Information Sheet – 06/16/2020 - Board of Trustees Meeting

TO: Board of Trustees Item: 8.4

FR: Celli Coeville

DATE: June 11, 2020

RE: Revised Board Policy/Administrative Regulation, BP/AR 4113, Assignment, Consider for Adoption

Board Policy BP 4113, Assignment, has been updated to reflect NEW LAW (AB 1219, 2019) which requires annual monitoring of the assignment of certificated employees at all schools, and requires the Commission on Teacher Credentialing (CTC) to administer a statewide system that produces an annual data file of vacancies and misassignments and provides districts an opportunity to submit additional evidence that an employee is legally authorized for the assignment. The board policy also adds legal requirements to report misassignments in the school accountability report card and to use Williams Uniform Complaint procedures to address any complaint alleging teacher misassignment of vacancy.

The regulation has been updated to make minor corrections for gender neutrality.

I've highlighted the proposed changes and indicated the differences in red font.

Recommended Action: Approve Revised BP/AR 4113, Assignment

ASSIGNMENT

In order to serve the best interests of students and the educational program, the Governing Board authorizes the Superintendent or designee to assign certificated personnel to positions for which ~~their~~ they are qualified pursuant to their certification, preparation, ~~certification~~, professional experience, and aptitude ~~qualify them~~.

(cf. 4112.2 - Certification)
(cf. 4112.21 - Interns)
(cf. 4112.22 - Staff Teaching Students of Limited English Proficiency)
(cf. 4112.23 - Special Education Staff)
(cf. 4112.8/4212.8/4312.8 - Employment of Relatives)

Teachers may be assigned to any school within the district in accordance with the collective bargaining agreement or Board policy.

(cf. 4141/4241 - Collective Bargaining Agreement)

Assignment to Courses/Classes

The Superintendent or designee shall assign teachers ~~to courses~~ based on the grade level and subject matter authorized by their credentials.

When there is no credential authorization requirement for teaching an elective course, the Superintendent or designee shall select the credentialed teacher whose knowledge and skills best prepare ~~him/her~~ the teacher to provide instruction in that subject.

~~Teachers who are assigned to teach core academic subjects shall meet the requirements of the No Child Left Behind Act (NCLB) pertaining to qualifications of highly qualified teachers. (20 USC 6319, 7801; 5 CCR 6100-6126)~~

~~*(cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind Act)*~~

~~The Commission on Teacher Credentialing's (CTC) Administrator's Assignment Manual describes "local teaching assignment options" available to the district when assigning a teacher outside his/her credential authorization. See the accompanying administrative regulation for requirements pertaining to assignments to departmentalized classes in grades K-12 (Education Code 44258.3) or elective courses (Education Code 44258.7).~~

~~The~~ When specifically authorized by law or regulation, the Superintendent or designee may, with the teacher's consent, assign a teacher, ~~with his/her consent~~, to a position outside ~~his/her~~ the teacher's credential authorization ~~when specifically authorized by law or regulation, and~~ in accordance with the local teaching assignment options described in the Commission on Teacher Credentialing's (CTC) Administrator's Assignment Manual. Such a~~A~~ssignments ~~made pursuant to Education Code 44256, 44258.2, and 44263~~ shall be annually approved by Board resolution. In such cases, the Superintendent or designee shall reference in district records the statute or regulation under which the assignment is authorized.

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(cf. 3580 - District Records)

If at any time a certificated employee is required by the district to accept an assignment which the employee believes is not legally authorized by the employee's credential, the employee shall notify the Superintendent or designee, in writing, of the misassignment. Within 15 working days, the Superintendent or designee shall notify the employee of the legality of the assignment. If no action is taken by the district, the employee shall provide written notification to the County Superintendent of Schools. No adverse action shall be taken against an employee who files a notice of misassignment. (Education Code 44258.9)

Vacancies and Misassignments

~~Education Code 44258.9 provides that the County Superintendent of Schools is responsible for monitoring district assignment practices and vacancies, as defined in Education Code 33126, and reporting the results to the CTC. Pursuant to Education Code 44258.9, the County Superintendent must annually monitor and review assignment practices in (1) schools and districts likely to have problems with teacher misassignment (i.e., placement of a certificated employee in a position for which he/she does not hold a legally recognized certificate or credential or is not otherwise authorized by statute to hold) and vacancies based on past experience and other available information and (2) schools ranked in deciles 1-3 on the statewide Academic Performance Index. In all other schools, such review of assignment practices must be on a four-year cycle. In counties in which there is a single school district, the CTC is responsible for monitoring teacher assignments.~~

~~Education Code 44265.1, as amended by AB 2302 (Ch. 41, Statutes of 2008), expands the reporting requirement to include a report when students with autism are taught by a teacher whose credential authorizes instruction to students with mild/moderate disabilities rather than moderate/severe disabilities; see AR 4112.23 - Special Education Staff.~~

~~Education Code 33126 requires that vacancies and misassignments be reported on the School Accountability Report Card. Also, Education Code 35186 requires districts to develop procedures by which a parent/guardian can file a complaint related to teacher misassignments or vacancies. See AR/E 1312.4 - Williams Uniform Complaint Procedures.~~

~~Pursuant to Education Code 44258.9, the County Superintendent is required to notify any certificated administrator responsible for a misassignment and advise him/her to correct it within 30 calendar days. The County Superintendent is also required to notify the Superintendent of any district where five percent or more of the certificated teachers in the secondary schools are misassigned, advising him/her to correct the misassignments within 120 calendar days. If a teacher believes he/she has been misassigned, he/she is authorized, after exhausting any local remedies, to file a written notification with the County Superintendent, who must advise the teacher as to the legality of the assignment within 15 working days.~~

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~~The Superintendent or designee shall periodically report to the Board on teacher assignments and vacancies, including the number and type of assignments made outside a teacher's credential authorization through a local teaching assignment option. Whenever district misassignments and vacancies are reviewed by the County Superintendent of Schools or Commission on Teacher Credentialing, as applicable, the Superintendent or designee shall report the results to the Board and shall provide recommendations for remedying any identified issues.~~

~~*(cf. 1312.4 - Williams Uniform Complaint Procedures)*~~

Annually, the district shall review potential misassignments and vacant positions throughout the district. Upon receiving notification from CTC of the availability of data regarding potential misassignments and vacant positions in the district, the Superintendent shall review the data within 60 days. When necessary, the Superintendent or designee may respond by submitting additional documentation to the County Superintendent showing that an employee is legally authorized for an assignment and/or that a position identified as vacant was miscoded and a legally authorized employee is assigned to the position. (Education Code 44258.9)

If the district subsequently receives, within 90 days of CTC's initial notification, a notification from the County Superintendent indicating that a certificated employee in the district is assigned to a position for which the employee has no legal authorization, the district shall correct the assignment within 30 calendar days. (Education Code 44258.9)

The district shall serve as the monitoring authority for teacher assignments in any charter school it has authorized, in accordance with Education Code 44258.9-44258.10.

(cf. 0420.41 - Charter School Oversight)

Any complaint alleging teacher misassignment or vacancy shall be filed and addressed through the district's procedures specified in AR 1312.4 - Williams Uniform Complaint Procedures.

(cf. 1312.4 - Williams Uniform Complaint Procedures)

The school accountability report card for each school shall include any assignment of teachers outside their subject areas of competence, misassignments, including misassignments of teachers of English learners, and the number of vacant teacher positions for the most recent three-year period. (Education Code 33126)

(cf. 0510 - School Accountability Report Card)

Equitable Distribution of Qualified and Experienced Teachers

~~In order to ensure that~~ The Superintendent or designee shall identify and address the

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equitable distribution of highly qualified and experienced teachers ~~are equitably distributed~~ among district schools, including those with higher than average levels of low-income, minority, and/or academically underperforming students~~,~~ tThe Superintendent or designee shall annually report to the Board comparisons of teacher qualifications across district schools, including the number of teachers serving under a provisional internship permit, short-term staff permit, intern credential, emergency permit, or credential waiver.

Strategies for ensuring equitable access to experienced teachers may include, but are not limited to, incentives for voluntary transfers, provision of professional development, and/or programs to recruit and retain effective teachers.~~:~~

~~1. Verify that all teachers of core academic subjects possess the qualifications of highly qualified teachers as required by NCLB or develop immediate and long-term solutions for ensuring that all core academic classes will be taught by highly qualified teachers~~

~~2. Not assign teachers with provisional internship permits, short-term staffing permits, or credential waivers to schools that have 40 percent or higher poverty or are ranked in deciles 1-3 on the statewide Academic Performance Index~~

~~3. Not place interns in high-poverty, low-performing schools in greater numbers than in schools with low poverty or higher academic achievement~~

~~4. Compare teacher retention rates across district schools and develop strategies to recruit and retain experienced and effective teachers in hard-to-staff schools~~

(cf. 0460 - Local Control and Accountability Plan)
(cf. 4111 - Recruitment and Selection)
(cf. 4111/4211/4311 - Recruitment and Selection)
(cf. 4114 - Transfers)
(cf. 4131 - Staff Development)
(cf. 4131.1 - Teacher Support and Guidance)
(cf. 6171 - Title I Programs)

~~All districts are required to submit to the CDE a worksheet, available on the web site of the Santa Clara County Office of Education's Personnel Management Assistance Team, listing teachers' education levels, years of teaching experience, credential types and authorizations, and compliance with HQT requirements when applicable. Additional worksheets may need to be submitted and additional actions taken depending on whether the district is fully compliant with HQT requirements and has met adequate yearly progress (AYP) requirements; see definition of AYP in AR 0520.2 - Title I Program Improvement Schools. In accordance with criteria developed by the CDE, Level A districts, those that are not fully compliant with HQT requirements but have met AYP, are not required to submit an equitable distribution plan. Level B districts, those that have failed to meet AYP and HQT for two consecutive years, must submit an equitable distribution plan. Level C districts, those that have failed to meet AYP and HQT for three consecutive years, must fully implement their equitable distribution plan and must develop a Title II, Part A budget in agreement with the CDE.~~

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Legal Reference:

EDUCATION CODE
33126 School accountability report card
35035 Additional powers and duties of superintendent
35186 Complaint process
37616 Assignment of teachers to year-round schools
44225.6 Commission report to the legislature re: teachers
44250-44277 Credentials and assignments of teachers
44314 Subject matter programs, approved subjects
44395-44398 Incentives for assigning NBPTS-certified teachers to high-priority schools
44824 Assignment of teachers to weekend classes
44955 Reduction in number of employees
GOVERNMENT CODE
3543.2 Scope of representation
CODE OF REGULATIONS, TITLE 5
6100-6126 Teacher qualifications, No Child Left Behind Act
80003-80005 Credential authorizations
80020-80020.5 Additional assignment authorizations
80335 Performance of unauthorized professional services
80339-80339.6 Unauthorized certificated employee assignment
UNITED STATES CODE, TITLE 20
6311 State plan
6319 Highly qualified teachers
6601-6651 Teacher and Principal Training and Recruiting Fund
7801 Definitions, highly qualified teacher
CODE OF FEDERAL REGULATIONS, TITLE 34
200.55-200.57 Highly qualified teachers

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS
Revised State Plan for the No Child Left Behind Act, rev. September 2008
COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS
The Administrator's Assignment Manual, rev. September 2007
U.S. DEPARTMENT OF EDUCATION GUIDANCE
Improving Teacher Quality State Grants: ESEA Title II, Part A, rev. October 5, 2006
WEB SITES
CSBA: http://www.csba.org
California Department of Education: http://www.cde.ca.gov
Commission on Teacher Credentialing: http://www.ctc.ca.gov
Santa Clara County Office of Education, Personnel Management Assistance Team: http://www.sccoe.org/depts/pmat
U.S. Department of Education: http://www.ed.gov

ASSIGNMENT

Assignment to Departmentalized Classes Outside Credential Authorization

Any holder of a credential other than an emergency permit may be assigned, with ~~his/her~~ consent, to teach departmentalized classes in grades K-12 regardless of the designations on ~~his/her~~ the teaching credential, provided that ~~their~~ the teacher's subject matter knowledge is verified prior to the assignment. (Education Code 44258.3)

Procedures for verifying a teacher's subject matter knowledge shall be developed and implemented by the Superintendent or designee with the involvement of appropriate subject matter specialists, including curriculum specialists, resource teachers, classroom teachers certified to teach the subject, staff assigned to regional subject matter projects or curriculum institutes, or college faculty. (Education Code 44258.3)

Procedures to be used for this purpose shall specify: (Education Code 44258.3)

1. One or more of the following ways in which subject matter competence shall be assessed:

a. Observation by subject matter specialists

b. Presentation of curricular portfolios

c. Written examinations

2. Specific criteria and standards for verifying subject matter knowledge by any of the above methods. These criteria shall include, but need not be limited to, evidence of the individual's knowledge of the subject matter to be taught, including demonstrated knowledge of the curriculum framework for the subject and the specific content of the district's course of study for the subject at the grade level to be taught.

(cf. 4115 - Evaluation/Supervision)

Whenever a teacher is assigned to teach departmentalized classes pursuant to Education Code 44258.3, the Superintendent or designee shall notify the exclusive representative of the district's certificated employees. (Education Code 44258.3)

(cf. 4140/4240 - Bargaining Units)

ASSIGNMENT (continued)

Assignment to Elective Courses Outside Credential Authorization

A full-time teacher with special skills and preparation outside ~~his/her~~ the credential authorization may, with ~~his/her~~ the teacher's consent and the prior approval of a district committee on assignments, be assigned to teach an elective course in the area of the special skills or preparation, excluding a course in English, mathematics, science, or social studies. (Education Code 44258.7)

The Superintendent or designee shall establish a committee on assignments, consisting of an equal number of teachers selected by teachers and school administrators selected by school administrators, to approve such assignments. (Education Code 44258.7)

Committee members shall serve a two-year term but may be reappointed using the same procedure as the initial appointment.

When determining whether a teacher is qualified for an assignment pursuant to Education Code 44258.7, the committee may consider the teacher's education, prior experience, observation by subject matter specialists, oral interviews, demonstration lessons, presentation of curricular portfolios, and/or written examinations.

Assignments approved by the committee shall be for a maximum of one school year, but may be extended by action of the committee upon application by the principal and teacher. (Education Code 44258.7)