

# **CVUSD**

## **Administrative Regulation**

AR 4112.3, 4212.3, 4312.3

### **Personnel**

#### Oath Or Affirmation

\*\*\*Note: The following optional regulation reflects the requirement of Government Code 3100-3102 that all public employees, as disaster service workers, take the oath or affirmation contained in the California Constitution, Article 20, Section 3. This oath is reproduced in E 4112.3/4212.3/4312.3. \*\*\*

This oath or affirmation is different from the oath or affirmation required of certificated employees as a licensing requirement pursuant to Education Code 44334, in which credential candidates must affirm that they support the Constitution of the United States of America, the Constitution of the State of California, and the laws of the United States and the State of California. Thus, the district should require all employees to take the oath or affirmation required by Government Code 3100-3102.

The California Constitution requires that Board members take the same oath; see BB 9224 - Oath or Affirmation.

All district employees are declared by law to be disaster service workers and thus shall take the oath or affirmation required for disaster service workers before beginning employment with the district. In the event of natural, manmade or war-caused emergencies which result in conditions of disaster or extreme peril to life, property and resources, all district employees are subject to disaster service activities as assigned to them by their supervisors or by law. (Government Code 3100-3102)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

(cf. 9224 - Oath or Affirmation)

Legally employed noncitizens shall be exempt from taking this oath. (Government Code 3101)

\*\*\*Note: Because requiring prospective employees to take a loyalty oath may violate the First Amendment of the U.S. Constitution, the district should consult its legal counsel if a prospective employee raises a bona fide religious concern about taking the state-required oath.\*\*\*

At the advice of legal counsel, the Superintendent or designee may exempt an employee from taking the oath if he/she raises a valid religious objection.

\*\*\*Note: Education Code 60 specifies persons authorized to administer the oath including, but not limited to, the superintendent, deputy or assistant superintendent, or principal.\*\*\*

The Superintendent, deputy or assistant superintendent, principal or other person authorized in Education Code 60 shall administer the oath or affirmation when a district employee is hired.

In the case of intermittent, temporary, emergency or successive employments, the

Superintendent or designee may determine that the oath shall be effective for all successive periods of employment which begin within one calendar year from the date that the oath was subscribed. (Government Code 3102)

(cf. 4121 - Temporary/Substitute Personnel)

\*\*\*Note: Government Code 3105, as amended by SB 210 (Ch. 176, Statutes of 2001), provides that the oath or affirmation may be destroyed five years after the employee's termination.\*\*\*

The Superintendent or designee shall file the executed oath or affirmation within 30 days of the date on which it is taken and subscribed. An employee's oath or affirmation may be destroyed five years after the termination of employment. (Government Code 3105)

#### Reimbursement of Expenses for Disaster Service Workers

\*\*\*Note: Pursuant to Government Code 3107, before an employee can receive compensation or expense reimbursement as a disaster service worker, the person certifying to public payrolls must ascertain and certify that the employee has taken the oath or affirmation. Whenever there is more than one officer certifying to public payrolls, the Board may designate a certain officer or officers to ascertain and certify that the employee has taken the oath or affirmation. The following paragraph may be revised to indicate the position assigned such duty.\*\*\*

Whenever an employee seeks compensation or reimbursement of expenses as a disaster service worker, the Superintendent or designee shall ascertain and certify that the employee has taken the oath or affirmation. (Government Code 3107)

#### Legal Reference:

##### EDUCATION CODE

60 Persons authorized to administer and certify oaths

44334 Oath or affirmation required for credential

44354 Administration of oath required for credential

##### GOVERNMENT CODE

3100-3109 Oath or affirmation of allegiance

##### CALIFORNIA CONSTITUTION

Article 20, Section 3 Oath of office

##### COURT DECISIONS

Chilton v. Contra Costa Community College District 55 Cal. App. 3d 544 (1976)

Vogel v. County of Los Angeles (1967) 68 Cal. 2d 18, 22

CSBA: (9/91 10/95) 7/03

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