



COMMISSION ON
TEACHER CREDENTIALING
Ensuring Educator Excellence

CODED CORRESPONDENCE

DATE: July 20, 2011	NUMBER: 11-11
TO: School District Superintendents and County Offices of Education Superintendents	FROM: Elizabeth Graybill Interim Executive Director Commission on Teacher Credentialing
SUBJECT: Employer Required Reporting: Change in Employment Status Due to Misconduct/ Breach of Contract/ Mandatory Leave of Absence Offense Title 5 California Code Regulations Section 80303 and Education Code sections 44420 and 44940	

Summary:

This coded correspondence contains information reminding school districts and other educational employers of the requirement to report to the Commission on Teacher Credentialing's (Commission) Division of Professional Practices a change of employment status of the certificated employees under the following circumstances:

- California Code of Regulations Section 80303 requires that a school district report a certificated employee's change in employment status due to allegations of misconduct.
- Education Code section 44940 requires that a school district report when a certificated employee has been *charged* with a mandatory leave of absence offense.
- Education Code section 44420 provides that the Commission shall investigate a report by a school district regarding a credential holder who refuses, without good cause, to fulfill a valid contract of employment.

Detailed information concerning when and how to file pursuant to the above section, including filing forms, are available on the Educator Discipline webpage of the Commission website: <http://www.ctc.ca.gov/educator-discipline/school-districts.html>.

Key Provisions:*Title 5 California Code Regulations Section 80303:*

(a) Whenever a credential holder, working in a position requiring a credential:

(1) is dismissed or nonreelected;

(2) resigns;

(3) is suspended or placed on unpaid administrative leave as a final adverse employment action for more than 10 days;

(4) retires; or

(5) is otherwise terminated by a decision not to employ or re-employ; as a result of an allegation of misconduct or while an allegation of misconduct is pending, the superintendent of the employing school district shall report the change in employment status to the Commission not later than 30 days after the employment action.

(b) The report shall contain all known information about each alleged act of misconduct.

(c) The report shall be made to the Commission regardless of any proposed or actual agreement, settlement, or stipulation not to make such a report. The report shall also be made if allegations served on the holder are withdrawn in consideration of the holder's resignation, retirement or other failure to contest the truth of the allegations.

(d) Failure to make a report required under this section constitutes unprofessional conduct. The Committee may investigate any superintendent who holds a credential who fails to file reports required by this section.

(e) The superintendent of an employing school district shall, in writing, inform a credential holder of the content of this regulation whenever that credential holder, working in a position requiring a credential, is dismissed, nonreelected, resigns, is suspended or placed on unpaid administrative leave as a final adverse employment action for more than ten days, retires or is otherwise terminated by a decision not to employ or re-employ as a result of an allegation of misconduct or while an allegation of misconduct is pending. Failure to comply with this subdivision by a superintendent of schools constitutes unprofessional conduct which shall be investigated by the Committee of Credentials.

Education Code section 44940:

(a) For purposes of this section, "charged with a mandatory leave of absence offense" is defined to mean charged by complaint, information, or indictment filed in a court of competent jurisdiction with the commission of any sex offense as defined in Section 44010, or with the commission of any offense involving aiding or abetting the unlawful sale, use, or exchange to minors of controlled substances listed in Schedule I, II, or III, as contained in Section 11054, 11055, and 11056 of the Health and Safety Code, with the exception of marijuana, mescaline, peyote, or tetrahydrocannabinols.

(b) For purposes of this section, "charged with an optional leave of absence offense" is defined to mean a charge by complaint, information, or indictment filed in a court of competent jurisdiction with the commission of any controlled substance offense as defined in Section 44011 or 87011, or a violation or attempted violation of Section 187 of the Penal Code, or Sections 11357 to 11361, inclusive, Section 11363, 11364, or 11370.1 of the Health and Safety Code, insofar as these sections relate to any controlled substances except marijuana, mescaline, peyote, or tetrahydrocannabinols.

(c) For purposes of this section and Section 44940.5, the term "school district" includes county offices of education.

(d) (1) Whenever any certificated employee of a school district is charged with a mandatory leave of absence offense, as defined in subdivision (a), upon being informed that a charge has been filed, the governing board of the school district shall immediately place the employee on compulsory leave of absence. The duration of the leave of absence shall be until a time not more than 10 days after the date of entry of the judgment in the proceedings. No later than 10 days after receipt of the complaint, information, or indictment described by subdivision (a), the school district shall forward a copy to the Commission on Teacher Credentialing.

(2) Upon receiving a copy of a complaint, information, or indictment described in subdivision (a) and forwarded by a school district, the Commission on Teacher Credentialing shall automatically suspend the employee's teaching or service credential. The duration of the suspension shall be until a time not more than 10 days after the date of entry of the judgment in the proceedings.

(e) (1) Whenever any certificated employee of a school district is charged with an optional leave of absence offense as defined in subdivision (b), the governing board of the school district may immediately place the employee upon compulsory leave in accordance with the procedure in this section and Section 44940.5. If any certificated employee is charged with an offense deemed to fall into both the mandatory and the optional leave of absence categories, as defined in subdivisions (a) and (b), that offense shall be treated as a mandatory leave of absence offense for purposes of this section. No later than 10 days after receipt of the complaint, information, or indictment described by subdivision (a), the school district shall forward a copy to the Commission on Teacher Credentialing.

(2) Upon receiving a copy of a complaint, information, or indictment described in subdivision (a) and forwarded by a school district, the Commission on Teacher Credentialing shall automatically suspend the employee's teaching or service credential. The duration of the suspension shall be until a time not more than 10 days after the date of entry of the judgment in the proceedings.

Education Code section 44420:

(a) If any person employed by a school district in a position requiring certification qualifications refuses, without good cause, to fulfill a valid contract of employment with the district or leave the service of the district without the consent of the superintendent, if any, or the governing board, of the district except in the manner provided for by law, the commission may, after proof of this fact is made to it, take an adverse action on the credential holder but may not suspend the credential for more than one year or revoke the credential.

(b) If the credentials issued to the person by the commission have been subject to adverse action pursuant to subdivision (a), the commission may, if the credentials again become subject to suspension under this section, suspend the credentials for not more than two years.

(c) The commission shall investigate allegations brought under this section in accordance with Section 44242.5.

Background:

Title 5 California Code Regulations Section 80303 has been in effect since October 1997 and was last changed in 2005 pursuant to SB 299 (Chap. 342, Stats. 2001). Failure to make a report required under this section constitutes unprofessional conduct. The Committee may investigate any superintendent who holds a credential who fails to file reports required by this section.

References:

Education Code § 44420 and 44940

Title 5 California Code Regulations § 80303

Contact Information:

Questions concerning mandated reporting as a result of allegations of misconduct can be sent via e-mail to the Division of Professional Practices: DPPquestions@ctc.ca.gov