - 5) President's Day
 - 6) Memorial Day
 - 7) Independence Day
 - 8) Labor Day
 - 9) Veterans Day
 - 10) Thanksgiving Day
 - 11) The Friday following Thanksgiving Day
 - 12) Christmas Day
 - 13) The day preceding or following Christmas Day
- 14) Admissions Day (If Admissions Day is not observed by the Tri-Valley ROCP on September 9, each employee who would normally celebrate the event on that day will receive one (1) additional paid "floating" holiday.)
- 15) Good Friday will be designated as a paid non-duty day for classified employees so long as it remains a non-student day at the assigned worksite. If Good Friday is a student day at the employee's assigned worksite, the day will be a work day for each employee assigned to that site and each employee who would normally celebrate the event on that day will receive one (1) additional paid "floating" "holiday.)
- 16) The Wednesday before Thanksgiving will be designated as a paid non-duty day for classified employees so long as it remains a non-duty day for teachers.
- 17) One (1) additional paid "floating" holiday, designated as a "Birthday Holiday," will be granted to each permanent employee.

HOLIDAYS (continued)

- a. The last four (4) holidays referenced above will be scheduled by the employee after review with his/her immediate supervisor to assure that a holiday taken on the date selected will not adversely affect the orderly operation of the Tri-Valley ROCP. These four (4) holidays must be taken in the 12 month period of the current school year, defined as July 1 - June 30.
- b. When a holiday falls on a Saturday, the preceding workday that is not also a holiday shall be deemed to be that holiday. When a holiday falls on Sunday, the following workday that is not also a holiday shall be deemed to be that holiday.

B. Eligibility to Receive Holiday Pay

1. An employee must be in paid status on the working day immediately preceding or succeeding the holiday to be paid for the holiday.
2. Employees who are not normally assigned to duty during the Christmas and New Year holiday period shall be paid for those holidays provided that they were in a paid status during any portion of the working day of their normal assignment immediately preceding or succeeding the holiday period. (California Education Code section 45203.)

RETIREMENT BENEFITS

A. PERS

An eligible classified employee shall be enrolled in the Public Employee Retirement System ("PERS") in accordance with the terms of the contract between Tri-Valley ROCP and PERS. The terms of this contract with PERS, and the benefits provided, are subject to change from year-to-year.

B. Alternative Retirement Plan

Pursuant to Section 11332 of the Omnibus Budget Reconciliation Act (OBRA) of 1990, an alternative retirement plan shall be implemented for employees who are not eligible to participate in PERS. Part-time, seasonal and temporary employees who are not eligible to participate in PERS will be provided the option to participate in an employee paid IRC 125 plan.

C. Medical and Dental Benefits After Retirement

The Tri-Valley ROCP, subject to lawful rules of the insurance provider, shall permit an eligible retiree to enroll in Tri-Valley ROCP-sponsored medical and dental plans. The entire cost of the selected plans shall be borne by the retiree.

Legal References:

EDUCATION CODE

35161 Powers and duties

Policy

adopted: June 24, 1993

revised: June 8, 2000; June 16, 2010

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM

Livermore, CA

HOURS AND OVERTIME

The Superintendent is directed and authorized to, in compliance with state and federal laws, establish hours of employment and rules regarding the normal workday, workweek and work year; and to establish overtime compensation.

Each classified employee who is required to attend meetings or activities outside of their normal working hours will be compensated for such extra hours of service at:

- (a) straight time if appropriate;
- (b) the appropriate overtime rate, or
- (c) through compensatory time off (CTO)

Legal References:**EDUCATION CODE:**

- 35161 Powers and duties
- 45167 Workweek
- 45128 Overtime
- 45129 Compensatory time off
- 45130 Exclusion from overtime provisions
- 45131 Overtime; length of workday
- 45132 Four-consecutive-day workweek
- 45133 Nine-hour-per-day, 80-hour-per-2-week work schedule; application of section
- 45308 Order of layoff and reemployment; length of service

HOURS AND OVERTIME

A. Workweek

1. Except as otherwise prescribed by governing law, Board Policy, and/or Administrative Regulation, the workweek will consist of five (5) consecutive days, unless agreed to otherwise by the employee and the Superintendent. Typically, the workweek is Monday through Friday but an alternate schedule (e.g. Tuesday through Saturday) may be established by the Superintendent.
2. Flex Schedule
 - a. Flex-Time is defined as a flexible workweek. The workweek will be in accordance with the provisions of the Education Code, Sections 45127 (work week), 45128 (overtime), 45131 (overtime, length of work day); 45132 (10-hour-per day, 40 hour, four-consecutive-day workweek); and 45133 (9-hour-per-day, 80-hour-per-2-week).
 - b. The District recognizes and accepts the concept of flex-time for implementation as appropriate within the specific job classification of "12-month classified employee."
 - c. A 12-month classified employee may at any time request a flex-time arrangement by completing and submitting the TVROCP Proposal for Flex-Time form. The proposal must be for a minimum duration of twelve (12) weeks.
 - d. The structure of the workweek shall be mutually agreed upon by the employee and his/her Supervisor, with the Superintendent having final authority over implementation of a flex-time arrangement. Any denial of a flex-time request shall be in writing and shall contain the reason(s) for the denial.
 - e. If it is determined that a flex-time arrangement interferes with the operation of a program, the Superintendent or designee shall modify or terminate the arrangement with three (3) weeks' written notification to the employee. Likewise, the employee may terminate the arrangement or request a modification with three (3) weeks' written notification to his/her Supervisor and the Superintendent or designee.

HOURS AND OVERTIME (continued)

B. Workday

1. The length of the workday will be designated by the Superintendent, or designee, for each classified position.
 - a. Each employee will be assigned a fixed, regular, and ascertainable minimum number of hours, which will be not less than two (2) hours per day. Any change in an employee's workday will only be made after consultation with the affected employee.
2. An employee may request a change in the workday. Upon request, the employee and the supervisor will meet to discuss the feasibility of such a change.
3. No change in a work schedule will be effected without the supervisor's approval.
4. No employee's work schedule will be changed for arbitrary or capricious reasons.

C. Work Year

The work year for each classified position will be designated by the Tri-Valley ROCP for each classified position.

D. Meal Periods

1. A non-compensated meal period of not less than thirty (30) nor more than sixty (60) minutes will be provided to each employee who renders service of at least five (5) consecutive hours.
2. The actual length of the meal period will be established by the Superintendent.
3. The meal period will be scheduled at a time consistent with the efficient operation of the Tri-Valley ROCP. In the case of a full-time employee, this will normally be at or near the midpoint of the work shift.

HOURS AND OVERTIME (continued)

4. The length of the meal period provided may be adjusted by the employee with prior approval of the supervisor. In no event will the meal period be longer than one (1) hour.
5. The meal period will be uninterrupted except in the event of an emergency. For the purposes of this provision, an "emergency" is defined as an event which potentially involves injury to a person or damage to property.

E. Rest Periods

1. One fifteen (15) minute compensated rest period will be provided to employees for each four (4)-hour period of services.
2. This rest period will be taken at the direction of the supervisor. It will normally be scheduled at or near the mid-point of each four (4)-hour period of service unless such scheduling is inconsistent with the duties to be performed.
3. Each employee is expected to use this period for relaxation. This period is not to be used to lengthen the meal period or to shorten the workday.
4. Rest periods are a part of the regular workday and will be compensated at the regular rate of pay for the employee.

F. Overtime

1. Overtime shall be compensated as required by applicable law. At the time of adoption of this Administrative Regulation, and subject to change as a result of future legislation, overtime is any pre-approved (by Superintendent or his/her designee) time required to be worked in excess of eight (8) hours in any one (1) day and/or forty (40) hours in any one (1) week except as provided herein:

Overtime shall be compensated as comp hours unless the Superintendent or his/her designee approves compensation with pay.

- a. All overtime hours worked on the seventh day of the work week up to eight (8) hours will be compensated at time and one-half (1½) times the regular rate of time/pay.

HOURS AND OVERTIME (continued)

- b. All hours worked on holidays designated by law or the Tri-Valley ROCP will be compensated at the rate of two and one-half (2 1/2) times the regular rate of time/pay.
- c. All employees working an average of less than four (4) hours per day for five (5) consecutive days will be compensated at the rate of time and one-half (1½) the regular rate of time/pay for work performed on the seventh day of the workweek. (California Education Code section 45131.) [Law requires 1 ½ pay only on the seventh day of the workweek]
- d. All employees working an average for four (4) hours or more, but less than full time, for five (5) consecutive days will be compensated at the rate of time and one-half (1½) the regular rate of pay for work performed on the sixth day of the workweek. All such employees will be compensated for work performed on the seventh day of the workweek, at the rate of time and one-half (1½) the employee's regular rate of time/pay. (California Education Code section 45131.)
- e. For purposes of determining entitlement to overtime rates, all hours during which an employee is excused from work because of holidays, sick leave, vacation, compensating time off, or other paid leave of absence, shall be considered as time worked by the employee. (California Education Code section 45128.)
- f. All overtime work must have prior approval by the Superintendent or designee.

G. Compensatory Time Off

1. With supervisory approval, the employee may elect to receive compensatory time off (CTO) for overtime hours worked. An employee may not have credited to his/her account more than forty (40) hours of CTO at any one time.
2. CTO must be used within twelve (12) calendar months following the month in which the overtime was worked.
3. The Superintendent or designee will work with the employee in setting a schedule where the CTO can be taken without loss to the employee and without impairing the services to the Tri-Valley ROCP. An employee may be directed to take CTO.

HOURS AND OVERTIME (continued)

4. If the CTO has not been taken, within the twelve (12) months of the date on which it was earned, the Tri-Valley ROP will pay the employee in cash for all such time at the appropriate overtime rate based on the employee's current rate of pay.

H. Overtime Distribution by Seniority

1. Overtime will be distributed to employees within a classification, provided they have the necessary skills to perform the duties required.
2. Consistent with the operational needs of the Tri-Valley ROCP, overtime will be first offered to the employee who is currently assigned to the site where the work is to be performed. If more than one person within the classification is assigned to that site, overtime will be offered on a rotating basis

I. Minimum Call in Time

1. Any employee called in to work on a day when the employee is not scheduled to work will receive a minimum of two (2) hours pay at the applicable rate of pay from the time the employee is scheduled to report at the job location.

J. Right of Refusal

Except in the case of an emergency, any employee will have the right to reject any offer or request for overtime or call-back, on-call, or call-in-time.

K. Call Back Time

Any employee called back to work after completion of his/her regular assignment will be compensated for at least two (2) hours of work at the applicable rate of pay from the time the employee is scheduled to report at the job location.

TVROCP PROPOSAL FOR FLEX-TIME**Employee's Name:** _____**Position:** _____ **Site:** _____

- Request for (check one):**
- 5 days / 40 hours (5/40)**
 - 4 days / 10 hours (4/10)**
 - 9 days / 80 hours (9/80)**

Proposed daily schedule: Start _____ a.m.**Lunch:** **30-minute** **60-minute**

End _____ p.m.

Proposed dates of flex: **Beginning date:** _____ **End date:** _____
*Minimum duration of 12 weeks***Conditions of Flex-Time:** (AR 4241)

I understand that the Superintendent or designee has final authority over implementation of a flex-time arrangement. Any denial of a flex-time request shall be in writing and shall contain reason(s) for the denial.

If it is determined that a flex-time arrangement interferes with the operation of a program, the Superintendent or designee shall modify or terminate the arrangement with three (3) weeks' written notification to the employee. Likewise, the employee may terminate the arrangement or request a modification with three (3) weeks' written notification to his/her Supervisor and the Superintendent or designee.

Employee's Signature: _____ **Date:** _____**SUPERVISOR'S RECOMMENDATION**

Approve Conditions: _____

Deny Reason: _____

Supervisor's Signature and Date: _____**DECISION OF THE SUPERINTENDENT**

Approve Conditions: _____

Deny Reason: _____

Superintendent's Signature and Date: _____

LEAVES

The Governing Board of the Tri-Valley ROCP shall provide for paid and unpaid leaves of absence for full-time and part-time classified employees in accordance with law, Board policy and administrative regulation, as applicable.

The Superintendent will be responsible for establishing administrative regulation(s) for leaves and absences that relate to illness, injury, bereavement, personal necessity, and others that meet the requirements of state and federal law.

Legal References:

EDUCATION CODE

- 22850-22856 Pension benefits, STRS members on military leave
- 35161 Powers and duties
- 44018 Compensation for employees on active military duty
- 44036 Leaves of absence for judicial and official appearances
- 44037 Unlawful to encourage exemption from jury duty
- 44043.5 Catastrophic leave
- 45059 Employee ordered to active military/naval duty, computation of salary
- 45190-45307 Leave of absence, vacation (classified)
- 45198 Effect of provisions authorizing leaves of absence (classified personnel)
- 45207 Personal necessity
- 45380-45387 Retraining and study

FAMILY CODE

- 297-297.5 Registered domestic partner rights, protections and benefits

GOVERNMENT CODE

- 3543.1 Release time for representatives of employee organizations
- 3543.2 Scope of representation
- 12945.1-12945.2 California Family Rights Act
- 20990-21013 Pension benefits, PERS members on military leave

LABOR CODE

- 230-230.2 Leaves for victims of domestic violence, sexual assault or specified felonies
- 230.3 Leave for emergency personnel
- 230.4 Leave for volunteer firefighters
- 230.8 Leave to visit child's school
- 233 Illness of child, parent, spouse or domestic partner

MILITARY AND VETERANS CODE

- 395-395.9 Military leave
- 395.10 Leave when spouse on leave from military deployment

LEAVES

UNEMPLOYMENT INSURANCE CODE

2626 Disability or disabled defined

3303 Paid Family Leave - Eligibility

CALIFORNIA CODE OF REGULATIONS, TITLE 2

7291.2 *et seq.* Sex discrimination: pregnancy, childbirth or related medical conditions

UNITED STATES CODE, TITLE 29

2601-2654 Family and Medical Leave Act of 1993

UNITED STATES CODE, TITLE 38

4301-4334 Uniformed Services Employment and Reemployment Rights Act of 1994

LEAVES

A. Sick Leave

1. Full-time classified employees accrue sick leave in accordance with California Education Code section 45191 and as set forth herein.
 - a. A regular classified employee of the Tri-Valley ROCP shall earn one (1) day of sick leave for each month of service rendered. A month of service is one in which the employee renders service on not less than eleven (11) days.
 - b. At the beginning of each fiscal year, the full amount of sick leave to be earned in the coming school year will be credited to each employee. Credit for sick leave need not be accrued prior to taking such leave and such a leave may be taken at any time during the year. However, a new employee of the Tri-Valley ROCP will not be eligible to take more than six (6) days until the first day of the calendar month after completion of six (6) months of active service with the Tri-Valley ROCP.
 - c. This leave may be accumulated without limit.
 - d. The Tri-Valley ROCP will provide each employee with a written statement of: (1) accrued sick leave total; and (2) sick leave entitlement for the school year. Such statement will be issued monthly.
 - e. Pay for any day of such absence will be the same as the pay which would have been received had the employee served during the day of illness.
 - f. An employee will notify his/her immediate supervisor, or his/her designee, as soon as reasonably possible of the employee's need to be absent. In all cases, this notification will occur at least one (1) hour prior to commencement of the employee's shift.
 - g. When the absence will exceed one (1) day, the employee will advise the supervisor or designee of the projected date of his/her return to duty.
 - h. In the case of three (3) consecutive days of absence, the Tri-Valley ROCP may require verification of illness or injury by a licensed medical practitioner.

LEAVES

- i. Any employee with excessive absences, or an unusual absence pattern, may be required to submit a medical certificate verifying his/her illness or injury for any subsequent days of absence.
 - j. Upon notification by an employee, the Personnel Office will send a statement of accumulated unused sick leave to another school district. In order to be eligible for this transfer of accumulated sick leave, the employee must have accepted employment in a second school district no later than one (1) year after terminating employment within this school district.
2. Part-time classified employees will accrue sick leave, as governed by California Education Code section 45191 and as set forth herein.
 - a. Part-time classified employees will accrue sick leave, as time served is proportional to the time served by a full-time employee.
 3. Extended Illness:
 - a. When a person employed in the classified service is absent from his/her duties on account of illness or accident for a period of five (5) months or less, whether or not the absence arises out of or in the course of employment of the employee, the amount deducted from the salary due him/her for any month in which the absence occurs shall not exceed the sum which is actually paid a substitute who has been employed to fill his/her position during his/her absence.
- B. Pregnancy Disability Leave**
1. In accordance with state and federal laws, all female classified employees of the Tri-Valley ROCP, regardless of length of service, shall be entitled to take a pregnancy disability leave if they are actually disabled by pregnancy. (42 USC 2000e, 2000e-2; 29 USC 2601-2654; California Education Code sections 44965, 45193; California Government Code sections 12943, 12945, 12945.2; Unemployment Insurance Code sections 2626, 3303; Title 2 California Code of Regulations section 7291.72 *et seq.*)

LEAVES (continued)

C. Industrial Accident and Illness Leave

1. Industrial Accident and Illness leave will be granted to qualified classified employees in accordance with the requirements of California Education Code Sections 45192 and 45195. This leave is limited to sixty (60) working days.

D. Break-In Service

1. No absence under any paid leave provisions of this regulation will constitute a break in service for any employee who is in paid status and all benefits accruing will continue to accrue under such absence.

E. Personal Necessity Leave

1. Pursuant to California Education Code section 45207, up to seven (7) days of annual sick leave, or any additional sick leave days at the discretion of the Superintendent, may be used by the employee at his/her election for the following reasons:

- a. Serious or critical illness of a member of the employee's immediate family (as defined under Funeral Attendance Leave) calling for services of a physician and upon District request verified by the physician's statement and of such an emergent nature that the immediate presence of the employee is required during his/her work day.
- b. Accident involving the person or property of the employee or of a member of the employee's immediate family of such an emergent nature that the immediate presence of the employee is required during his/her work day.
- c. The appearance in court as a litigant or under an official order from a court or other governmental jurisdiction for reasons not brought about through misconduct of the employees.
- d. Maternity, paternity and adoption leave.
- e. Medical incapacity of a member of the employee's immediate family.

LEAVES (continued)

- f. Up to three (3) days of this leave may be used each year for personal business that cannot be taken care of before or after duty hours or on Saturdays or Sundays.
 - (1) The employee is not required to give a reason for the absence, but they must request prior approval.
 - (2) The employee will, however, certify that the absence was not used for recreation (by way of illustration, and not limitation, attendance at a spouse or child's graduation or participation in a child's scheduled school activity will not be considered recreational) or for concerted activities of any nature whether association related or not.
 - g. Death of a relative or close friend.
2. If a personal necessity that requires not more than one (1) hour exists, an employee, on approval from the Superintendent or Director, may arrange for another employee to cover his/her responsibilities. Such one (1) hour absences will not be charged to personal necessity leave nor will an employee suffer any loss of pay. If a personal necessity requires two (2) hours or more of absence, an employee will be charged proportionately for the time absent.
 3. An employee is required to obtain advance permission from the Superintendent or Director except for reasons 1a. and 1.b. above or for emergencies that arise under reasons 1.d. and 1.e. above. An employee may use one (1) day of personal business leave under I.f. above without stating the reasons for such leave or obtaining advance permission, provided that this day will not be used during the first or last five (5) work days of school.

F. Funeral Attendance Leave

1. In accordance with California Education Code section 45194, classified employees will be granted a leave with full pay in the event of the death of any member of the employee's immediate family.
2. Funeral attendance leave will be granted for a period of three (3) days for in-state travel and five (5) days for out-of-state travel.

LEAVES (continued)

- a. The immediate family is defined by this regulation as mother, father, brother, sister, aunt, uncle, grandmother, grandfather, or a grandchild of the employee or of the spouse of the employee; spouse, son, son-in-law, daughter, or daughter-in-law of the employee, niece or nephew of the employee, or any person living in the immediate household of the employee.

G. Trial and Inquest Jury Service

1. An employee is entitled to leave any time the employee is called to serve on trial or inquest jury duty. (California Education Code section 44037.)
2. The Tri-Valley ROCP will pay up to the amount of the difference between the employee's regular earnings and any amount he receives as juror's fees. (California Education Code section 44037.)
 - a. Any meal, mileage, and/or parking allowance provided the employee for jury duty will not be considered in the amount received for jury duty.

H. Military Leave

1. An employee will be entitled to any military leave provided by law and will retain all rights and privileges granted by law arising out of the exercise of military leave.

I. Family Care Leave

1. In accordance with state and federal law, the Tri-Valley ROCP will provide family care and medical leave to classified employees who qualify for such leave. (29 USC 2601-2654 — Family and Medical Leave Act of 1993; California Government Code 12945.1-12945.2 — California Family Rights Act.)
2. A summary of the current provisions of these laws is available in the Tri-Valley ROCP office.

LEAVES (continued)**J. Re-Training and Study Leave**

1. A leave of absence for study/retraining may be granted to any member of the classified services pursuant to California Education Code sections 45380 *et seq.*
2. Such leave of absence may be granted for separate six (6) month periods or in any other appropriate periods rather than for a continuous one (1) year period provided the separate periods of leave of absence will be commenced and completed within a three (3) year period.
 - a. Any period of service by the individual intervening between the authorized separate periods will comprise a part of the service required for a subsequent leave of absence for study or retraining purposes.
3. Study leave cannot be granted to an individual who has not served at least six (6) consecutive years preceding granting of the leave.
4. Retraining leave cannot be granted to an individual who has not served at least three (3) consecutive years preceding granting of the leave.
5. No more than one study leave of absence will be granted an employee in any six (6) year period.
6. No more than one retraining leave of absence will be granted an employee in any three (3) year period.
7. The Tri-Valley ROCP may prescribe standards of service which will entitle the employee to the leave of absence.
8. Any leave of absence granted under this article will not be deemed a break in service for any purpose, except that such leave will not be included as service in computing for the granting of any subsequent leave under this type of leave, nor will the employee earn vacation pay, sick leave, or holiday pay.
9. No more than two (2) members of the classified service will be on such leave at the same time.
10. Employee will be guaranteed the same position when she/he returns from a pre-approved leave.

LEAVES (continued)

K. Family School Partnership Act ("Act") Leave

1. The Tri-Valley ROCP will provide leave pursuant to the Family School Partnership Act as required by Labor Code Section 230.8
 - a. An employee who is a parent, guardian or grandparent and has custody of one or more children in kindergarten through grade 12 will be entitled to utilize accrued leave to participate in activities of the school of any such child.
 - b. The hours of leave per month (8) and per year (40) will be as specified in the Act.
2. To utilize this leave, the employee must have accrued vacation, personal necessity leave or compensatory time. In compelling circumstances, an employee may request, and be granted, up to sixteen (16) hours of unpaid leave in a school year for the purposes specified in the Act.
3. An employee must provide his/her supervisor with at least five (5) school days' notice of a request to utilize this leave. When extenuating circumstances exist, a request made with less notice will be accommodated when reasonably possible.

L. General Leaves

1. When no other leaves are available, a leave of absence may be granted to an employee on a paid or unpaid basis at any time or on any terms acceptable to the Tri-Valley ROCP and the employee. (California Education Code section 45190.)

Regulation

approved: June 24, 1993

revised: June 8, 2000; June 16, 2010

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM

Livermore, CA

VACATIONS

Full time and part-time classified employees of the Tri-Valley ROP employees are entitled to vacation time. The Superintendent, or designee, is authorized and directed to establish how vacations are administered.

Legal References:

EDUCATION CODE

35161 Powers and duties

45190-45307 Leaves of Absence, vacation (classified)

Policy
adopted: June 24, 1993
revised: June 16, 2010

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM
Livermore, CA

VACATIONS**A. Vacation Leave****1. Eligibility**

- a. All full-time and part-time regular classified employees will earn paid vacation time pursuant to the terms of this Regulation and applicable law.
- b. Substitute and short-term employees, as defined by the California Education Code, shall not earn vacation time.
- c. Vacation benefits are earned on a fiscal year basis (July 1 through June 30).

2. Accumulation

- a. Vacation time is earned and accumulated on a monthly basis.
- b. To receive credit for a month's employment, and to earn vacation for the month, an employee must have been in paid status for more than one-half ($\frac{1}{2}$) the working days in the month.

3. Accrual Rate

- a. Accrual, and usage, will be recorded in hours. Vacation will be accumulated on a monthly basis in accordance with the following schedules:

(1) Twelve Month Employees hired prior to July 1, 2010

<u>Length of Employment</u>	<u>Vacation Days</u>
Month 1 to month 60	12
Month 61 to month 180	19
Month 181 and above	22

(2) Eleven Month Employees hired prior to July 1, 2010

<u>Length of Employment</u>	<u>Vacation Days</u>
Month 1 to month 60	11
Month 61 to month 180	17-1/2
Month 181 and above	20-1/2

VACATIONS (continued)

(3) Ten Month Employees hired prior to July 1, 2010

<u>Length of Employment</u>	<u>Vacation Days</u>
Month 1 to month 60	10
Month 61 to month 180	16
Month 181 and above	18-1/2

(4) Twelve Month Employees hired after June 30, 2010

<u>Length of Employment</u>	<u>Vacation Days</u>
Month 1 to month 60	10
Month 61 and above	15

(5) Eleven Month Employees hired after June 30, 2010

<u>Length of Employment</u>	<u>Vacation Days</u>
Month 1 to month 60	9
Month 61 and above	14

(6) Ten Month Employees hired after June 30, 2010

<u>Length of Employment</u>	<u>Vacation Days</u>
Month 1 to month 60	8
Month 61 and above	13

b. Regular Part-Time Employees

- (1) Regular part-time classified employee (ex: one who is less than eight (8) hours per day and/or twelve (12) months per year) shall receive a pro-rated vacation accrual.
- (2) Pro-rating will be based on the service rendered by the part-time employee in relation to the amount of service rendered by a full-time employee during a regular work day, work week, work month, or work year.

VACATIONS (continued)**4. Vacation Pay**

Pay for vacation days for all employees will be the same as that which the employee would have received had he/she been in a working status.

5. Carry Over of Vacation Days

- a. Vacation is a benefit, which, if it is to have value, is to be used.
- b. Therefore, each employee will schedule accrued vacation in such a manner that, on June 30 of any year, the employee has no more days/hours of vacation that were earned in the previous school year.
- c. Classified employees can carry over one year's worth of vacation. Any unused vacation, above what can be carried over, is forfeited as of July 1.

6. Prior Approval

- a. No employee will take vacation leave without prior written approval from the Superintendent and/or his/her designee.

(1) Vacation Scheduling

- (a) Vacations will be scheduled, in advance, at time requested by classified employees so far as practicable within the Tri-Valley ROP's work requirements.

- If there is any conflict between employees who are working on the same or similar operations as to when vacations will be taken, the employee with the greatest seniority

- (b) When a holiday falls during the scheduled vacation of an employee, the holiday will be paid and vacation will not be charged.

- (c) Classified employees who work less than twelve (12) months per year, and who have accumulated vacation time, will utilize the spring, fall and winter recesses for vacation.

VACATIONS (continued)

7. Vacation Postponement

- a. If an employee's vacation becomes due during a period when he/she is on leave due to illness or injury, he/she may request that his/her vacation date be changed and the Tri-Valley ROP will grant such request in accordance with vacation dates available at that time.

8. Interruption of Vacation

- a. An employee will be permitted to interrupt or terminate vacation leave in order to begin another type of paid leave provided the employee supplies immediate notice and supporting information regarding the basis for such interruption or termination.

9. Compensation Upon Separation

- a. At the time of separation, for any reason, an employee will be compensated at his/her then current base hourly rate, for all vacation leave hours earned, accumulated and not used up to and including the effective date of separation. (California Education Code section 45197.)

Regulation

approved: June 8, 2000

revised: June 19, 2003; June 16, 2010

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM

Livermore, CA

EVALUATIONS

Each classified employee will be evaluated by his/her immediate supervisor. The Superintendent is directed and authorized to establish a procedure for the evaluation of classified employees.

Legal References:

EDUCATION CODE

35161 Powers and duties

45113 Rules and regulations for the classified service in districts not incorporating the merit system.

Policy
adopted: June 24, 1993
revised: June 16, 2010

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM
Livermore, CA

EVALUATIONS

A. During Probationary Period (Initial and Upon Promotion)

Three (3) performance evaluations are conducted during the probationary period. All probationary employees will be evaluated at the end of the third, sixth and 11th month of service.

B. Permanent Employees

After receiving permanent status, employees receive at least one (1) performance evaluation per school year. All permanent employees will be evaluated annually (no later than June 30th of each year).

C. Frequency of Performance Evaluations

1. Performance evaluations may be conducted more frequently than indicated in Sections A. and B., above, depending upon factors such as: length of service, job position, past or current performance, changes in job duties, or recurring performance problems.
2. The employee shall be advised in writing of his/her evaluator.

D. Procedure

1. The employee's supervisor will conduct the performance evaluation.
 - a. The evaluation will be reviewed and discussed with the employee prior to its placement in the employee's personnel file.
 - b. Any negative evaluation of work performance shall include recommendations for improvement.
 - c. Evaluations shall be based upon the type of information upon which responsible and prudent persons rely in the conduct of normal business.
2. Employees are required to sign their performance evaluation. The employee shall receive a copy of the evaluation and a copy will be placed in the employee's personnel file.

EVALUATIONS (continued)

3. An employee who disagrees with his/her evaluation may prepare a written response that addresses the disputed conclusion. If submitted within ten (1) work days, the response shall be attached to the evaluation and placed in the employee's personnel file.

Regulation

approved: June 8, 2000

revised: July 1, 2002; June 16, 2010

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM

Livermore, CA

EMPLOYEE BENEFITS

The Tri-Valley ROCP will annually determine the amount of its contribution toward the health and welfare benefits for classified staff.

The Superintendent or designee is authorized and directed to structure and regulate employee benefits in accordance with this Policy and with state and federal law.

Legal References:

EDUCATION CODE

- 7000-7008 Health and welfare benefits, retired certificated employees
- 17566 Self-insurance fund
- 35161 Powers and duties
- 35208 Liability insurance
- 35214 Liability insurance (self-insurance)
- 44041-44042 Payroll deductions for collection of premiums
- 44986 Leave of absence, state disability benefits
- 45136 Benefits for classified employees

CIVIL CODE

- 56.10-56.16 Disclosure of information by medical providers
- 56.20-56.245 Use and disclosure of medical information by employers

FAMILY CODE

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

GOVERNMENT CODE

- 22750-22944 Public Employees' Medical and Hospital Care Act

- 53200-53210 Group insurance

HEALTH AND SAFETY CODE

- 1366-20-1366.29 Cal-COBRA program, health insurance
- 1367.08 Disclosure of fees and commissions paid related to health care service plan
- 1373 Health services plan, coverage for dependent children over 18 who are full-time students
- 1373.621 Continuation coverage, age 60 or older after five years with district
- 1374.58 Coverage for registered domestic partners, health service plans and health insurers

INSURANCE CODE

- 10116.5 Continuation coverage, age 60 or older after five years with district
- 10128.50-10128.59 Cal-COBRA program, disability insurance
- 10277-10278 Group and individual health insurance, coverage for dependent children
- 10604.5 Annual disclosure of fees and commission paid
- 12670-12692.5 Conversion coverage

EMPLOYEE BENEFITS (continued)

LABOR CODE

- 2800.2 Notification of conversion and continuation coverage
4856 Health benefits for spouse of peace officer killed in performance of duties

UNEMPLOYMENT INSURANCE CODE

- 2613 Education program; notice of rights and benefits

UNITED STATES CODE, TITLE 1

- 7 Definition of marriage, spouse

UNITED STATES CODE, TITLE 26

- 139C COBRA premium assistance, elimination of subsidy for high-income individuals

- 4980 COBRA continuation coverage

- 6432 COBRA premium assistance

- 6720C COBRA premium assistance, failure to notify health plan of cessation of eligibility

UNITED STATES CODE, TITLE 29

- 1161-1168 COBRA continuation coverage

UNITED STATES CODE, TITLE 42

- 1395-1395g Medicare benefits

CODE OF FEDERAL REGULATIONS, TITLE 26

- 54.4980B-1-54.4980B-10 COBRA continuous coverage

CODE OF FEDERAL REGULATIONS, TITLE 45

- 164.500-164.534 Health Insurance Portability and Accountability Act (HIPAA)

Policy

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM

adopted: June 24, 1993

Livermore, CA

revised June 8, 2000; June 19, 2003; December 6, 2007; June 16, 2010

EMPLOYEE BENEFITS

A. Employee and Dependent Insurance Coverage

1. IRC § 125 Plan

The Tri-Valley ROCP will establish and maintain an IRC §125 Plan for the benefit of classified employees.

2. Amount of Tri-Valley ROCP Contribution

a. For each full-time employee, the Tri-Valley ROCP will provide:

- (1) Six Thousand Four Hundred Forty-Eight Dollars (\$6,448), if the employee has opted to *either* participate in the core medical plan *or opt out of medical coverage*.
- (2) Annually, during open enrollment, each employee shall make a written election to either participate in, or opt out of, the core medical plan.
- (3) If an employee who elected to opt out in lieu of benefit coverage experiences divorce or death of a spouse, or the spouse loses his/her benefit coverage, the employee may convert to medical coverage during the next open enrollment period, or earlier, if the carrier will approve the conversion to medical coverage prior to open enrollment.
- (4) The dollar amounts set forth in A.2.a.(1) above is subject to annual adjustment by the Tri-Valley ROCP Governing Board. The Tri-Valley ROCP Board will typically consider adjusting the amount of its contribution in June of each year with the adjustment (if any) effective July 1.

EMPLOYEE BENEFITS

3. Employees hired before July 1, 2010

- a. The actual amount of dollars received by the employee as set forth in A.2.a.(1), above shall be based on the hours in the employee's base assignment, as follows:
 - (1) 6+ to 8 hour employee 100
 - (2) 4+ to 6 hour employee 75%
 - (3) 2+ to 4 hour employee 50

4. Employees hired after June 30, 2010

- a. Employees must work a minimum assignment of 0.50 FTE to be eligible for the Tri-Valley ROCP contribution as stated above in A.2.a. The actual amount of dollars received by the eligible employee shall be based on the FTE employee base assignment (0.50 FTE to 1.00 FTE).

5. Core Benefits

- a. Each eligible employee must participate in the core level of benefits established by the IRC §125 Plan.
 - (1) Core benefits and other Plan offerings will be established annually by the Governing Board.

6. Fluctuating Hours

- a. Except for a permanent change in assigned hours, an IRC § 125 Plan entitlement may not be modified during a Plan benefit year.
- b. Accordingly, the Tri-Valley ROCP will balance an employee's entitlement so that he/she will receive properly pro-rated benefits (pursuant to Education Code 45137).

EMPLOYEE BENEFITS

B. Eligibility

1. An eligible employee is one who works at least .50 FTE in his/her base assignment.

ORGANIZATIONS

Employees of the ROP are recognized as free to join or not to join employee organizations of their own choice.

MANAGEMENT TEAM EMPLOYMENT CONDITIONS

Employees within the TVROP Management Team are management employees having significant responsibilities for formulating TVROP policies or administering TVROP programs and who have been designated as management by the Tri-Valley Regional Occupational Program Joint Powers Governing Board (Board) pursuant to Board Policy and the TVROP Administrative Salary Schedule.

As authorized by the Board, the Superintendent shall meet with representatives designated by the Management Team as needed, but not less than once each year, to discuss matters of mutual importance, including calendar, compensation, retirement provisions, health benefit programs, etc.

The Superintendent, after consultation with the Management Team, may recommend proposals regarding conditions of Management Team employment to the Board. If approved by the Board, these proposals shall establish the wages, days of employment and other terms and conditions of employment for all members of the Management Team.

The adopted proposals shall directly reflect or supplement existing Board policy. Should adopted proposals conflict with Board policy, the adopted proposals shall prevail. The Board may modify the adopted proposals at their discretion after consultation with the Management Team. The Board's statutory authority for decision making may not be limited by any of the adopted proposals.

The provisions which follow reflect approvals made by the Board effective September 11, 2008.

MANAGEMENT TEAM EMPLOYMENT CONDITIONS**A. COMPENSATION AND HEALTH BENEFITS****1. Application:**

The Superintendent is not a member of the Management Team for purposes of compensation. Superintendent compensation shall be determined directly by the Board. Should the employment contract of a Superintendent conflict with a management Team Employment Condition, the employment contract shall prevail.

2. Salary Schedule Steps and Step Advancement:

The Management Team Salary Schedule shall include seven steps at all levels. Members of the Management Team must work at least 75% of their work year to be eligible for annual step advancement.

3. Masters and Doctoral Degrees:

Members of the Management Team shall receive a \$1,350 increment for one earned Masters Degree or \$1500 increment for an earned Doctorate, whichever is higher. The increment shall be pro-rated for less than full time status.

4. Salary Schedule Placement:

Newly hired administrators with prior administrative experience shall be placed not less than one full per diem step above their previous administrative per diem. Newly hired administrators with no prior administrative experience shall be placed not less than one full per diem step above their equivalent TVROP employee salary schedule per diem (based on service).

5. Automobile Use Reimbursement:

Per the TVROP Travel and Conference Procedures for Employees, Officials or Agents, members of the Management Team may submit reimbursement requests for work-related mileage at the rate set forth in the "Travel Rate Schedule" maintained in the Business Services Department, or may request a monthly car allowance.

MANAGEMENT TEAM EMPLOYMENT CONDITIONS

Reimbursement requests must be submitted not less than twice each year, i.e., January and June.

Manager mileage reimbursements are budgeted through the Business Office and a TVROP account.

6. Health and Welfare Benefits:

Members of the Management Team shall not receive a TVROP contribution for medical, dental, or vision insurance. During employment, Management Team Members, upon reasonable notice and in accord with lawful rules of the insurance provider, may purchase (at his/her sole expense) any plan available to other certificated managers of TVROP.

The TVROP reserves the right to determine management eligibility for new Health and Welfare programs and/or benefits.

7. TSA/IRA

Members of the Management team may allocate a portion of their compensation to a TSA/IRA, 403(b), 457(b), or 125 plan from the list of TVROP approved plans. The TVROP does not contribute to an employee's participation in such plans.

8. Professional Organizations:

With the Superintendent's approval, the TVROP shall reimburse member of the Management Team up to \$750 per year for membership in educational professional organizations. TVROP funds must be used for membership purposes only and may not be used for separate assessments for organizational political lobbying purposes.

B. WORK YEAR:**1. Management Team Work Year Calendar:**

The Superintendent shall meet with representatives of the Management Team after the TVROP JPA partner districts approve their respective calendars for students for the following school year, but not later than June 15 to review the Management Team work year calendar and dates.

MANAGEMENT TEAM EMPLOYMENT CONDITIONS

Management Team members are expected to adhere to the Management Team Calendar unless otherwise authorized by the Superintendent.

2. Administrative Work Year:

Unless otherwise designated by the Board, the work year for TVROP managers is as set forth on the TVROP Administrative Salary Schedule.

The year is normally exclusive of Saturdays, Sundays, and holidays.

Non-duty days, if they are to have value, must be utilized. With the Superintendent's approval, certificated and classified managers may carry over no more than ten (10) unused non-duty days from one (1) school year to the next unless a larger carry over is authorized, in advance, by the Superintendent. These unused non-duty days will be converted to work days in the next school year.

Up to ten (10) days of carried over work days shall be compensable upon separation. Compensation shall be at the manager's base daily rate of pay.

Each manager shall complete a proposed work year calendar for each school year. The calendar must be approved by his/her immediate supervisor and submitted to the Superintendent by June 30. The calendar must identify the days the administrator intends to work. The calendar may be modified throughout the school year by mutual agreement between the administrator and his/her supervisor.

The Superintendent may authorize additional days of compensated employment, at per diem, beyond the Board designated work year. This authorization must occur prior to the administrator's working the additional days. Managers will not be compensated for days worked beyond their designated days without prior authorization.

The Superintendent may authorize additional days when work is assigned beyond what reasonably could be accomplished in the manager's work year or when a manager is on a sick leave of absence for an extended period of time during the work year and cannot complete their assigned duties in the days remaining.

MANAGEMENT TEAM EMPLOYMENT CONDITIONS

The Superintendent may, upon ten days notice, modify a manager's work year by adding work days to provide for additional meetings or special assignments which might arise during the school year.

The Board expects all managers to take all their allocated non-duty days and holidays. Managers becoming sick or disabled during a non-duty period may, with the approval of the Superintendent, convert the period of illness or disability as a charge against sick leave and arrange for another time during the work year for non-duty. This conversion shall not exceed six days for one school year.

3. "Exempted" Employees:

In accordance with law, this AR 4310, specifically exempts all management and supervisory positions from overtime. As such, managers are expected to work whatever hours are necessary in order to fulfill their assignments. Their positions are set apart from other positions by virtue of the duties, flexibility of hours, salary, benefit structure and authority which they entail.

4. Non-Duty Days During Student School Year:

With prior approval by the immediate supervisor and the Superintendent, managers may take some limited time off during the student school year.

Manager work day schedules are subject to review by the immediate supervisor and the Superintendent.

5. Management Team Meeting Schedule:

By June 30 of each school year, the Superintendent will distribute a schedule of all Superintendent Council meetings for the following school year

All members of the Management Team are expected to calendar all appropriate meetings and attend all full Management Team meetings, lunches, etc., unless otherwise authorized by the Superintendent.

6. Flex Time:

Managers, with prior approval by their supervisor, may arrive late/leave early the day following late evening or weekend duties and events.

MANAGEMENT TEAM EMPLOYMENT CONDITIONS

C. OTHER BENEFITS:

1. Personal Necessity and Personal Illness Days and Forms:

Full time members of the Management Team are entitled to twelve days of regular sick leave of absence annually for illness or injury. Seven of these days may be used for reasons of personal necessity.

Managers shall submit absence forms to his/her immediate supervisor and then to the Superintendent when absent for a full day or more for illness or personal necessity. These forms need not be submitted for absences less than one day.

Managers are required to notify the Superintendent's Office when they expect to be out of the District for two or more consecutive days.

2. Leaves of Absence:

A. Certificated Management Team members are subject to the same leave provisions as are provided to other certificated TVROP employees.

B. Classified Management Team members are subject to the same leave provisions as are provided to other classified TVROP employees.

3. Cell Phones:

Certificated members of the Management Team may choose to use their personal cell phone for emergency/safety and other work purposes and receive a monthly reimbursement by TVROP of \$50 per month for such work related use,

OR

Certificated members of the Management Team may be assigned cell phones by the TVROP for emergency/safety purposes. Managers may use the phone for personal use. TVROP will pay all cell phone costs for a manager up to \$50 per month. Above \$50 per month, the manager shall reimburse the TVROP for weekend/holiday personal calls (calls home from work are excluded during work days and calls to work are excluded during non-work days).

D. EVALUATION:

All managers shall be evaluated every year.

MANAGEMENT TEAM EMPLOYMENT CONDITIONS**E. PROFESSIONAL DEVELOPMENT:****1. Professional Development Planning:**

Managers are expected to pursue their personal professional development each year by taking courses, attending workshops and conferences including, with the prior approval of the Superintendent, out of state conferences.

Each manager shall develop a written "three year plan" identifying his/her long range professional development goals. This plan shall be reviewed with the manager's supervisor on an annual basis as part of the evaluation process.

The Superintendent will review professional development plans annually and may elect to meet with a manager to review his/her plan and progress in achieving their professional development goals.

2. Professional Development Expenditures:

A. District Commitment: The District shall budget support for the professional development of the Management Team in proportion to the support provided teachers and classified employees.

B. Expenses: Within available resources, the District will cover the actual and necessary costs of airfare, hotel, transportation, meals and conference fees as authorized in Board policy. It is recognized that attending out-of-state conferences may require an expenditure of up to \$2,000 per person. Expenditures exceeding \$2,000 require prior approval of the Superintendent or the Superintendent's designee.

C. Funds will be allocated on a first come first served basis, with preference given to administrators not having accessed the funds recently.

F. OTHER:**1. Credential:**

Each member of the Management Team is responsible for maintaining the credential(s) required for their position as a condition of employment.