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## **California Collective Bargaining Contract Study**

March 3, 2011

# California Collective Bargaining Contract Study

Center for Education Policy and Law • University of San Diego  
A non-partisan, university-based educational research center

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## March 3, 2011

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## California Collective Bargaining Contract Study

Center for Education Law and Policy  
University of San Diego  
Frank Kemerer and Katherine Messana

This study examined selected provisions of teacher collective bargaining contracts in six California urban school districts to determine whether the San Diego Unified School District's contract with the San Diego Education Association is more or less comprehensive. Basic information on each of the districts is set forth in the table below.

### 2009-2010 Statistics for Six Districts<sup>a</sup>

Unified School District Name	# of Students	# of Schools <sup>b</sup>	# of Teachers <sup>c</sup>	Contract Effective Date	Contract Pages
Fresno	75,468	104	3,973	July 1, 2007 through June 30, 2010	111
				2010-2012 tentative agreement on changes	5
Long Beach	86,283	89	4,098	Through August 31, 2008	113
				Modifications as of January 25, 2008	20
				Modifications as of May 21, 2009	12
Poway	37,797	37	1,368	July 1, 2006 through June 30, 2008	
				On-line version of contract	55
Sacramento City	47,890	85	2,397	July 1, 2004 through June 30, 2011	95
				Appendices	88
San Diego	131,417	218	7,054	July 1, 2006 through June 30, 2008	235
				2010-2013 tentative agreement on changes	7
San Francisco	55,140	114	3,445	July 1, 2010 through June 30, 2011	176

<sup>a</sup>Data Source for numbers of students, schools, and teachers: California Department of Education (CDE).

<sup>b</sup> The CDE databank lists a few schools with zero enrollment. Zero enrollment schools are not included in the number of schools within this table.

<sup>c</sup> Includes only teachers; does not include administrators, pupil services, or certificated staff.

As noted in the table, these urban districts vary in size, number of schools, number of teachers, and length of collective bargaining contracts. All, however, serve mostly urban populations and have engaged in collective bargaining with a teacher union for some time. As a result of the years of negotiation and the size and variety of district schools and programs, each collective bargaining contract is detailed and lengthy. Length of the contract, however, does not necessarily mean that it encompasses more topics than others. It simply may mean that certain items are more specifically laid out. One of the contracts we examined has been recently signed (San Francisco). Others have been extended while negotiations continue. Some have updating attachments. We were unable to secure the latest version of the San Diego Unified School

District contract, though a summary of key provisions affected by the last round of negotiation was reviewed.

It is important to note initially that certain items are negotiable under the California Educational Employment Relations Act if either party wishes to do so. These are commonly called mandatory topics of bargaining and center mostly on wages, hours, and other terms and conditions of employment. A list of these items is set forth in the table that is attached to this memorandum. The mandatory bargaining list is extensive and expandable based on a decision of the Public Employment Relations Board (PERB) that was affirmed by the California Supreme Court.<sup>1</sup> Thus, creative negotiating can expand the scope of what is bargained.

Matters not specifically listed in the mandatory bargaining category are reserved to the public school employer and may not be bargained unless the employer and the union agree and the matter is not preempted by the Education Code (see the category on the right side of the table). Matters left to management are generally categorized as management prerogative. Because unions can have influence over who gets elected to the school board, matters not otherwise subject to mandatory negotiation sometimes can become topics of bargaining (e.g., maintenance of district standards during the term of the contract).

It is important to note that some matters are not negotiable even if both parties agree. The best example is the hiring, extending/nonextending/terminating of probationary teacher contracts and terminating of permanent teacher contracts. These matters have long been controlled by provisions of the California Education Code. Thus, none of the district contracts reviewed for this study has provisions relating to them.

Beyond mandatory bargaining topics and management prerogative are topics for mandatory consultation. These matters are not controlled by the collective bargaining agreement, but certificated representatives can meet with governing board representatives to address them. Included in this category are matters of curriculum, education objectives, and textbook selection.<sup>2</sup>

Attached to this memorandum is a district-by-district list of components from each district contract in the following areas:

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<sup>1</sup> *San Mateo City School District v. Public Employment Relations Board*, 191 Cal. Rptr. 800 (Cal. 1983). Also note on the attached chart that if certain topics on the list are not negotiated, then provisions of the California Education Code control. These include discipline other than dismissal of certificated employees, procedures for layoff of certificated employees, payment of additional compensation based on criteria other than years of training and experience, and salary schedule based on criteria other than years of training and experience.

<sup>2</sup> Clearly, collective bargaining in California under the Educational Employment Relations Act is a complicated matter. To sift through the complexity, see Chapter Four “Unions and Collective Bargaining” in Frank Kemerer and Peter Sansom’s *California School Law, Second Edition* (California School Law, 2009) and the cumulative update on the book’s website at [www.californiaschoollaw.org](http://www.californiaschoollaw.org).

- Workday
- Class Size
- Evaluation
- Layoff
- Transfer/Reassignment
- Maintenance of Standards

We have done our best to sketch out the key contract components pertaining to each. But it quickly becomes clear that the matters addressed are so detailed and so uniquely tailored to the characteristics of each district that trying to rate the contracts for each topic from least to most restrictive is impossible. At best, the district-by-district list points out some similarities and differences in each area. These are summarized below. The only way to know exactly what a given contract states about a particular topic is to consult the contract directly.

### **Workday**

As noted in the attached district-by-district list, each district contract spells out the workday in number of days per year, number of hours per day, and shortened days. While there is some variation, generally all contracts specify a traditional school year as consisting of about 180 teaching days. Additional days are usually set forth for staff development. The San Diego contract specifies the school year as consisting of 184 teaching and non-instructional days.

District contracts likewise are similar with regard to length of the workday. The workday is generally seven to eight hours depending upon whether the hours include preparation time, duty-free lunch periods, and so on. Some district contracts detail the number of instructional minutes by grade level (Sacramento and San Francisco). The San Diego contract specifies that the district and union recognize the principle of an eight hour unit member workday and 40 hours work week for full-time employees.

### **Class Size**

Class size is limited to 20 in kindergarten through grade three in all districts except Long Beach and Sacramento where the number is above 30 (limited to 20 in Long Beach if state classroom reduction funding continues). Class size in higher grades in all six districts ranges from at or near 30 (Fresno, Poway) to above 30. The districts with the highest number are Long Beach and San Diego. Long Beach class size at the middle and high school levels is at or above 35. The San Diego contract limits class size to no more than 36 at these grade levels. In all district contracts, there are exceptions for certain classes such as physical education and music where the numbers are higher, and for specialized schools or programs where the numbers are lower.

## **Evaluation**

In accord with state law, all contracts specify that probationary teachers are to be evaluated once annually (at least once annually in Long Beach, San Diego, and San Francisco). Permanent teachers are evaluated every two years except for high performing experienced permanent teachers who are to be evaluated once every five years. In Poway, probationary teachers are evaluated at least twice annually and permanent teachers a minimum of one formal evaluation every other year.

The Fresno and San Francisco contracts specify that the evaluation is to be based upon the California Standards for the Teaching Profession. The other contracts address district-adopted objectives and performance standards or are less specific. The San Diego contract specifies the evaluation is to address progress of students to established standards, instructional techniques and strategies, adherence to curricular objectives, establishment of a suitable learning environment, and performance of non-instructional duties.

The evaluation instrument is subject to negotiation in the Fresno and Long Beach districts. In Poway, the instrument can be modified by mutual consent of the district and union. The San Diego contract does not address the instrument.

Five of the six districts, including San Diego, specify that standardized test norms are not to be used in evaluation. We could find no mention of this topic in the Fresno contract.

Four districts, including San Diego, participate in the optional Peer Assistance and Review (PAR) program. San Francisco does not participate in PAR because of loss of funding. We could find no mention of PAR in the Poway contract.

## **Layoff**

As set forth in the California Education Code, all except substitute and temporary teachers are employed on probationary and permanent contracts. The former can be nonextended at the end of the first or second year of employment with timely notice (by March 15). No reasons or due process procedures are necessary. However, if a probationary contract is to be terminated during the school years, notice and a hearing are required. Once past the probationary contract, teachers are employed on permanent contracts, which can only be terminated for just cause and pursuant to due process procedures. As noted earlier, the nonextension/termination of probationary contracts and termination of permanent contracts have been controlled for many years by provisions of the Education Code. They are not negotiable. Hence, district contracts do not address teacher contract nonextension/termination.

Layoffs for lack of funds, however, can be negotiated. If they are not negotiated, Education Code provisions control. These provisions are set forth in a footnote on the layoff pages of the attached district-by-district list. The provisions set forth the seniority process for determining layoffs and the due process procedures to be followed.

All districts except San Diego follow the layoff procedures set forth in the Education Code for both probationary and permanent contract teachers. San Diego does so for permanent contract teachers but not those on probationary contracts. Article 19 of the district contract provides that the procedures for layoff of probationary teachers for lack of funds are grievable. However, there is nothing stated about due process procedures for these employees. By contrast, Sections 44955 and 44955.5 of the Education Code clearly state that both probationary and permanent contract teachers who are to be laid off for economic reasons are entitled to both a hearing and formal due process hearing as set forth in Education Code 44949. The grievability sentence in Article 19 of the San Diego contract predates Section 44955 and 44955.5 of the Education Code sections and conveys much the same. Thus, there is no significant difference between the San Diego contract and the other district contracts regarding employee layoffs.

### **Transfer/Reassignment**

In all district contracts, voluntary transfers are done through a post and bid process. The districts announce vacancies (posting) and interested employees can apply for the transfer (the bid process). Selection criteria and timelines are variously described. In the Fresno contract, the principal criterion is whether the request would result in the best interest of the district. In Long Beach, six factors are set forth. When these factors are comparable, seniority determines and, for those with the same seniority, length of service at the school site is considered. The San Diego contract specifies the posting and bidding process including timelines and states that selection will be made on the basis of seniority and criteria specified in the posting.

Involuntary transfers are addressed in several contracts. These may result from such factors as enrollment loss. Some contracts specify the procedures to be followed. In the San Diego contract, procedures include an interview with the supervisor and appropriate division administrator. The contract specifies these decisions are grievable. There appears to be little difference between the San Diego contract and the contract of other districts on transfer and reassignment.

### **Maintenance of Standards**

A maintenance of standards provision in a contract essentially prevents the district from making changes in terms and conditions of employment affecting the members of the bargaining unit during the life of the contract without union approval. By its scope, a maintenance of standards provision goes beyond the terms of the contract to apply to conditions of employment generally. These provisions can be variously worded, and the way they are worded affects the degree of discretion retained by the employing school district.

Among the six districts, San Diego appears to be the only one with a specific maintenance of standards contract provision in its teacher contract. The San Diego provision was added by a memorandum of understanding dated November 9, 2010. The provision requires the district to

maintain all terms and conditions of employment for a bargaining unit member at not less than the highest minimum standards in effect when the collective bargaining agreement was signed. While the provision states that the district retains the right to implement programs, initiatives, or curricular reforms, the impact of these reforms on unit members' workload is governed by this section. Disagreements are to be discussed with the union within 20 workdays of the union's becoming aware of its concern and thereafter submitted to grievance procedure within the next 20 days.

Key Mandatory, Consultative, and Nonnegotiable Topics under EERA<sup>a</sup>

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Mandatory Bargaining

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- Wages  
Hours  
Terms and Conditions of Employment
- Health and welfare benefits
  - Leave, transfer, and reassignment policies
  - Safety conditions
  - Class size
  - Evaluation procedures
  - Organizational security agreements
  - Grievance procedures
  - Layoff of probationary certificated employees
  - Alternative compensation or benefits if adversely affected by pension limitations

Causes and procedures for disciplinary action other than dismissal of certificated employees\*

Procedures and layoff of certificated employees for lack of funds\*

Payment of additional compensation based on criteria other than years of training and experience\*

Salary schedule based on criteria other than years of training and experience\*

Other topics (per PERB) if:

- Logically and reasonably related to wages, hours, and an enumerated term and condition of employment
- Conflict likely to occur if not negotiated
- Will not significantly undercut management prerogative

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Mandatory Consulting

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Representatives of certificated employees have the right to consult on the following:

- Definition of educational objectives
- Determination of course and curriculum content
- Selection of text books

Note: The parties may agree to consult on other matters.

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Management Prerogative

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All matters not specifically enumerated are reserved to the public school employer and may not be a subject of meeting and negotiating unless employer and union agree otherwise and the matter is not preempted by the Education Code.

EERA does not limit the right of the public school employer to consult with any employees or employee organization on any matter outside the scope of representation.

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<sup>a</sup>Kemerer, F. and Sansom, P. (2009). *California school law*. Stanford, CA: Stanford University Press.

\*If no agreement, provisions of Education Code control.

Note: Matters that are not themselves mandatory topics may trigger a duty to bargain if they impact an item that is within the scope of bargaining.

## ATTACHMENT

### Summary of Selected District-By-District Teacher Contract Provisions

#### Workday<sup>3</sup>

##### Fresno Unified School District (pp. 13, 42-49)

- **Number of days per year**
  - Traditional school years shall provide for 180 teaching days and three (3) days reimbursable staff development days, and two (2) days of institute for a total of 185 work days.
- **Number of hours per day**
  - The duty day is 420 minutes (7 hours)
  - The work day is 480 minutes (8 hours) including the duty day and administration called/approved meetings. (Workdays for elementary and secondary schools are detailed in minutes per week for instructional and non-instructional time. Sample schedules are set forth).
- **Provisions for Shortened Days (e.g. parent conferences, days before holidays).**

##### Long Beach Unified School District (pp. V-1 to V-12)

- **Number of days per year**
  - Traditional Schedule: 204 assigned days (182 actual duty days).
  - Year-Round Schedule: 182 actual duty days
- **Number of hours per day**
  - Professional duties of employees are normally expected to involve no fewer than eight (8) hours of total effort each workday for both classroom and non-classroom employees.
- **Provisions for Shortened Days (e.g. parent conferences, days before holidays).**
  - K-5 Classroom teachers shall have 6 minimum days in the fall and 2 minimum days in the spring for parent/teacher conferences.

##### Poway Unified School District (electronic version, no pages)

- **Number of days per year**
  - The work year shall be 188 working days (190 for new teachers) with no more than 180 teaching days.
- **Number of hours per day**

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<sup>3</sup> There are many nuanced provisions relating to workdays addressed in each contract. These include such matters as relief breaks, lunch, preparation time, job-sharing, schedules for special schools (e.g. a children's center or special education site), and special assignments. Thus, the pages in each contract relating to workday are numerous and often very specific regarding number of days, parts of days, or minutes allotted to various tasks.

- The school based workday for teachers in the Poway Unified School District shall be seven (7) hours, not including a minimum 30 minute duty-free lunch period.
- **Additional Classes**
  - Additional classes are to be offered to qualified part-time unit employees before being offered to full-time unit employees. These full-time teachers selected to teach an additional class shall have their workday extended by an amount of time equal to their preparation period.
- **Provisions for Shortened Days (e.g. parent conferences, days before holidays).**
  - N/A

Sacramento City Unified School District (pp. 10-20)

- **Number of days per year**
  - The required days of service shall be one hundred eighty (180) teaching days, one (1) non-teaching day and three (3) staff development days subject to the continuance of the Staff Development program each school year.
- **Number of hours per day**
  - Maximum regularly scheduled primary teachers' instructional day including preparation time when scheduled shall be 328 minutes including a 60 minute early period and a 60 minute late period, but excluding recess and a 40 minute lunch period.
  - Maximum regularly scheduled intermediate teachers' instructional day including preparation time when scheduled shall be 338 minutes including a 45 minute early period and a 45 minute late period, but excluding recess and a 40-minute lunch period.
  - In those schools not utilizing the early/late schedule, the maximum regularly scheduled intermediate teachers' instructional day including preparation time when scheduled shall be 327 minutes excluding lunch and recess.
  - The maximum regularly scheduled kindergarten teachers' instructional day shall be 200 minutes.
  - Maximum regularly scheduled middle school teachers' instructional day shall not exceed 301 minutes including preparation time but excluding student passing time, teacher relief breaks, and lunch.
  - Maximum regularly scheduled high school teachers' instructional day shall be 275 minutes excluding lunch, passing time, relief breaks and preparation.
- **Provisions for Shortened Days (e.g. parent conferences, days before holidays).**
  - Shortened days at the primary level shall be 230 minutes. Shortened days at all other levels shall be no more than 240 minutes, except at the intermediate level which shall be 245 minutes.
  - Elementary: 6 shortened days scheduled for parent conferences at the end of the first quarter or trimester. 5 shortened days also be provided at the end of the third quarter or second trimester.
  - Middle School: 7-8 six shortened days shall be provided-four for reports and records at the end of each quarter, 2 for in service education to be arranged by the principal.

- All schools: 1 shortened day on the last teaching day each quarter or trimester for preparing grades and reports.

San Diego Unified School District (pp. 13-21)

- **Number of days per year**
  - The unit member contract year shall consist of no more than one-hundred and eighty-four (184) teaching and non-instructional days.
- **Number of hours per day**
  - The district and the association recognize the principle of an eight (8) hour unit member workday, and a forty (40) hour work week for persons employed on a full-time basis during the regular school year.
  - Full time classroom teachers shall be required to remain on site for a minimum of six (6) hours and thirty-five (35) minutes a day, exclusive of a duty-free lunch period. The duty-free lunch period shall be a minimum of thirty (30) minutes.
  - Provisions address such matters as elementary teacher preparation time and its utilization, secondary teaching hours and preparation/conference time, and emergency situations.
- **Provisions for Shortened Days (e.g. parent conferences, days before holidays).**
  - With input from the staff, the instructional schedule for minimum, shortened, and modified days shall be determined at the site by the supervisor after informing staff and providing them with an opportunity to give input.

San Francisco Unified School District (pp. 7-10)

- **Number of days per year**
  - The length of the work year for all teachers shall be 181 days of service, except that department heads and deans/head counselors shall have 186 days of service.
- **Number of hours per day**
  - The length of the teacher work day, including preparation time and time regularly required before and after school, exclusive of the duty-free lunch period, shall be based on a work week of seven (7) hours per day or thirty five (35) hours per five (5) day week;
  - The traditional instructional day within the work day shall be:
    - 5 periods daily for the high schools and middle schools except for those operating with block schedules.
    - 300 minutes grades 4-5
    - 280 minutes grades k-3
- **Provisions for Shortened Days (e.g. parent conferences, days before holidays).**
  - The regular instructional day shall be shortened by sixty (60) minutes for each of the ten days designated for parent conferences, and state mandated requirements defining a minimum day shall be met.

- Minimum days require extended instructional minutes on other days throughout the year to meet the state mandated annual instructional minutes to receive state apportionment money.

## Class Size<sup>4</sup>

Fresno Unified School District (pp. 6-8, addendum at 1)

- K-3=20
- Grades 4-6=30
- Grades 7-8=29\*
- Grades 9-12=31

\*Exceptions: Vocal/Instrumental Music, Drama, P.E., and classes in which maximum participation is encouraged.

Long Beach Unified School District (pp. X-1 to X-3, tentative agreement at 44)

### Elementary

- K=32 (20\*)
- Grades 1-3=30 (20\*)
- Grades 4-5=35
- Combinations K-3=28 (20\*)
- Combinations 4-5=33

\*Contingent upon continuation of additional state funding to support the class size reduction initiative, the District and the Teachers Association remain committed to implementation of the initiative kindergarten, grade 1, grade 2 and grade 3.

### Middle

- Grade 6 Core Classes=35
- English=35
- Science, Mathematics, Social Studies=37
- Typing=42
- Regular Physical Education=54
- Music=54
- All Others=39

### High School

- English=35
- Foreign Languages, Laboratory Science, Mathematics, and Social Studies=37
- Typing=42
- Regular Physical Education=54

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<sup>4</sup> Listed here are K-12 student enrollment figures or ratios for each district. Class size for special student populations like emotionally disturbed or learning impaired students is not included.

- Music=54
- All Others=39

Poway Unified School District (electronic version, no pages)

- Grades K-3=20
- Grades 4-5=28.5
- Grades 6-8=27.7\*
- Grades 9-12 29.5\*

\*Enrollment minimum is 20. For classes other than instrumental music and physical education, a class maximum of 36 students is established.

Sacramento City Unified School District (pp. 77-81)

- K=32
- Grades 1-3=31
- Grades 4-6=33
- Grades 7-8=31
- Grades 9-12=32

San Diego Unified School District (pp.57-60)

- Primary
  - If Class Size Reduction is in effect, K-3 class sizes shall not be more than 2 students per class beyond the class size limit that is fully funded by the state.
  - Grades K-6 shall not exceed thirty-six pupils for more than 30 calendar days.
- Secondary
  - Individual teacher's academic classes shall be no more than thirty-six pupils each. Physical education classes shall average no more than fifty pupils over a four month period.
  - *Note: Classes in music, business education and physical education may exceed the averages set for other classes.*

San Francisco Unified School District (pp. 11-17)

- Grades K-3=20 (students per teacher)
- Grades 4-5=32.2
- Middle School=33.1
- High School=34.4
- Necessary Small High School=25

## Evaluation<sup>5</sup>

### Fresno Unified School District (pp. 15-27)

- Procedural (Timeframe)
  - Probationary and temporary employees shall be evaluated annually. Permanent employees and temporary employees with more than three years service shall be evaluated every two years. Effective beginning with the 2005-2006 school year, permanent teachers who have been with the District at least ten (10) consecutive years, who are “highly qualified:” pursuant to NCLB and whose most recent evaluation rating is “meets” standards may be evaluated at least every five years provided the teacher and his or her evaluator consent. At any time, the teacher or the evaluator may withdraw consent returning to the “at least every other year” cycle. Provides definitions of ratings categories. Specific timelines and procedures for evaluations set forth in detail.
- Substantive (Administration Discretion)
  - Beginning with the 2000-2001 school year, the parties shall use the California Standards for the Teaching Profession (CSTP), or otherwise mutually agreeable-to modifications to the CSTP. A jointly developed continuum of professional standards based on the CSTP will serve as a guide for reflective practice, continuous improvement and evaluation. Evaluation forms are to be developed by the district and union.
  - Judgments of evaluator are not grievable.
- Participates in Peer Review and Assistance Program.

### Long Beach Unified School District (pp. XII-1 to XII-3 and 2008 modifications)

- Procedural (Timeframe)
  - Evaluation and assessment of the performance of employees shall be made on a continuing basis at least once each school year for temporary and probationary personnel and at least once every other year for employees with permanent status. Effective with the 2008-2009 school year, members with permanent status shall be evaluated at least every five (5) years if they have been employed by the district for ten (10) years or more if the evaluator and the unit member consent to such a time line. Procedural violations are grievable.
  - Classroom observation shall be both formal and informal, reduced to writing, and followed up by a conference. The number of evaluations shall be three but with agreement of evaluatee and evaluator reduced to two or one for permanent employees with satisfactory performance.
- Substantive (Administration Discretion)

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<sup>5</sup> Districts may participate in the Peer Assistance and Review (PAR) program for teachers (CEC Section 44500 et seq.). PAR provides mentor-type assistance to permanent teachers with unsatisfactory p performance ratings. PAR is a mandatory bargaining topic.

- The evaluator shall be the employee's immediate manager and/or another administrator designated by the manager, by the Superintendent, or by his designee. Employees to be evaluated shall receive a copy of the evaluation procedures within four (4) weeks after the beginning of their school session work year, traditional or year-round calendar.
- Personnel shall be judged on the District-adopted evaluation objectives and performance standards. Such objectives and standards shall be in writing and made available to the evaluatee prior to any period in which he or she is evaluated. By the end of the sixth school week, each evaluatee shall be responsible for proposing in writing to the evaluator specific objectives and standards to be achieved within areas of performance. Final evaluation forms and lesson analysis forms shall reflect state standards and are subject to negotiation. Less than satisfactory performance ratings will result in recommendations for improvement and time for improvement before the next evaluation.
- Standardized test norms are not to be used in teacher evaluation.
- Participates in Peer Assistance and Review Program.

Poway Unified School District (electronic version, no pages)

- Procedural (Timeframe)
  - Probationary teachers shall receive a minimum of two formal evaluations a year, one prior to winter recess and one in spring. Permanent teachers shall receive a minimum of one formal evaluation every other year. Permanent teachers receiving an overall unsatisfactory evaluation shall be evaluated on, at least, an annual basis until the teacher achieves an overall satisfactory evaluation or is separated from the District.
  - Teachers to be formally evaluated during the current year shall be so notified by October 1. Permanent teachers not notified by October 1 shall not be formally evaluated unless the teacher has been given a thirty (30) day written notice at any time during the year to institute a formal evaluation process. Nothing in the procedure shall preclude any additional evaluation conferences or formal evaluations at the discretion of the evaluator. Nothing in the procedure shall preclude the evaluatee from requesting additional conferences or evaluations.
- Substantive (Administration Discretion)
  - The formal evaluation procedure shall center around three major components: (1) instructional proficiencies; (2) student performance objectives; and (3) teacher job responsibilities. A formalized observation shall include: (1) the combined time from the formal observations; and (2) a conference to review the observation, if requested. Classroom observation forms are those currently in use. They can be modified by mutual consent of the union and the district.
  - Standardized test norms are not to be used in teacher evaluation.

- Procedural (Timeframe)
  - Evaluation of bargaining unit members shall be conducted on a continuing basis, at least once each school year for all personnel classified as probationary or temporary, or at least every other year for all those who have achieved permanent status, unless they have been transferred, in which case they may be evaluated in the first year of their new assignment or at least every five (5) years for those certificated employees qualifying for AB 954. Permanent personnel whose social security numbers end with an even number are to be evaluated in school years which end in even numbered years; those whose social security numbers end with an odd number are to be evaluated in school years which end in odd numbered years. Personnel reassigned from one classification to another, shall be evaluated at least once each school year for the first three (3) years of service in the new classification and at least every other year thereafter. An employee who has been evaluated and whose summary rating indicates that performance needs improvement or is unacceptable must be evaluated the following year.
- Substantive (Administration Discretion)
  - Appropriate assessment techniques and other responsibilities applicable to the evaluation shall be determined by the evaluatee and the evaluator in conference not later than November 1 of each year. The parties have agreed to replace the former teacher evaluation derived from the “Classification Specification for the Teacher,” with the Standards-based Evaluation Instrument and Evaluation Process. There are three (3) different options:
    - OPTION 1: Used for all teachers in probationary and temporary status on an annual basis and every year when in permanent status. Reflects the (6) areas of the California Standards of the Teaching Profession and utilizes criteria that are observable, measurable and applicable in all segments. Two (2) formal observations for permanent teachers and three (3) or more for probationary and temporary teachers.
    - OPTION 2: Serves as an alternative assessment for teachers wishing to choose the substance of the evaluation criteria for personal professional growth. The criteria will be considered only when applicable to the bargaining unit member’s current assignment. Formative assessment must be focused on student achievement and relate to student learning and instructional strategies.
    - OPTION 3: Allows for the evaluation and assessment of the performance of each certificated employee at least every five (5) years for personnel within permanent status who have been employed at least ten (10) years with the school district, are highly qualified and whose previous evaluation rated the employee as meeting or exceeding standards if the evaluator and certificated employee being evaluated agree.
  - Standardized test norms are not to be used in teacher evaluation.

- Participates in Teacher Mentor Program and in Classroom Teacher Instructional Improvement Program (predecessor to Peer Review and Assistance Program).

San Diego Unified School District (pp. 61-73)

- Procedural (Timeframe)
  - Evaluation and assessment of the performance of unit members will be made on a continuing basis, but at least once every school year for probationary unit members, and every other year for unit members in permanent status whose most recent performance evaluation has been effective. Unit members participating in the alternative evaluation process may deviate from this schedule and a unit member participating in the National Board Certification Program shall be exempted from routine performance evaluation procedures during the period of time when he or she is involved in the certification process.
- Substantive (Administration Discretion)
  - The supervisor of each unit member designated in the unit member’s job description shall be the evaluator. The supervisor may delegate the evaluation to other credentialed supervisory personnel.
  - The competency of classroom unit members will be evaluated and assessed as such competency reasonably relates to: (a) progress of pupils toward established standards, (b) instructional techniques and strategies, (c) adherence to curricular objectives, (d) establishment and maintenance of suitable learning environment within the scope of the unit member’s responsibilities, and (e) performance of non-instructional duties and responsibilities including supervisory and advisory duties. At least three objectives must be mutually selected by the evaluator and the evaluatee, and linked to the job description. Disputes between evaluator and evaluatee submitted to the mutually agreed upon third party. If no agreement, evaluator’s superior decides.
  - Evaluation process, timeline and procedures detailed in the contract. Procedural violations are grievable.
  - Standardized test norms are not to be used in teacher evaluation.
- Participates in Peer Assistance and Review Program.

San Francisco Unified School District (pp. 46-53)

- Procedural (Timeframe)
  - Every probationary, temporary, categorical, emergency, teacher shall be evaluated by his or her immediate supervisor in writing at least once each school year. Every permanent teacher shall be evaluated by his or her immediate supervisor in writing every two (2) years, but may be evaluated in consecutive years under certain conditions. Any teacher receiving “unsatisfactory” “improvement needed” has a minimum of 4 assessment sequences per year. Teachers have a right to union representation at any conference that the teacher deems necessary.
- Substantive (Administration Discretion)

- Evaluation system shall be based upon the California Standards of the Teaching Profession. The principal objective is to assess teacher performance in order to maintain and improve the quality of education in the District. Evaluation forms are either long or short. Short forms are used for permanent teachers with satisfactory or better performance.
  - A complete assessment sequence for classroom teachers shall include a pre-observation conference between the evaluator and the teacher, a classroom observation, a Written Classroom Performance Report (WCPR) and a post-observation supervisory conference in which the teacher has an opportunity to obtain clarification and feedback from the evaluator all within a specified time frame.
  - Standardized test norms are not to be used in teacher evaluation.
- Does not participate in Peer Assistance and Review Program because state funding ended.

## **Layoff of Probationary Certificated Employees for Lack of Funds<sup>6</sup>**

### Fresno Unified School District

N/A: Follows Cal.Educ.Code Provisions

### Long Beach Unified School District

N/A: Follows Cal.Educ.Code Provisions

### Poway Unified School District

N/A: Follows Cal.Educ.Code Provisions

### Sacramento City Unified School District

N/A: Follows Cal.Educ.Code Provisions

### San Diego Unified School District (pp. 96-97)

The parties to the agreement superseded the provisions of the Education Code regarding procedures and criteria for the layoff and reemployment of probationary unit members for lack of funds. Whenever it becomes necessary to lay off probationary unit members for lack of funds, the member shall be given written notice of layoff no later than April 15. The implementation of the procedure for effecting layoffs is grievable. Decision to layoff, the determination of the services or teaching subjects in which layoffs are made, and the number of members who are to be laid off rests solely with the District and shall not be subject to negotiations or to the filing of grievances. The impact and effect of proposed layoffs shall be subject to negotiations between the Association and the District. Accordingly, the District agrees to notify the Association as soon as possible of the number and type of layoffs to be proposed. Order of layoff is determined by seniority in a service area in which a unit member is certificated and fit to teach. Ties in seniority are broken by lot (refers to probationary teachers hired on the same date).

### San Francisco Unified School District

N/A: Follows Cal.Educ.Code Provisions

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<sup>6</sup> If not addressed in collective bargaining negotiation, California Education Code §§44955 and 44955.5 control. These sections govern layoff of both probationary and permanent contract employees for a decline in enrollment or insufficient increases in grant revenue per average daily attendance (at least 2 percent). The time frame for this determination is between five days after the enactment of the Budget Act and August 15 of the fiscal year to which the Budget Act applies. Layoffs are to be in accordance with a schedule of notice and hearing adopted by the governing board. Layoff is determined by seniority. Thus, probationary teachers are laid off before permanent teachers. In the event of a tie, the governing board makes the decision based on district and student needs. Exceptions to seniority include (1) a specific need for personnel to teach a course for which the teacher has training and experience that more senior teachers do not and (2) compliance with equal protection of the law (e.g. a court desegregation plan).

## Layoff of Certificated Employees<sup>7</sup>

### Fresno Unified School District

N/A: Follows Cal.Educ.Code Provisions

### Long Beach Unified School District

N/A: Follows Cal.Educ.Code Provisions

### Poway Unified School District

N/A: Follows Cal.Educ.Code Provisions

### Sacramento City Unified School District

N/A: Follows Cal.Educ.Code Provisions

### San Diego Unified School District (p.96)

N/A: Follows Cal. Educ. Code provisions

### San Francisco Unified School District

N/A: Follows Cal.Educ.Code Provisions

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<sup>7</sup> If not addressed in collective bargaining negotiation, California Education Code §§44955 and 44955.5 control. These sections govern layoff of both probationary and permanent contract employees for a decline in enrollment or insufficient increases in grant revenue per average daily attendance (at least 2 percent). The time frame for this determination is between five days after the enactment of the Budget Act and August 15 of the fiscal year to which the Budget Act applies. Layoffs are to be in accordance with a schedule of notice and hearing adopted by the governing board. Layoff is determined by seniority. Thus, probationary teachers are laid off before permanent teachers. In the event of a tie, the governing board makes the decision based on district and student needs. Exceptions to seniority include (1) a specific need for personnel to teach a course for which the teacher has training and experience that more senior teachers do not and (2) compliance with equal protection of the law (e.g. a court desegregation plan).

## **Transfer/Reassignment**

### Fresno Unified School District (pp. 97-107)

The contract provides that the district will post all permanent vacancies electronically on the district website. In addition, permanent status teachers with at least two years of service after a voluntary transfer may initiate a transfer by notifying the school of interest to interview for a posted position. If a candidate has been interviewed by the principal for another position with a two-month period, another interview need not be completed. If more than one applicant is qualified in all respects for a position opening, the application who will meet the needs of the receiving school in terms of balance is to be selected. The principal is to notify the Division of Human Resources/Labor Relations of the recommendation for filling the vacancy immediately upon the conclusion of the interviewing process.

Reassignment.

Involuntary transfers are based on ineffectiveness or incompatibility, instructional program revision or reduction, ethnic balance, and overage. The contract details how involuntary transfers are to be conducted.

### Long Beach Unified School District (pp. VIII-2 to VIII-4)

Employee-initiated transfers are in response to openings posted in each school. Other than posted openings, changes in staffing shall be made whenever the District determines that there is a need (a) to reduce staff because of enrollment loss or discontinuance of a program, grade level or school closure; (b) to balance a school staff in terms of gender, ethnicity, teaching experience, bilingual needs, magnet programs and/or co-curricular needs. In addition, employer-initiated transfers may be made for other factors confidential to the employee and Human Resources Services.

One or more of seven set factors shall be used in determining transfers initiated by employees or by the administration. Included among these are credentials, major/minor fields of study and recommendation of interview team. When the factors are substantially comparable, seniority in the District as a certificated employee will determine transfers; except that, in cases of equivalent seniority in the district, additional consideration will be given to the employee's length of service at the present school site.

### Poway Unified School District (electronic version, no pages)

Voluntary transfers are in response to openings posted in each school. Provisions detail time lines. Selection criteria include, but are not limited to, teaching experience, teacher major and minor coursework, and current performance evaluations.

Involuntary transfer is defined as a District-initiated request for reduction of staff at any work location generally caused by a decrease in student enrollment. Qualified volunteers will be given the opportunity to be considered for transfer first. Notifications of involuntary transfer shall take place as far in advance as possible. Involuntary transfer shall be consistent with District needs.

Reassignment is defined as District-directed change of employee work location. In all reassignment cases, the teacher involved will be afforded the opportunity to discuss the matter with the District prior to the finalization of the decision. Notification shall take place as far in advance as possible. Decisions regarding reassignment shall not be punitive, arbitrary or capricious. Reassignment will be consistent with District needs. The final responsibility for reassignment is that of the Superintendent.

Sacramento City Unified School District (pp. 27-37)

Both involuntary (surplus and administrative) and voluntary transfers are addressed. Vacancies are posted at each school and on district website and mailed to bargaining unit representative. No teacher shall be transferred nor denied a transfer request arbitrarily, capriciously, or without basis in fact. Any teacher transferred during the times that schools are in regular session shall be provided one (1) non-teaching day prior to the beginning of the new assignment for the purpose of relocation, orientation and less on planning. No teacher shall be involuntarily transferred more than once during any one (1) school year. Every reasonable effort shall be made to provide employees with information regarding the establishment of new positions as well as vacancies in existing positions when time permits. Positions shall be posted for a period of not less than four (4) work days. Strict steps delineate application and placement.

San Diego Unified School District (pp. 48-56)

The Human Resources Services Division, Certificated, will have posted in the office of each school or department and electronically on the District's website, a list of known vacancies for the following year. Such postings will occur twice annually. From the date the Association receives its official copy of the posting, unit members will have a minimum of ten (10) calendar days to bid for posted positions. Selection will be made on the basis of seniority and criteria specified in the posting. Integration program positions are exceptions (district remains to some extent under court-ordered integration). Involuntary transfers are permitted if it is in the best interest of the district. Procedures include an interview with supervisor and appropriate division administrator. Administrative transfers are grievable. Exceptions to involuntary transfers are set forth in specific postings (e.g. special education, opportunity schools, gifted teaching).

San Francisco Unified School District (pp. 41-46)

Vacancies posted electronically. Interviews begin on the day of posting. Principal together with department heads (secondary schools) and teachers from Union Building Committee conduct interviews. Selection criterion include needs of the district, teacher training and experience, and seniority when all else equal.

Involuntary transfer allowed to meet district needs, including racial balance, school consolidation and hard-to-staff schools and subjects.

## Maintenance of Standards during Term of Contract

### Fresno Unified School District\*

Does not appear to be addressed

### Long Beach Unified School District\*

Does not appear to be addressed

### Poway Unified School District \*

Does not appear to be addressed

### Sacramento City Unified School District\*

Does not appear to be addressed

### San Diego Unified School District (Memorandum of Understanding 11/9/10 added to contract)

All terms and conditions of employment impacting the workload of a certificated employee within the bargaining unit at the grade, department, program, school or district level are to be maintained at not less than the highest minimum standards in effect when the collective bargaining agreement was signed. The district retains the right to implement programs, initiatives, or curricular reforms, but the impact of these reforms on bargaining unit members' workload is governed by this section. Disagreements are to be discussed between the district and union within 20 workdays of the union's becoming aware of its concern. If not resolved within the next 20 workdays, the matter is to be submitted to the grievance procedure.

### San Francisco Unified School District\*

Does not appear to be addressed

\*Calls continue to district labor departments to determine definitively if maintenance of standards is part of the collective bargaining agreement through an attachment or memorandum of understanding