

# **TULARE/KINGS COUNTIES PERSONNEL COMMITTEE**

**Tulare County Office of Education**

**Redwood Room ABGH**

**Friday, January 23, 2026**

**9:00 a.m. - 11:00 a.m.**

**❖ Welcome**

**❖ Legal Topic – Gail Zurek, Lozano Smith 9:05**

- Hiring Practices**

**❖ California Standards for the Teaching Profession (CSTP) 10:00**

- Morgan Devaney, Kings COE**
- Summer Headley, Kings COE**

**❖ Open Forum: recap, questions, future topics...**

## **Upcoming Events**

<b>Law Seminar - Overtime &amp; Exemptions</b>	<b>Thursday, February 5, 2026</b>	<b>8:30-10:30am</b>
<b>TK Teacher Recruitment Fair</b>	<b>Friday, March 6, 2026</b>	<b>4:00-7:00pm</b>
<b>Personnel Committee Meeting</b>	<b>Friday, March 20, 2026</b>	<b>9:00-11:00am</b>



# Beyond the Interview: Confidently Navigating the Complex Hiring Process

Presented by: Gail Zurek

Tulare/Kings Counties Personnel Committee | January 23, 2026

# Presenter



[gzurek@lozanosmith.com](mailto:gzurek@lozanosmith.com)  
559.431.5600

## Gail Zurek

Gail Zurek is an Associate in Lozano Smith's Fresno office. Ms. Zurek specializes in public agency law, providing comprehensive legal guidance to school districts, cities, counties, and special districts.

Ms. Zurek has advised clients on a range of labor and employment issues, including disability accommodations, collective bargaining agreements, employee record retention policies, and disciplinary matters. Her experience extends to facilities and charter school issues. She has prepared memos for school boards on legal compliance and charter school policy implications, advised school bond committees, and drafted facility use agreements.

# Overview



- Overview of the Hiring Process
- Advertise/Post the Position
- Paper Screen Applicants
- Interview Applicants
- Background/Fingerprint/Reference Checks
- Select Applicant/Offer Position
- School Board Approval

# Overview of the Hiring Process

Advertise/Post the Position

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School Board Approval



# Overview of the Hiring Process

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## Advertise/Post the Position

Is the posting/job description current?

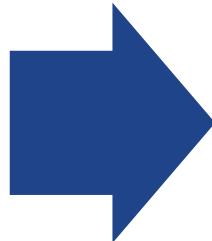


# Job Descriptions

- The job description should be current prior to posting the position.
  - E.g., it should accurately describe the major functions and duties of the position.
- Job descriptions require board approval.
- Certain changes to a job description may require consultation and/or negotiation with a union.
  - Is the change substantial e.g., adding an essential function?
  - Is the change minor?

# Overview of the Hiring Process

Advertise/  
Post the Position



Paper Screen Applicants

# Paper Screen Applicants

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- Who paper screens?
- Are they trained?
- Certificated
  - Do they have the proper credential, permit, authorization?
- Classified
  - Education level on application versus job description
  - Past experience
  - Certification/License

# Who is Making the Decision?

## Centralized Hiring (District Office)

- Greater control over hiring decisions and processes.
- Greater oversight.
- Technical knowledge by trained staff in HR.

## Decentralized Hiring (Local School Site)

- Better understanding of school site needs and culture.
- Closer proximity to day-to-day of new hires.

# Paper Screen Applicants

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## Special Considerations

- What if the applicant is a family member of someone at the site?
  - Site leadership should immediately notify HR of any applicant who is applying for a position at a site in which the applicant is related to another site employee.
  - This is **especially important** in cases where the applicant, if hired, would be supervised and/or evaluated by the employee with whom the applicant is related.

# Overview of the Hiring Process

Advertise/Post the Position



Paper Screen Applicants



Interview Applicants

# Interview Applicants – Who Is on the Panel?



- The designated hiring manager will assign the interview panels in consultation with HR, when necessary.
- Efforts should be taken to select panel members who are free of conflicts of interests and/or bias.

# Legal Considerations - Questions to Avoid

- Federal and state law, as well as District Board Policy 4030, prohibit discrimination against employees and job applicants on the basis of race, color, religion, national origin, sex (gender), ancestry, age, disability, and sexual orientation.
- A job applicant need not prove that he or she was not hired because of unlawful discrimination, only that unlawful discrimination was a motivating factor in the decision to not hire the applicant.
- Asking a bad question can be used as evidence of a discriminatory motivating factor if a candidate is not hired.

# Legal Considerations - Questions to Avoid

- Questions should be based on job qualifications or business necessity.
- Ask all applicants the same questions.
- Sometimes asking seemingly harmless questions can be viewed as discriminatory.  
For example, avoid asking questions such as:
  - Are you married?
  - Do you have children?
  - What year did you graduate from high school?
  - How much longer do you plan on working before retiring?
  - When is your baby due?



# Interview Applicants – How Applicants Are Ranked

- Applicants are screened and scored based on pre-determined criteria, which include interview responses and performance tasks.
- What is your District's process?
  - The scores are used to rank candidates for the consideration of the hiring manager?
  - The hiring manager reserves the right to make the final determination and may consider additional information in their final determination (i.e. personnel file information, performance evaluations, reference check information)?
  - Does the entire interview panel make the decision?

# Interview Applicants – How Applicants Are Ranked

## Internal Candidates

- Only information shared during the interview process should be considered in the ranking of applicants.
- Panel members should not share information beyond the interviews prior to the scoring and ranking of applicants.
- The hiring manager reserves the right to consider confidential information or information provided by panel members that might be relevant, provided that this information is shared after the scoring and preliminary ranking.



# For Discussion

# In practice, how do you respond?

Can the hiring manager select a person different than the one who was ranked the highest? Should the hiring manager select someone else, what is the effect?

Someone on the interview panel reads the name of a scheduled internal applicant, says “you’ve got to be kidding me” while rolling their eyes. Should this be addressed? If so, how?

# Overview of the Hiring Process

Advertise/Post the Position

Paper Screen Applicants

Interview Applicants

Background/Fingerprint/Reference Checks

# Background Checks

- It is **extremely** important to conduct a thorough background check of all employee applicants.
- A **complete** background check should include review by **trained staff** of:
  - Complete employment application
  - Employer references
  - Credential verification
  - Education degree verification
  - Fingerprinting (criminal history)



# Background Checks

Failure to conduct thorough background checks can result in harm to students and/or staff and create liability for the District.

## Negligent Hiring

- School district employees have a duty to protect students from foreseeable harm.
- It is a breach of the school district's duty of care to fail to prevent foreseeable harm through inadequate or negligent hiring, supervision, and retention.
- Failure to conduct adequate complete background screening that include fingerprinting and reference checks before hiring staff can result in harm to students and liability on the part of the District.

# Reference Checks

- References checks should be performed for both internal and external candidates.
- See District “Reference Check Form.” Questions include (but are not limited to):
  - How long have you **known** the applicant?
  - Do you have **personal knowledge** and first-hand experience with the applicant?
  - Were you or are you a **Colleague or Supervisor?**
  - What are the applicant’s **strengths?**
  - Does the applicant **relate well** to students, staff, parents, colleagues?

# Reference Checks

- Does the applicant work well with **diversities** of people?
- What are some **challenge areas or areas of growth?**
- Any reason why the applicant should **not work around children?**
- Describe the applicant's **attendance** record.
- Would you **rehire** this individual? Why or why not?
- **Anything else** I should ask or anyone I should speak with?
- Any additional information?

# AB 2534: Applicant Obligations



- **Who is affected:**
  - All certificated staff; beginning on January 1, 2025.
- **All applicants for certificated positions:**
  - **Must submit** a full list of every LEA (school district, charter school, county office of education, and state special school) that they have worked for.

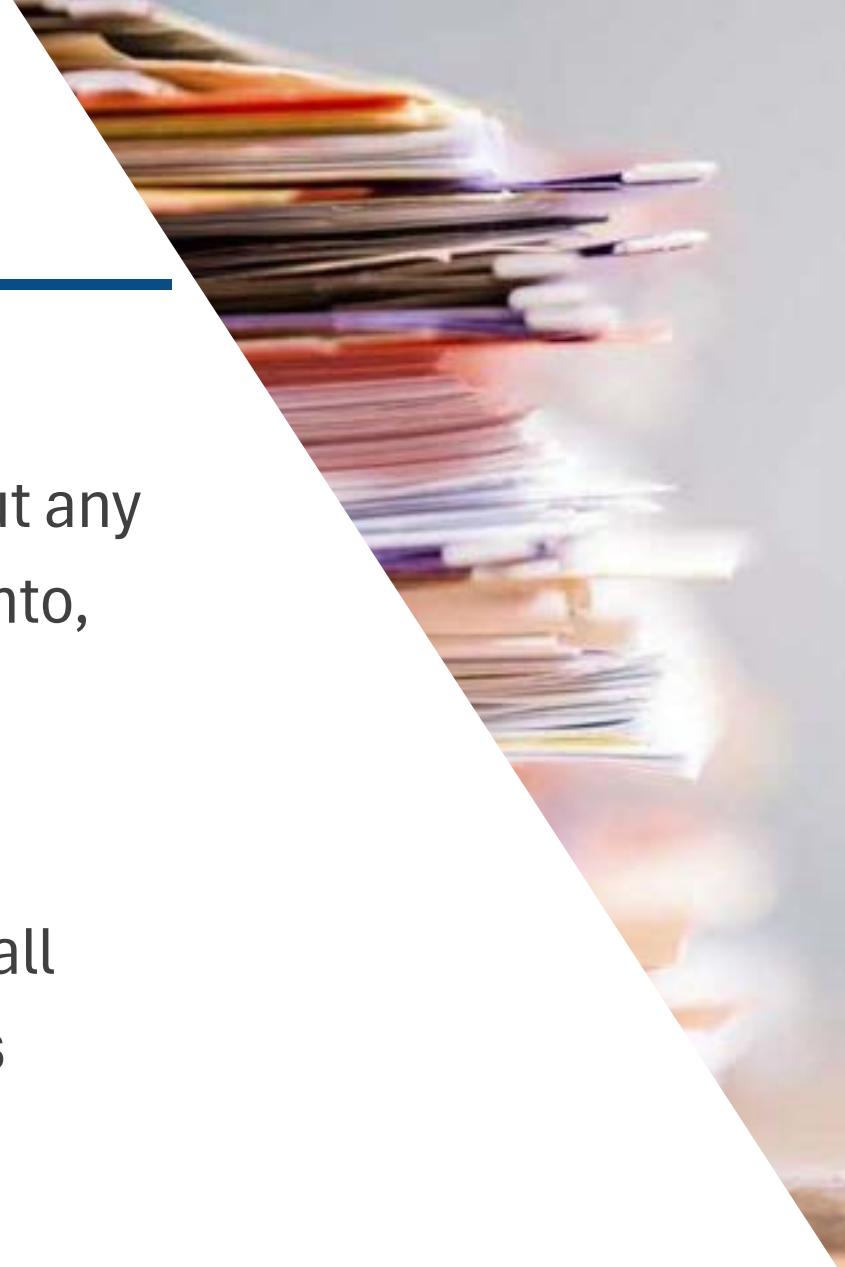
# AB 2534: Certificated Employee Hiring Process

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- LEA responsibilities include:
  - The hiring LEA **must inquire** to the listed LEAs about any credible complaints of, substantiated allegations into, or discipline for “**egregious misconduct**.”

AND

- The former employing LEA **must provide** a copy of all relevant information within its possession that **was reported to the CTC**.



# What Constitutes Egregious Misconduct?

## Education Code § 44932, subdivision (a)(1):

- “...‘egregious misconduct’ is defined exclusively as immoral conduct that is the basis of **an offense** described in **[Education Code] § 44010 or 44011 ... or in [Penal Code] §§ 11165.2 to 11165.6, inclusive...**”
- Includes:
  - Specified Sex offenses
  - Specified Controlled substance offenses
  - Specified Child abuse & neglect



## SB 848 – Safe Learning Environments Act

- Expands requirements of AB 2534 to include classified employee with egregious misconduct reports.
- Establishes a statewide system for tracking employee misconduct investigations, *if* such statewide system is funded.
  - LEAs will be required to report investigations of egregious misconduct and results.
  - LEAs will be required to review the statewide tracking system before hiring noncertificated positions.

# Employer References - Issues



## Possible Red Flags:

- Last employer is not listed as reference.
- Gaps in employment history.
- Reluctant references.

Be sure to consult with HR if any of these issues exist to ensure further appropriate follow-up.



**What about when a District employee is contacted to give a reference for an existing or former employee?**



# Employment References - Legal Issues

## Negligent Referral or Representation

- Employer is aware of a former employee's troubled history (e.g. a history of violence, drug use, or sexual misconduct) and recommends the former employee for employment without disclosing that history to a new employer.
- Liability is created for the employer if the employee is then involved in an alleged "foreseeable" incident at his or her new place of work.

## Inaccurate References Can Be Used Against Employers

- Example: Employee terminated for poor performance is given a positive letter of recommendation by the district. Employee then sues the District claiming that the termination was discriminatory. A positive letter of recommendation may cause doubt that poor performance was the reason for the termination, as opposed to some other illegal motivating factor.

# Employment References - Legal Issues

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## Immunity for Truthful References

- Under California law, truthful communications about job performance or employment qualifications of a current or former employee are privileged and protected from defamation of character claims as long as the communication is based on credible evidence and made without malice (Civ. Code, § 47(c)).

# Employment References - District Protocol

- For **outside** inquiries, be sure to follow District protocol.
  - All inquiries should be directed to HR.
  - If non-HR staff wishes to provide a written recommendation for an employee, it must be done in the recommending party's personal capacity, state that the person is not speaking on behalf of the District, and must not be on site/District letterhead.
- For **internal** inquiries (e.g transfers), be **honest** and provide truthful feedback to the administrator asking the question.



# Fingerprinting

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- All applicants who are given recommendations for hire must receive background clearance, which includes fingerprinting.
- Criminal background checks are performed by the Department of Justice (“DOJ”).
- If the applicant is hired, the DOJ will provide Subsequent Arrest Notices.



**AN ARREST ≠ CONVICTION!**



A CHARGE ≠ CONVICTION!

# Charges Filed



- Arrested **and** charged:
- New applicants:
  - May consider charge.
- Current employees:
  - Get more information!
  - Consider mandatory leave of absence.
  - Consider optional leave of absence.
  - Possible grounds for dismissal.

# Arrests v. Convictions

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**CANNOT** consider arrests!

**CAN** consider charges!



# Fingerprinting & Criminal Record Takeaways

- Violent and serious felonies, sex offenses, and controlled substance offenses generally bar employment, but there are some legal exceptions.
- **May generally consider** the conviction before hiring if not otherwise prohibited.
  - Cannot consider arrests.
  - May consider charges.

# Considering Conviction History

- Factors to consider:
  - Nature of offense and if it will negatively impact applicants' ability to perform the job duties.
  - Seriousness of offense
  - Time elapsed since conviction
  - Maturity of person at time of conviction
  - Rehabilitation or absence of rehabilitation efforts.

# Hypothetical Situation

# Hypotheticals

Applicant 1: Background check shows a conviction for fraud and embezzlement five years ago. Applicant has been employed with his previous employer for three years and is applying for a position within the school cafeteria.

Applicant 2: Background check shows a conviction for possession with intent to sell a Schedule III Narcotic nearly ten years ago. Applicant has changed jobs three times in the last ten years and has applied for a position within maintenance.

# Considering Conviction History

- Factors to consider:
  - Nature of offense and if it will negatively impact applicants' ability to perform the job duties.
  - Seriousness of offense
  - Time elapsed since conviction
  - Maturity of person at time of conviction
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**Select Applicant/Offer Position Pending Board Approval**

# Recommendations for Hire



- Administrators make only recommendations for hire—not offers of employment.
- Offers of employment may only come from HR and should include that they are conditional on Board approval.
- Applicants may **never** start work until HR review is complete.
- **Never** communicate that the employee has been “hired” before HR review and Board approval is complete.

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Select Applicant/Offer Position Pending Board  
Approval

**School Board Approval**



# School Board Approval

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- District Board Policy.
- BP 4111/4211/4311.
- Staff shall select and recommend candidate for Board approval.



# Questions?



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## **Gail Zurek**

Attorney at Law

559.431.5600

[gzurek@lozanosmith.com](mailto:gzurek@lozanosmith.com)

Or any of the attorneys in one of our 8 offices.

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## 2024 CSTP Resource Guide

Topic	Resource Link
KCOE 2024 CSTP Refresh Guide	<a href="#">KCOE CSTP Refresh Guide.pdf</a>
CSTP Standards Overview	<a href="#">2024 CA Standards for the Teaching Profession</a>
2024 CSTP Standards	<a href="#">2024-CSTP.pdf</a>
The Continuum	<a href="#">Continuum</a>

**Personnel Records Retention**

*Modified chart from CASBO Records and Retention Manual*

Type	Record Title	Hard Copy Retention	Recommended Retention	Reason for Recommendation	If Imaged	
					Hard Copy Retention	Digital Retention
	CBEDS Forms/Reports - County Info Form - School Info Form - All Output Reports		4 years	Maintain for Reference Purposes for Fiscal Accountability		
Permanent	Employee Ratio Summary Certification Document	Permanent	Permanent		4 years	Permanent
Disposable	Employment Applications	3 years	4 years	Timing/Fiscal Year		
Disposable	Employment Eligibility Lists	3 years	4 years	Timing/Fiscal Year		
Permanent	Health & Welfare Benefits, Certificated Personnel in teacher bargaining unit	Permanent	Permanent		4 years	Permanent
Permanent	Personnel Files (Terminated)	Permanent	Permanent		4 years	Permanent
Disposable	Recruitment Files	3 years	4 years	Timing/Fiscal Year		
Disposable	Returned Letters (Inactive Recruitment)	3 years	4 years	Timing/Fiscal Year		
Permanent	Salary Data by Employee Classification	Permanent	Permanent		4 years	Permanent
Permanent	Teacher Bargaining Unit Base Certificated Salary Schedule	Permanent	Permanent		4 years	Permanent

Pursuant to the Title 5 regulations, prior to each January 1, the Superintendent or designee is required to review the prior year's records and classify them as a Class 1 (Permanent), Class 2 (Optional), or Class 3 (Disposable) record.<sup>1</sup> FEHA requires retention of employment records including applications, personnel records, and employment referral records for at least two years following the date they are created or received, or the date the personnel action occurs, whichever is later.<sup>2</sup> The Age Discrimination in Employment Act requires that employers retain personnel and pay records for three years.<sup>3</sup> Wage and hour records generally must be retained for at least three years.<sup>4</sup>

**Personnel Records Contents**

<sup>1</sup> 5 C.C.R. Section 16022

<sup>2</sup> 22 C.C.R. Sections 7287.0(b)(3) and 7287.0(c)

<sup>3</sup> 29 C.F.R. Section 1627.3

<sup>4</sup> 29 C.F.R. Sections 516.1-516.5

**Records for Personnel File**

- Copy of Credential (if certificated)
- Licensing Documents (if licensed)
- Copy of Application and Resume
- Original Transcripts
- New Hire Forms
- Offer Letter and Acceptance
- Verification of Employment
- W-4 Forms
- Status Report/Employment Contracts
  - Job Change Documents (including promotion, demotion, transfer, layoff, rates of pay, other forms of compensation)
  - Employment Documents (affecting terms and conditions including rate of pay, schedule, and work location)
- Retirement System Verification and Beneficiary Forms
- Wage Attachment/Garnishment Notices
- Health Benefits Information
- Attendance Records (excluding any medical information)
- Record of District Property Issued to Employee
- Signed Policy Acknowledgements and Agreements
  - Child Abuse Mandated Reporter Requirement
  - Oath or Affirmation of Allegiance
  - Drug and Alcohol Testing Policy (if applicable)
  - Hepatitis B Vaccine declination
  - Retirement System Forms (as applicable)
- Union Membership Forms (if applicable)
- Sexual Harassment Policy
- Acceptable Use Policy (Technology)
- Evaluations and Improvement Plans
  - Warnings, Counseling and Disciplinary Notes under EC 44031
  - Termination Records
- Qualifications Verification
  - Education/Training Records
  - CPR
  - Restraint Trainings (e.g. CPI)
  - Safety Training
  - Sexual Harassment
  - Bloodborne Pathogens
  - Employee Immunizations (Preschool)
  - Student Information System Training
  - Substitute System Training

**Records for Personnel File Not Accessible by Employee**

- Records Obtained prior to Employment
- Ratings or Reports by Identifiable Examination Committee Members
- Promotional Examination Records

**Optional Records for Personnel File**

- Letters of Recognition
- Awards

### Personnel Records Contents

#### **Records to Separate from the Personnel File**

- Equal employment opportunity (EEO) invitation to self-identify disability or veteran status records
- Survey of ethnic status
- Reference/background checks
- Immigration (I-9) forms (separate current employees from terminated; recommend keeping I-9s 3 years after employee separates from service. Specific retention guidelines: <https://www.uscis.gov/i-9-central/retain-store-form-i-9/retaining-form-i-9>)
- EEOC/DFEH charge of discrimination and related documents
- Health Records (medical questionnaires, benefit enrollment forms and benefit claims, doctors notes, accommodation requests, leave forms or records that contain medical information concerning employee or employee's family member)
- Genetic Information
- Litigation documents
- Workers' compensation claims and related documents
- Investigation records including complaints against an employee (although relevant disciplinary action, counseling or other direct communications are placed in the employee's personnel file)
- Requests for employment/payroll verification
- Records related to an investigation of possible criminal offense
- Unsubstantiated complaints against an employee by student, parent, or employee
- Derogatory info not issued in accordance with Ed Code 44031
- Settlement Agreements
- Commission on Teacher Credentialing Materials (including personnel investigations, hearings, findings, settlement agreements)
- ATI # (DOJ fingerprints)

## Personnel Records Resources

### LEGAL CODES

#### Education Code

44031 Right to inspect personnel records

[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=EDC&sectionNum=44031](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=44031)

35254 Electronic copies of employment records

[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=35254.&lawCode=EDC](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=35254.&lawCode=EDC)

#### Labor Code

1198.5 Right to inspect and receive copies related to the performance or a grievance concerning employee

[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=LAB&sectionNum=1198.5](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=1198.5)

432 Right to copy of signed documents related to employment upon request

[http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=LAB&sectionNum=432](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=432)

226 (b) (c) & (f) Right to copies

[http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=LAB&sectionNum=226](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=226)

6408 (d) Access to records of exposure to potentially toxic materials or harmful physical agents

[http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=LAB&sectionNum=6408](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=6408)

#### Code of Civil Procedure

Code of Civil Procedure 1985.6 (e) Subpoenas and employment records

[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=1985.6.&lawCode=CCP](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1985.6.&lawCode=CCP)

#### Civil Code

1633.12 Electronic records

[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=1633.12.&lawCode=CIV](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1633.12.&lawCode=CIV)

#### California Code of Regulations

16022 Microfilm of records

[https://govt.westlaw.com/calregs/Document/IEC2873B0D48011DEBC02831C6D6C108E?originationContext=document&transitionType=StatuteNavigator&InjectTerms=False&viewType=FullText&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/IEC2873B0D48011DEBC02831C6D6C108E?originationContext=document&transitionType=StatuteNavigator&InjectTerms=False&viewType=FullText&contextData=(sc.Default))

16026 & 16027 Destruction of records

[https://govt.westlaw.com/calregs/Document/IED76ECB0D48011DEBC02831C6D6C108E?originationContext=document&transitionType=StatuteNavigator&InjectTerms=False&viewType=FullText&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/IED76ECB0D48011DEBC02831C6D6C108E?originationContext=document&transitionType=StatuteNavigator&InjectTerms=False&viewType=FullText&contextData=(sc.Default))

## Personnel Records Resources

### CASE LAW

Miller v. Chico Unified School District (1979) Cal. 3d. 703

<http://caselaw.findlaw.com/ca-court-of-appeal/1836972.html>

*Local Education Agency may not base its decision to demote a school employee on derogatory written materials unless the employee had an opportunity to review and comment on the materials and the Ed Code cannot be avoided by placing the materials in a separate file.*

**Marken v. Santa Monica-Malibu Unified School District, Case No. B231787**

[http://www.lozanosmith.com/news-clientnewsbriefdetail.php?news\\_id=1619](http://www.lozanosmith.com/news-clientnewsbriefdetail.php?news_id=1619)

*Right to file a lawsuit to prevent an employer from disclosing private personnel information.*

## **LEGISLATION**

**AB 1452 File Expungement**

[http://www.leginfo.ca.gov/pub/15-16/bill/asm/ab\\_1451-1500/ab\\_1452\\_bill\\_20150706\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/15-16/bill/asm/ab_1451-1500/ab_1452_bill_20150706_chaptered.pdf)

<http://www.lozanosmith.com/news/cnb/CNB452015.pdf>

## **OTHER RESOURCES**

**Liebert Cassidy Whitmore (LCW)**

Workbook: *Personnel Issues: Hiring, Reference Checks and Personnel Records and Files (K-12)*

<https://www.lcwlegal.com/news/workbooks/personnel-issues-hiring-reference-checks-and-personnel-records-and-files-k-12>

Blog <http://www.calpublicagencylaboremploymentblog.com/harassment/employee-personnel-records-less-confidential-than-you-may-think/>

**Industrial Welfare Commission**

Department of Industrial Relations

[https://www.dir.ca.gov/dise/FAQ\\_RightToInspectPersonnelFiles.htm](https://www.dir.ca.gov/dise/FAQ_RightToInspectPersonnelFiles.htm)

**California Association of School Business Officials (CASBO)**

Records Retention Manual (includes personnel files and ALL other types of files)- 6th edition (2014)

<https://www.casbo.org/content/how-available-casbos-updated-records-retention-manual>