

Policy 2121: Superintendent's Contract

Status: DRAFT

Original Adopted Date: 10/02/2018 | **Last Revised Date:** 10/19/2021 | **Last Reviewed Date:** 10/19/2021

The Governing Board believes that the Superintendent's employment contract should outline the framework through which the Board and Superintendent will work together as a governance team to achieve district goals and objectives. When approving the Superintendent's employment contract, the Board shall consider the value of stability in district administration, the best use of district resources, and the Board's duty to ensure accountability to the public for the performance of the district's schools.

The contract shall be reviewed by the district's ~~district~~ legal counsel and may include the following:

1. Term of the contract, which shall be for no more than four years pursuant to Education Code 35031
2. Length of the work year and hours of work
3. Salary, health and welfare benefits, and other compensation for the position, including a statement that any subsequent increase in the Superintendent's salary shall be at the sole discretion of the Board
4. Reimbursement of work-related expenses, including mileage reimbursement, consistent with Board policies, regulations, and guidelines applicable to other professional administrative staff

The contract may also address payment for professional dues and activities, the district's provision of cell phones or other technological devices, and the use of a personal vehicle.

5. Vacation, illness and injury leave, and personal leaves
6. Professional development
7. General duties and responsibilities of the position
8. Criteria, process, and procedure for annual evaluation of the Superintendent
9. A statement that there shall be no automatic renewal or extension of the contract, although the Board ~~can~~ **may** enter into a new contract with the Superintendent prior to the expiration of the existing contract
10. Timeline for providing written notice to the Superintendent if the Board does not wish to enter into a new contract, which shall be at least 45 calendar days in advance of the expiration of the term of the contract pursuant to Education Code 35031, and the responsibility of the Superintendent to remind the Board in writing and in a timely manner of the requirement to give notice
11. Conditions and process for termination of the contract, including the maximum cash settlement that the Superintendent may receive if the contract is terminated prior to its expiration date
12. Matters related to liability and indemnification against demands, claims, suits, actions, and legal proceedings brought against the Superintendent in the Superintendent's official capacity in the performance of employment-related duties

The Board may deliberate about terms of the contract in closed session at a regular meeting. However, discussions regarding the salary, salary schedule, or other compensation may occur in the closed session of a regular meeting only between the Board and its designated representative(s), as permitted under Government Code 54957.6 (the "labor exception"), for the purpose of reviewing the Board's position and/or instructing the designated representative(s) prior to or during bona fide negotiations with the current or prospective Superintendent. Such deliberations shall not be held during a special meeting. (Government Code 54956, 54957, 54957.6)

The Board may consult with district legal counsel prior to holding a closed session with the designated representative(s) to discuss compensation to be paid to the current or prospective Superintendent.

Terms of the contract shall remain confidential until the ratification~~approval~~ process commences.

The Board shall take final action on the Superintendent's contract during an open session of a regularly scheduled Board meeting, and that action shall be reflected in the Board's minutes. At that meeting, prior to taking action, the Board shall orally report a summary of the recommendation for the final action on the Superintendent's salary or compensation in the form of fringe benefits. (Government Code 3511.1, 53262, 54953)

Copies of the contract and other public records created or received in the process of developing the recommendation related to the Superintendent's salary, benefits, and other compensation shall be available to the public upon request. (Government Code 53262, 54953)

Termination of Contract

Prior to the expiration of the contract, the Board may terminate the Superintendent's employment contract in accordance with law and applicable contract provisions.

In such an event, the maximum cash settlement that the Superintendent may receive upon termination of the contract shall not exceed the Superintendent's monthly salary multiplied by the number of months left on the contract or the Superintendent's monthly salary multiplied by 12, whichever is less. (Government Code 53260)

The cash settlement shall not include any noncash items other than health benefits, which may be continued for the same duration of time as covered in the settlement or until the Superintendent finds other employment, whichever occurs first. (Government Code 53260, 53261)

However, when the termination of the Superintendent's contract is based upon the Board's belief and subsequent confirmation through an independent audit that the Superintendent has engaged in fraud, misappropriation of funds, or other illegal fiscal practices, no cash or noncash settlement of any amount shall be provided. (Government Code 53260)

In addition, if the Superintendent is convicted of a crime involving an abuse of office or position, the Superintendent shall reimburse the district for payments received as paid leave salary pending investigation or as cash settlement upon termination, and for any funds expended by the district in defending the Superintendent against a crime involving the Superintendent's office or position. (Government Code 53243-53241.4, 53260)

The Board shall not take action to terminate the Superintendent without cause at a special or emergency meeting of the Board. (Education Code 35150)

Additionally, the Board shall not take action to terminate the Superintendent without cause or within 30 days after the first convening of the Board after an election at which one or more Board members are elected or recalled. (Education Code 35150)

However, the Board may take action to terminate the Superintendent without cause at a regular meeting during any month in which a regular meeting of the Board is not scheduled. (Education Code 35150)

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

Ed. Code 35031

Description

[Term of employment](#)

Ed. Code 35150

Termination of superintendent

Ed. Code 41325-41328

[Conditions of emergency apportionment](#)

Gov. Code 3511.1-3511.2

[Local agency executives](#)

Gov. Code 53243-53243.4

[Abuse of office](#)

State References

Gov. Code 53260-53264
 Gov. Code 54953
 Gov. Code 54954
 Gov. Code 54956
 Gov. Code 54957
 Gov. Code 54957.1
 Gov. Code 54957.6
 Gov. Code 7920.000-7930.215

Description

[Employment contracts](#)
[Oral summary of recommended salary and benefits of superintendent](#)
[Time and place of regular meetings](#)
[Special meetings](#)
[Closed session personnel matters](#)
[Closed session; public report of action taken](#)
[Closed sessions regarding employee matters](#)
[California Public Records Act](#)

Federal References

26 CFR 1.105-11
 26 USC 105
 42 USC 300gg-16

Description

Self-insured medical reimbursement plan
 Self-insured medical reimbursement plan; definition of highly compensated individual
 Group health plan; nondiscrimination in favor of highly compensated individuals

Management Resources References

Attorney General Opinion
 Attorney General Publication
 Court Decision
 CSBA Publication
 Website
 Website
 Website
 Website

Description

57 Ops. Cal. Atty. Gen. 209 (1974)
 The Brown Act: Open Meetings for Legislative Bodies, rev. 2003
 San Diego Union v. City Council (1983) 146 Cal.App.3d 947
 Superintendent Contract Template
[CSBA District and County Office of Education Legal Services](#)
[California Office of the Attorney General](#)
[Association of California School Administrators](#)
[CSBA](#)

Cross References

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9320	Meetings And Notices
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