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ABSTRACT

Developed over a 2-year period, this manual is a guide for school district officials in developing fair and consistent hiring procedures. Section 1 is a brief compilation of the federal laws and regulations governing hiring practices in the public elementary and secondary schools. It includes legislation relating to civil rights, fair employment practices, and disability benefits. Section 2 covers the major components of the selection and hiring process, through a sampling of available forms and procedures. These include a procedural flow chart, recommended personnel policies, and sample job descriptions, interview and application forms, and contracts. These materials are intended for use in hiring superintendents and principals, though adaptations are suggested for other school district personnel. Section 3, "Other Issues," includes tips on the use of outside agencies in the hiring process, affirmative action guidelines, and suggestions for handling discrimination charges. A bibliography is included. (TE)

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EA 016 203

HIRING PROCEDURES

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Montana School Boards Association

Women's Educational Equity Act Program
U.S. Department of Education

T. H. Bell, Secretary

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FOREWORD

Hiring practices in the public elementary and secondary schools are governed in specific instances by Federal regulations and, in most cases, by numerous state laws as well. School board members are charged with the responsibility of hiring and dismissing school employees. They often rely on the recommendations of chief administrative officers, but the final decisions rest with the boards.

In order to exercise this responsibility in the best and most efficient manner, it is important that school board members be knowledgeable about the rules, regulations, and procedures related to the hiring process. This manual serves as an excellent resource for hiring agents and their administrators. It presents a system of procedures for implementing fair and reasonable hiring practices.

Leonard H. Sargent
Executive Director
Montana School Boards Association

PREFACE

This hiring procedures manual was developed over a two-year period. Workshops with school trustees and administrators were used to gather information on the needs of school districts in the area of hiring concerns. Fifty school districts volunteered to evaluate a draft edition and make suggestions for change. Having undergone extensive field testing and revisions, the manual covers a wide scope of employment concerns.

The intent of this manual is to serve as a guide for school district officials in developing fair and consistent hiring procedures. The laws and regulations are presented here for information and reference. If legal assistance is needed, school districts should consult legal counsel. The models and forms used in the manual are offered as samples and may need to be adapted to meet each school district's specific needs. Although many of the sample forms focus on hiring administrators, they can be readily adapted for use in hiring other personnel.

It is recommended that state laws, regulations, and policies be added to this manual as applicable, thereby building on this general resource. Such references are not made in this manual because of the diversity of state laws dealing with hiring procedures.

If you have questions and would like to contact the author, she can be reached at the following address: Monica Kittock-Sargent, N.E. Minnesota Educational Cooperative Services Unit, 470 Hockey Hall of Fame Building, Eveleth, MN 55734.

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Artwork by Carol Kimble Royster.

Monica Kittock-Sargent

REGULATIONS

SECTION I

FEDERAL LAWS AND REGULATIONS RELATED TO HIRING PRACTICES IN EDUCATIONAL INSTITUTIONS

This section includes a brief description of the Federal laws and regulations governing hiring practices in the public elementary and secondary schools. In a number of instances, applicability of a Federal regulation is dependent upon an amount of Federal monies received or number of persons employed. It should be noted that individual states may have laws and regulations that guarantee the same rights as those protected by Federal law but without regard for monies or numbers employed.

Considering that school districts spend more than 75 percent of their operating budget on employee salaries, wages, and benefits, sound hiring practices become very important. Education is a people business requiring school boards--the hiring agents--to be informed of all the practices and procedures that could help them make the best possible hiring decisions.

Fairness is a key issue in all the regulations that follow. The morale of a school district is in direct proportion to how employees are treated. Sound personnel policies and practices which are implemented in a consistent manner will result in a satisfied and productive staff.

TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 (P.L. 92-261)
As amended by the Equal Employment Opportunity Act of 1972

WHAT IS PROHIBITED:	Discrimination in employment (including hiring, upgrading, salaries, fringe benefits, training, and other conditions of employment) on the basis of race, color, religion, national origin, or sex.
TERMS AND CONDITIONS:	The terms and conditions of employment which are covered by this act include: recruitment, selection, assignment, layoff, discharge, and recall of the employee; opportunities for promotion and in-service training; wages and salaries, and other job-related benefits.
WHO MUST COMPLY:	All institutions with 15 or more employees, including state and local governments and labor organizations.
POSSIBLE RESULTS OF NONCOMPLIANCE:	If attempts at conciliation fail, the Equal Employment Opportunity Commission (EEOC) or the U.S. Attorney General may file suit. Aggrieved individuals may also initiate suits. Court may enjoin respondent from engaging in unlawful behavior, order appropriate affirmative action, order reinstatement of employees and award back pay.
RECORD-KEEPING REQUIREMENTS:	Employer is required to keep and preserve all relevant records. Government is empowered to review all relevant records.
ENFORCEMENT AGENCY:	Equal Employment Opportunity Commission.
HOW A COMPLAINT IS MADE:	By a sworn complaint form, obtainable from the Equal Employment Opportunity Commission.
FOR FURTHER INFORMATION:	Equal Employment Opportunity Commission 2401 E Street, N.W. Washington, DC 20506

PREGNANCY BENEFITS IN DISABILITY AND MEDICAL INSURANCE PLANS (P.L. 95-555)
Amends Title VII of the 1964 Civil Rights Act

WHAT IS PROHIBITED:	Prohibits school districts and other employers from discriminating on the basis of pregnancy, childbirth, or related medical conditions. Prohibits discrimination against pregnant workers in hiring, promotions, and seniority rights as well as fringe benefits.
TERMS AND CONDITIONS:	Requires an employer to treat an employee temporarily unable to perform the functions of her job because of her pregnancy-related condition in the same manner as it treats other temporarily disabled employees. Pregnancy discrimination act applies to wives of male employees in that both groups are entitled to insurance coverage for a pregnancy when a company in an insurance program covers spouses for other liabilities. Denying coverage to employees' wives would result in male employees receiving a less favorable fringe benefits package. Employers who do not provide coverage for employees' dependents do not have to begin such coverage. Employers who do insure dependents other than spouses do not have to include pregnancy-related conditions so long as they exclude the pregnancy-related conditions of dependents of male and female employees equally. Benefits for abortion, except when the mother's life is endangered or complications have been caused by an abortion, need not be covered.
WHO MUST COMPLY:	All institutions with 15 or more employees including state and local governments and labor organizations.
POSSIBLE RESULTS OF NONCOMPLIANCE:	Same as Title VII of the Civil Rights Act of 1964.
ENFORCEMENT AGENCY:	Same as Title VII of the Civil Rights Act of 1964.

HOW A COMPLAINT IS MADE: Same as Title VII of the Civil Rights Act of 1964.

FOR FURTHER INFORMATION: Same as Title VII of the Civil Rights Act of 1964.

EQUAL PAY ACT OF 1963
As amended by the Education Amendments of 1972

WHAT IS PROHIBITED:	Discrimination in salaries, including almost all fringe benefits, on the basis of sex.
TERMS AND CONDITIONS:	Exceptions: There does not have to be equal pay for equal work where payment is made pursuant to a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a differential based on any factor other than sex.
WHO MUST COMPLY:	All institutions.
POSSIBLE RESULTS OF NONCOMPLIANCE:	Awarding of back pay for up to two years for a nonwillful violation and three years for a willful violation.
RECORD-KEEPING REQUIREMENTS:	Employer is required to keep and preserve all relevant records. Government is empowered to review all relevant records.
ENFORCEMENT AGENCY:	Department of Labor's Wage and Hour Division, Employment Standards Administration.
HOW A COMPLAINT IS MADE:	By letter, telephone call, or in person to the nearest Wage and Hour Division Office. (Complainant can remain anonymous.)
FOR FURTHER INFORMATION:	Department of Labor Employment Standards Administration Wage and Hour Division 200 Constitution Avenue, N.W. Washington, DC 20210

EXECUTIVE ORDER 11246
As amended by Executive Order 11375

WHAT IS PROHIBITED:	Discrimination in employment (including hiring, promotion, salaries, conditions of employment) on the basis of race, color, religion, national origin, or sex. Covers all employees.
WHO MUST COMPLY:	All institutions with Federal contracts over $10,000. (The definition of "contract" is very broad and is interpreted to cover all government contracts--even nominally entitled "grants"--which involve a benefit to the Federal government.)
TERMS AND CONDITIONS:	Affirmative action plans, including numerical goals and timetables, are required of all contractors with contracts of $50,000 or more and 50 or more employees.
POSSIBLE RESULTS OF NONCOMPLIANCE:	Future contracts may be delayed, current contracts may be revoked, and the institution may be ineligible for future contracts.
RECORD-KEEPING REQUIREMENTS:	Employer is required to keep and preserve all relevant records. Government is empowered to review all relevant records.
ENFORCEMENT AGENCY:	Office of Federal Contract Compliance (OFCC) of the Department of Labor has policy responsibility and oversees Federal agency enforcement programs. OFCC has designated the Department of Health and Human Services (HHS) the compliance agency responsible for enforcing the Executive Order for all contracts with educational institutions. HHS's Office for Civil Rights (Division of Higher Education) conducts the reviews and investigations.
HOW A COMPLAINT IS MADE:	By letter to the Office of Federal Contract Compliance of the Department of Labor.

FOR FURTHER INFORMATION: Department of Health and Human Services
Office for Civil Rights
Division of Higher Education
400 Maryland Avenue, N.W.
Washington, DC 20201

or

Department of Labor
Office of Federal Contract Compliance
200 Constitution Avenue, N.W.
Washington, DC 20210

TITLE VII AND VIII OF PUBLIC HEALTH SERVICE ACT

WHAT IS PROHIBITED:	Discrimination in the admission and treatment of students on the basis of sex. Also prohibits discrimination on the basis of sex against employees and applicants who do or would work directly with students.
WHO MUST COMPLY:	All institutions receiving a grant, loan guarantee, or interest subsidy to health personnel training programs, or receiving a contract under Titles VII and VIII of the Public Health Service Act.
POSSIBLE RESULTS OF NONCOMPLIANCE:	New awards may be delayed, current awards revoked, and the institution may be ineligible for future awards.
RECORD-KEEPING REQUIREMENTS:	Employer is required to keep and preserve all relevant records. Government is empowered to review all relevant records.
ENFORCEMENT AGENCY:	Department of Health and Human Services, Office for Civil Rights (Division of Higher Education), conducts the reviews and investigations.
HOW A COMPLAINT IS MADE:	By letter to the institution (should follow complaint procedures) and, if desired, to the Office for Civil Rights of HHS
FOR FURTHER INFORMATION:	Department of Health and Human Services Office for Civil Rights Division of Higher Education 400 Maryland Avenue, N.W. Washington, DC 20201

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TITLE IX OF EDUCATION AMENDMENTS OF 1972 (P.L. 92-318)

(Title IX is dealt with here only in terms of employment practices and does not cover any of the other areas governed by Title IX.)

WHAT IS PROHIBITED:	Discrimination in Federally funded education programs, specifically as it applies to the beneficiaries of the programs; that is, students in Federally aided institutions and teachers doing Federally financed research. Special Note: According to rulings upheld by three Federal Circuit Courts of Appeals, the Department of Health and Human Services does not have authority under Title IX to issue regulations barring discrimination in employment on the basis of sex. In July 1979, the Office for Civil Rights issued a memo to its regional offices advising them to proceed to investigate employment discrimination complaints of individuals whose jobs affect students directly. Individuals complaining of sex discrimination in employment should go to the Equal Employment Opportunity Commission which can pursue a suit under Title VII of the Civil Rights Act.
WHO MUST COMPLY:	All institutions receiving Federal monies by way of a grant, loan, or contract (other than a contract of insurance or guaranty).
POSSIBLE RESULTS OF NONCOMPLIANCE:	Future awards may be delayed, current awards may be revoked, and the institution may be ineligible for future awards.
RECORD-KEEPING REQUIREMENTS:	Employer is required to keep and preserve all relevant records. Government is empowered to review all relevant records.
ENFORCEMENT AGENCY:	Office for Civil Rights, Department of Health and Human Services.
HOW A COMPLAINT IS MADE:	By letter to the institution and, if desired, to the Office for Civil Rights of HHS. Special Note: U.S. Supreme Court has decided that individuals have a right to sue under Title IX and can bypass the Office for Civil Rights to obtain relief.

FOR FURTHER INFORMATION: Department of Health and Human Services
Office for Civil Rights
Division of Higher Education
400 Maryland Avenue, N.W.
Washington, DC 20201

AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967 (P.L. 90-202)
Amended by P.L. 95-256, Age Discrimination in Employment Act Amendment of 1978

WHAT IS PROHIBITED:

Discrimination in employment based upon age, with respect to individuals who are at least 40 years of age but less than 70. Prohibited employment practices include failure to hire, discharge, denial of employment opportunities, and discrimination with respect to terms and conditions of employment because of a person's age.

WHO MUST COMPLY:

All state and local governmental agencies, an employer engaged in industry affecting commerce with 20 or more employees, labor organizations, and employment agencies.

Note: This act covers all school districts. There is an exception in the case of employees covered by a collective bargaining agreement in effect on September 1, 1977, which was entered into by a labor organization (as defined by Section 6(d)(4) of the Fair Labor Standards Act of 1938) and otherwise would be prohibited by the 1978 amendments. However, this exception was effective only until the termination of such agreement or on January 1, 1980, whichever came first.

POSSIBLE RESULTS OF NONCOMPLIANCE:

Any aggrieved individual may bring a civil action suit in any court of competent jurisdiction.

Persons who forcibly resist, oppose, impede, intimidate, or interfere with a representative of the Secretary of Labor engaged in the performance of duties under this act may be fined up to $500 or imprisoned for a maximum of one year, or both. However, "no person shall be imprisoned under this section except when there has been prior conviction thereunder."

RECORD-KEEPING REQUIREMENTS:

Records must be kept for three years. These records must contain the following information for each employee: name, address, date of birth, occupation, rate of pay, and compensation earned for each week. Records of promotion interviews and copies of advertisements or notices of recruitment must be kept.

ENFORCEMENT AGENCY: Department of Labor's Wage and Hour Division, Employment Standards Administration.

HOW A COMPLAINT IS MADE: By letter, telephone call, or in person to the nearest Wage and Hour Division office.

FOR FURTHER INFORMATION: Department of Labor
Employment Standards Administration
Wage and Hour Division
200 Constitution Avenue, N.W.
Washington, DC 20210

SECTION 504 OF TITLE VI OF THE REHABILITATION ACT OF 1973 (P.L. 93-113)

WHAT IS PROHIBITED:	Discrimination on the basis of physical or mental handicap in Federally assisted programs or activities.
WHO MUST COMPLY:	Recipients of Federal financial assistance, either directly or through successor, assignee, or transferee of the recipient.
POSSIBLE RESULTS OF NONCOMPLIANCE:	Possible termination of Federal financial assistance.
ENFORCEMENT AGENCY:	Office for Civil Rights, Department of Health and Human Services.
HOW A COMPLAINT IS MADE:	Letter to the Director, Office for Civil Rights.
FOR FURTHER INFORMATION:	Department of Health and Human Services Office for Civil Rights 200 Independence Avenue, S.W. Washington, DC 20201 *or* Department of Health and Human Services Office for Civil Rights, Region VIII 1961 Stout Street, Room 1185 Denver, CO 80294

COMMENTARY ON SECTION 504

Section 504 states that "No otherwise qualified handicapped individual in the United States . . . shall, solely by reason of his [or her] handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." Final regulations became effective June 3, 1977. The regulations, divided into seven parts, address:

1. general provisions of the act and the definitions of terms
2. employment practices
3. program accessibility
4. preschool, elementary, and secondary education
5. postsecondary education
6. health, welfare and social services programs
7. procedures applicable to Title VI of the Civil Rights Act of 1964

Explanation of Section 84.13(b)--Selection Process

Section 84.13(b) requires that a recipient take into account that some tests and criteria depend upon sensory, manual, or speaking skills that may not themselves be necessary to the job in question but that may make the handicapped person unable to pass the test. The recipient must select and administer tests so as best to ensure that the test will measure the handicapped person's ability to perform on the job rather than the person's ability to see, hear, speak, or perform manual tasks, except, of course, where such skills are the factors that the test purports to measure. For example, a person with a speech impediment may be perfectly qualified for jobs that do not or need not, with reasonable accommodation, require ability to speak clearly. Yet, if given an oral test, the person will be unable to perform in a satisfactory manner. The test results will not, therefore, predict job performance but instead will reflect impaired speech.

Section 84.12--Reasonable Accommodation

(a) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation may include (1) making facilities used by employees readily accessible to and usable by handicapped persons and (2) job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

(c) In determining pursuant to paragraph (a) of this section whether an accommodation would impose an undue hardship on the operation of a recipient's program, factors to be considered include:

(1) The overall size of the recipient's program with respect to number of employees, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's work force; and

(3) The nature and cost of the accommodation needed.

(d) A recipient may not deny any employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

WHO IS "HANDICAPPED"?

A handicapped person, as defined in the Section 504 requirements, is any person who "(1) has a physical or mental impairment which substantially limits one or more major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment." This definition of "handicapped person" is comprehensive, including persons who traditionally have not been regarded as handicapped.

Physical or Mental Impairment

The first part of the definition refers to any physical or mental impairment which affects one or more of the body systems. It includes any person who has a physical impairment, whether it is a "physiological disorder or condition," a "cosmetic disfigurement," or an "anatomical loss." Such handicapping conditions as cancer, heart disease, diabetes, cerebral palsy, epilepsy, and muscular dystrophy are included in these categories.

Also included in the first part of the definition are persons with y "mental or psychological disorder," such as mental retardation, orr ic brain syndrome, emotional or mental illness, or specific learning ability.

However, in order for a person to qualify as "handicapped" (as outlined in the first part of the definition), any physical or mental impairment present must also substantially limit one or more major life activities, such as caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, or working.

Although not specifically listed in the regulations, alcoholics and drug addicts are clearly to be included, according to a lengthy discussion in Appendix A, Analysis of Final Regulations.

The applicant, however, must meet the basic eligibility requirements for programs, and the applicant's behavior must not cause a substantial interference with the program's operation.

In regard to services, alcoholics and drug addicts have been frequently denied hospital treatment (including emergency treatment) for conditions unrelated to their alcoholism or addiction. Such persons may no longer be refused these vital services under Section 504.

Record of Impairment

The second major part of the definition includes persons who have a "record of such an impairment," whether this record consists of a history of an impairment or a misclassification as having an impairment.

Taken from Amicus, Vol. 2, No. 5, September 1977, and reprinted with permission from the National Center for Law and the Handicapped, Inc., South Bend, Indiana.

Persons with a history of mental illness, cancer in remission, or epilepsy under medical control would be included in this category. These persons frequently face the same bias and barriers as persons with limiting disabilities, mentioned in the first part of the definition.

Regarded as Having an Impairment

The third major part of the definition includes persons who do not have a physical or mental impairment that substantially limits major life activities, but are "regarded as having such an impairment" by a recipient of Federal funds. This also includes persons who have a physical or mental impairment that does not substantially limit any major life activity, but which is treated as such a limitation by recipients. Moreover, persons who have a physical or mental impairment that substantially limits major life activities *only* because of the attitudes of others toward such an impairment would also be included.

This category could include an individual with a disfiguring scar, a limp, or any person who would be treated as being handicapped. Any such individual who is perceived as having a mental or physical disability that would prevent a person from performing his or her job would therefore be covered under this part of the regulation, despite the fact that the person would not be considered handicapped under the first part of the regulations.

GUIDELINES FOR GENERAL RECORD-KEEPING REQUIREMENTS

Unless a specific time limit is given, the following records should be kept for at least one year.

1. Copies of advertisements for recruitment and recruitment notices, advertisements and notices for job promotions, training programs, and overtime work.

2. Communiqués and instructions given to employment agencies handling any personnel recruitment for the school district.

3. Applications and resumes received from employee candidates.

4. All records showing why an applicant was hired, rejected, or promoted.

5. Records with information relating to demotions, transfers, and other personnel actions.

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SELECTION

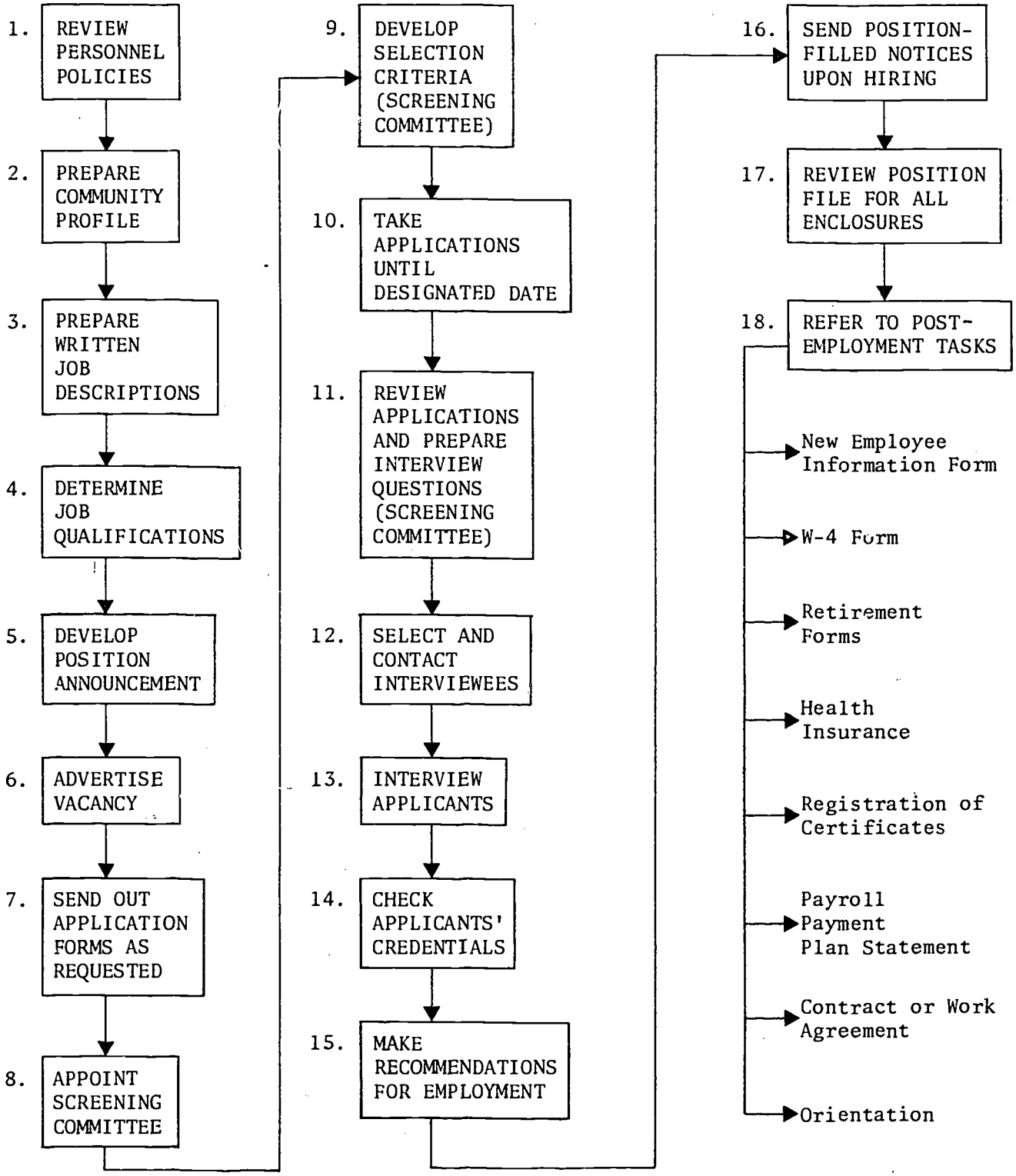
SECTION II

SELECTION PROCESS

The material in this section covers the major components of the hiring process. All of the suggested procedures and forms have been designed for the purpose of hiring principals or superintendents. Where appropriate, adaptations of forms have been suggested for the hiring of other school district personnel. The forms and procedures included in this section are a sampling of what is available for developing an efficient and fair hiring process.

The flow chart on the following page is included for the purpose of clarifying the steps of the hiring process.

FLOW CHART OF HIRING PROCEDURES



Adapted, with permission, from Equal Opportunity Employment Procedures and Guidelines, Lewistown Public Schools, Lewistown, Montana. Dr. Ronald B. Mattson, Superintendent.

THE COMMUNITY

As much as the community seeks to have highly qualified personnel employed in the school system, so the potential employee needs to know that the community in which he or she is seeking to work and reside is a place of mutual compatibility offering the potential for growth and a place for contributed services. Therefore, it is important that potential employees have a clear understanding of the values and priorities that a community holds for its children and the school. As part of a position announcement, the school board should develop a community profile that will aid potential employees in their assessment of the community.

In developing a community profile, the following items may be included:

1. What is the population: school statistics, number of students, schools, staff?

2. What are the major industries?

3. How many and what types of newspapers (daily/weekly) exist?

4. In what ways does the community support the school and its activities?

5. Are mill levies and bond issues passed?

6. What organizations hold prominent positions in the community?

7. What role does the school play in the community?

8. Do high school graduates stay in the community?

9. What does the community expect from its school administrators?

GOALS AND PHILOSOPHY OF THE SCHOOL

One way a community can clarify what it wants for its children and their school is to develop a clearly written statement of goals and objectives for the school. In many states these goals and objectives are part of the state accreditation standards. Schools may be required to develop a comprehensive philosophy of education which reflects the needs of the students, and to formulate a statement of specific objectives which describe how educational needs will be met in accordance with the district's particular philosophy.

It is important that written goals and objectives be available to all candidates seeking professional positions in your school district.

Job descriptions and criteria for selection should evolve directly from the needs of the schools as they are expressed through the community profile, written philosophy, and objectives.

PERSONNEL POLICIES

In addition to having a written philosophy and objectives, the school district must have a written policy on personnel practices. A good personnel policy which clearly delineates equal employment opportunity is a good start in avoiding discrimination charges.

The three policies outlined below serve as model policies. They were taken from The Educational Policies Service of the National School Boards Association Reference Manual, Vol. 1, Section G, Personnel, and used here with permission from the National School Boards Association.

EQUAL EMPLOYMENT OPPORTUNITY

It is the policy of this district to provide, through a positive and effective affirmative action program, equal opportunities for employment, retention, and advancement of all people, regardless of race, color, creed, national origin, political affiliation, or sex. Furthermore, it is the goal of this affirmative action program to achieve a racial and ethnic balance among district employees that reflects the composition of the total student population of the district.

The purpose of this policy is to accomplish the following:

1. To provide all students with an opportunity to relate to and learn with members of various racial and ethnic backgrounds and to increase knowledge and enhance intercultural understanding.

2. To have adult success models representative of the student body in terms of race, sex, and ethnic background.

3. To insure equal opportunities for the employment, promotion, and transfer of all persons.

This Board encourages all personnel in the Vallejo City Unified School District to assist in the accomplishment of this goal through their personal commitment to the concept of equal opportunity for all people, regardless of race, creed, color, national origin, political affiliation, or sex.

Therefore, this Board establishes a program of affirmative action in order to insure that all personnel policies relevant to recruitment, employment, and promotions of employees of the Vallejo City Unified School District will provide equal opportunities for all persons in order to achieve these goals.

Source: Vallejo City Unified School District, Vallejo, California, July 20, 1959; revised, June 18, 1974.

Legal Reference: Education Code, Section 13274.

PERSONNEL POLICIES GOALS

The personnel employed by the district constitute the most important resource for effectively conducting a quality learning program. Important contributions to a successful education program are made by all staff members. The district's program will function best when it employs highly qualified personnel, conducts appropriate staff development activities, and establishes policies and working conditions that are conducive to high morale and that enable each staff member to make the fullest contribution to district programs and services.

The goals of the district's personnel program shall include the following:

1. To develop and implement those strategies and procedures for personnel recruitment, screening, and selection that will result in employing the best available candidates, i.e., those with highest capabilities, strongest commitment to quality education, and greatest probability of effectively implementing the district's learning program.

2. To develop general deployment strategy for greatest contribution to the learning program, and to utilize it as the primary basis for determining staff assignments.

3. To develop a climate in which optimum staff performance, morale, and satisfaction are produced.

4. To provide positive programs of staff development designed to contribute both to improvement of the learning program and to each staff member's career development aspirations.

5. To provide for a genuine team approach to education, including staff involvement in planning, decision making, and evaluation.

6. To provide attractive compensation and benefits as well as other provisions for staff welfare.

7. To develop and utilize for personnel evaluation positive processes that contribute to the improvement of both staff capabilities and the learning program.

Source: An EPS/NSBA Policy Idea.

PERSONNEL POLICIES PRIORITY OBJECTIVES

In support of its stated personnel policies goals, the Board endorses the following set of priority objectives:

1. By (month/year), all personnel staff assignments will be reviewed to ensure the most effective utilization possible of staff time and capabilities. To the maximum degree possible, each staff member is to be assigned duties that employ his or her talents to the utmost.

2. By (month/year), job descriptions for all staff positions will be reviewed and updated by all employees and their supervisors. All job descriptions are to integrate program requirements with related positions; itemize specific and realistic job performance responsibilities; and provide for measures of assessing job performance. This objective will be considered successfully achieved when there is a consensus by the employee and his or her immediate supervisor.

3. By (month/year), the superintendent will develop a comprehensive Staff Talent Bank which will provide access to many special skills, talents, and capabilities which district personnel have at their command and which the district may draw upon from time to time to meet specialized needs. This objective will be considered accomplished when the central office can provide immediate answers to questions such as the following: Which staff members can speak the Navajo language, Spanish, Cantonese? Which are published authors? Which have degrees in law? Which know how to climb a mountain, build a house, ride a horse, hook a rug, or drive a tractor trailer?

4. By (month/year), procedures and methods of recruiting, screening, selecting, and assigning personnel shall be revised to (a) integrate with program needs, and (b) provide humanistic procedures which meet needs and concerns of applicants and employees as adequately as feasible. Measures of success shall be prepared under the district superintendent's supervision, and shall include increased success in program operation, subjective judgments of program managers and others, and perceptions of applicants and employees.

Source: An EPS/NSBA Policy Idea.

JOB DESCRIPTIONS

The job description is an important guide to developing criteria for selection. It also allows potential candidates to measure their strengths and weaknesses against written guidelines. It provides the written document of position responsibilities and job expectations.

Basic elements of a job description:

1. Job title
2. Job position in relation to the total organization
3. Immediate supervisor (to whom the person reports)
4. Job qualifications, certification requirements
5. Performance responsibilities
6. Employment terms: length of contract and salary parameters
7. Evaluation criteria

The following pages have some sample job descriptions for administrative positions. These job descriptions are used with permission from the National School Boards Association School Personnel Management System, Manual 2, Models. They are offered as suggested models.

Note: By including salary parameters, the school board can assure potential candidates that the salary is directly related to the demands and responsibilities of the position, rather than to the personality of the candidate. This practice will lessen the possibility of a discrimination complaint if all positions have salary parameters assigned that are consistent with the job responsibilities.

SUPERINTENDENT OF SCHOOLS

TITLE: Superintendent of Schools

QUALIFICATIONS:
1. *[Certificate, license, or other legal credential required]*
2. *[Degree(s) required and area of major study]*
3. *[Kind and amount of prior job experience required]*
4. Such alternatives to the above qualifications as the Board may find appropriate and acceptable

REPORTS TO: Board of Education

SUPERVISES: All administrative and supervisory personnel of the district

JOB GOAL: To provide leadership in developing and maintaining the best possible educational programs and services

PERFORMANCE RESPONSIBILITIES:

1. Attends and participates in all meetings of the Board and its committees, except when own employment or salary is under consideration.

2. Advises the Board on the need for new and/or revised policies and sees that all policies of the Board are implemented.

3. Prepares the annual operating budget recommendations and implements the Board-approved budget.

4. Prepares and submits to the Board recommendations relative to all matters requiring Board action, placing before the Board such necessary and helpful facts, information, and reports as are needed to insure the making of informed decisions.

5. Informs and advises the Board about the programs, practices, and problems of the schools, and keeps the Board informed of the activities operating under the Board's authority.

6. Secures and nominates for employment the best qualified and most competent teachers and supervisory and administrative personnel.

7. Assigns and transfers employees as the interest of the district may dictate, and reports such action to the Board for information and record.

8. Reports to the Board the case of any employee whose service is unsatisfactory, and recommends appropriate action.

9. Holds such meetings of teachers and other employees as necessary for the discussion of matters concerning the improvements and welfare of the schools.

10. Keeps the public informed about modern educational practices, educational trends, and the policies, practices, and problems in the district's schools.

11. Delegates at own discretion to other employees of the Board the exercise of any powers or the discharge of any duties with the knowledge that the delegation of power or duty does not relieve the superintendent of final responsibility for the action taken under such delegation.

12. Keeps informed of modern educational thought and practices by advanced study, by visits to school systems elsewhere, by attendance at educational conferences, and by other appropriate means, and keeps the Board informed of trends in education.

13. Studies and revises, together with the staff, all curriculum guides and courses of study, on a continuing basis.

14. Makes recommendations with reference to the location and size of new school sites and of additions to existing sites; the location and size of new buildings on school sites; the plans for new school buildings; all appropriations for sites and buildings; and improvements, alterations, and changes in the buildings and equipment of the district.

15. Recommends to the Board for its adoption all courses of study, curriculum guides, and major changes in texts and time schedules to be used in the schools.

16. Submits to the Board a clear and detailed explanation of any proposed procedure which would involve either departure from established policy or the expenditure of substantial sums.

17. Maintains adequate records for the schools, including a system of financial accounts; business and property records; and personnel, school population, and scholastic records. Acts as custodian of such records and of all contracts, securities, documents, title papers, books of records, and other papers belonging to the Board.

18. Makes recommendations to the Board concerning the transportation of pupils in accordance with the law and the requirements of safety.

19. Provides suitable instructions and regulations to govern the use and care of school properties for school purposes.

20. Attends, or delegates a representative to attend, all meetings of municipal agencies at which matters pertaining to the public schools appear on the agenda or are expected to be raised.

21. Performs such other tasks as may from time to time be assigned by the Board.

TERMS OF EMPLOYMENT: Twelve months a year. Salary to be arranged with the Board.

EVALUATION: Performance of this job will be evaluated in accordance with provisions of the Board's policy on Evaluation of the Superintendent.

Approved by: _____ Date: _____

Reviewed and agreed to by: _____ Date: _____
(Incumbent)

SUPERINTENDENT OF SCHOOLS

TITLE: Superintendent of Schools

QUALIFICATIONS:
1. *[Certificate, license, or other legal credential required]*
2. *[Degree(s) required and area of major study]*
3. *[Kind and amount of prior job experience required]*
4. Such alternatives to the above qualifications as the Board may find appropriate and acceptable

REPORTS TO: Board of Education

SUPERVISES: All administrative and supervisory personnel of the district

JOB GOALS: To inspire, lead, guide, and direct every member of the administrative, instructional, and supportive services team in setting and achieving the highest standards of excellence, so that each individual student enrolled in our district may be provided with a complete, valuable, meaningful, and personally rewarding education

Further, to oversee and administer the use of all district facilities, property, and funds with a maximum of efficiency, a minimum of waste, and an ever-present overriding awareness of and concern for their impact upon each individual student's education

PERFORMANCE RESPONSIBILITIES:

1. Interprets and clarifies the purposes and needs of the school system to Board, staff, students, and public.

2. Coordinates the total educational program and provides leadership in its development and improvement.

3. Guides the process of fiscal planning and budgetary development and interpretation.

4. Assumes final responsibility for the selection, assignment, dismissal, and evaluation of all personnel.

5. Directs staff negotiations with professional and nonprofessional personnel.

6. Coordinates the work of administrative staff members, provides counsel and fosters an *esprit de corps*.

7. Represents the district in its dealings with other school systems, institutions and agencies, community organizations, and the general public.

8. Directs studies and planning related to school organization, attendance area boundaries, and school plant requirements.

9. Oversees the processing and submission of required reports.

10. Exercises leadership in the development and execution of the school-community relations program.

11. Assumes ultimate responsibility for the assignment of students, and the various specialized areas of administration, including student services, business management, plant managment, transportation, and research.

12. Keeps the Board informed about the status of the school system as well as educational trends and practices.

13. Initiates and guides the development of policies for Board consideration, and develops such administrative rules and procedures as may be necessary to implement Board policies.

14. Performs such other duties as may from time to time be assigned by the Board.

TERMS OF EMPLOYMENT: Twelve months a year. Salary by arrangement with the Board.

EVALUATION: Performance of this job will be evaluated in accordance with provisions of the Board's policy on Evaluation of the Superintendent.

Approved by: _____ Date: _____

Reviewed and agreed to by: _____ Date: _____
(Incumbent)

PRINCIPAL

TITLE: Principal

QUALIFICATIONS:
1. *[Certificate, license, or other legal credential required]*
2. *[Degree(s) required and area of major study]*
3. *[Kind and amount of prior job experience required]*
4. Such alternatives to the above qualifications as the Board may find appropriate and acceptable

REPORTS TO: *[Person designated by the Board or the superintendent]*

SUPERVISES: *[Staff members designated by the Board or the superintendent]*

JOB GOAL: To use leadership, supervisory, and administrative skills so as to promote the educational development of each student

PERFORMANCE RESPONSIBILITIES:

1. Supervises the school's educational program.

2. Assumes responsibility for the implementation and observance of all Board policies and regulations by the school's staff and students.

3. Assists in the development, revision, and evaluation of the curriculum.

4. Supervises all professional, paraprofessional, administrative, and nonprofessional personnel attached to the school.

5. Assists in the recruitment, screening, hiring, training, assignment, and evaluation of the school's professional staff.

6. Assumes responsibility for the safety and administration of the school plant.

7. Delegates authority to responsible personnel to assume responsibility for the school in the absence of the principal.

8. Budgets school time to provide for the efficient conduct of school instruction and business.

9. Plans and supervises fire drills and an emergency preparedness program.

10. Maintains high standards of student conduct and enforces discipline as necessary, according due process to the rights of students.

11. Asserts leadership in times of civil disobedience in school in accordance with established Board policy.

12. Supervises and evaluates the school's extracurricular program.

13. Assists in the in-service orientation and training of teachers, with special responsibility for staff administrative procedures and instructions.

14. Supervises the preparation of all school reports for the district office.

15. Makes recommendations concerning the school's administration and instruction.

16. Assumes responsibility for the attendance, conduct, and health of students.

17. Assists in the management and preparation of the school budget.

18. Supervises the maintenance of accurate records on the progress and attendance of students.

19. Acts as liaison between the school and the community, interpreting activities and policies of the school and encouraging community participation in school life.

20. Makes arrangements for special conferences between parents and teachers.

21. Recommends the removal of a teacher whose work is unsatisfactory, according to established procedures.

22. Conducts meetings of the staff as necessary for the proper functioning of the school.

TERMS OF EMPLOYMENT: Ten-, eleven-, or twelve-month year. Salary and work year to be established by the Board.

EVALUATION: Performance of this job will be evaluated in accordance with provisions of the Board's policy on Evaluation of Professional Personnel.

Approved by: _____ Date: _____

Reviewed and agreed to by: _____ Date: _____
(Incumbent)

PRINCIPAL

TITLE: Principal

QUALIFICATIONS:
1. *[Certificate, license, or other legal credential required]*
2. *[Degree(s) required and area of major study]*
3. *[Kind and amount of prior job experience required]*
4. Such alternatives to the above qualifications as the Board may find appropriate and acceptable

REPORTS TO: *[Person designated by the Board or the superintendent]*

SUPERVISES: *[Staff members designated by the Board or the superintendent]*

JOB GOAL: To use leadership, supervisory, and administrative skills so as to promote the educational development of each student

PERFORMANCE RESPONSIBILITIES:

1. Interprets and enforces district policies and administrative regulations.
2. Participates in the selection and supervision of all school personnel.
3. Leads in the development, determination of appropriateness, and monitoring of the instructional program.
4. Organizes and administers the public relations program for the school.
5. Supervises the daily use of the school facilities for both academic and nonacademic purposes.
6. Provides for adequate inventories of property under his or her jurisdiction and for the security of and accountability for that property.
7. Approves the master teaching schedule and any special assignments.
8. Prepares and administers the school budget and supervises the school finances.
9. Supervises the maintenance of all required records and reports.
10. Maintains active relationships with students and parents.

11. Supervises all activities and programs that are outgrowths of the school's curriculum.

12. Assumes responsibility for all official school correspondence and news releases.

13. Serves as a member of such committees and attends such meetings as the superintendent shall direct.

14. Serves as an *ex officio* member of all committees and councils within the school.

15. Responds to written and oral requests for information.

16. Keeps his or her supervisor informed of events and activities of an unusual nature as well as routine matters related to the supervisor's accountability.

17. Assumes responsibility for his or her own professional growth and development through membership and participation in the affairs of professional organizations, through attendance at regional, state, and national meetings, through enrollment in advanced courses, and the like.

TERMS OF EMPLOYMENT: Ten-, eleven-, or twelve-month year. Salary and work year to be established by the Board.

EVALUATION: Performance of this job will be evaluated in accordance with provisions of the Board's policy on Evaluation of Professional Personnel.

Approved by: _____ Date: _____

Reviewed and agreed to by: _____ Date: _____
(Incumbent)

ASSISTANT PRINCIPAL

TITLE: Assistant Principal

QUALIFICATIONS:
1. *[Certificate, license, or other legal credential required]*
2. *[Degree(s) required and area of major study]*
3. *[Kind and amount of prior job experience required]*
4. Such alternatives to the above qualifications as the Board may find appropriate and acceptable

REPORTS TO: *[Person designated by the Board or the superintendent]*

SUPERVISES: *[Staff members designated by the Board or the superintendent]*

JOB GOAL: To relieve the principal of such impediments as prevent him or her from fulfilling the chief responsibility of promoting the educational well-being of each student in the school

PERFORMANCE RESPONSIBILITIES:

1. Assists the principal in the overall administration of the school.
2. Serves as principal in the absence of the regular principal.
3. Proposes schedules of classes and extracurricular activities.
4. Supervises the preparation of student schedules.
5. Works with department heads and faculty in compiling the annual budget requests.
6. Requisitions supplies, textbooks, and equipment; conducts inventories, maintains records, and checks on receipts for such materials.
7. Cooperates in the conduction of safety inspections and safety drill practice activities.
8. Assumes responsibility for coordinating transportation, custodial, cafeteria, and other support services.
9. Supervises the reporting and monitoring of student attendance, and works with the attendance supervisor for investigative follow-up actions.
10. Assists in maintaining discipline throughout the student body, and deals with special cases as necessary.

11. Serves with parent, faculty, and student groups as requested in advancing the educational and related activities and objectives.

12. Administers the student insurance program.

13. Performs such record-keeping functions as the principal may direct.

14. Performs such other tasks and assumes such other responsibilities as the principal may from time to time assign.

TERMS OF EMPLOYMENT: Ten-, eleven-, or twelve-month year. Salary and work year to be established by the Board.

EVALUATION: Performance of this job will be evaluated in accordance with provisions of the Board's policy on Evaluation of Professional Personnel.

Approved by: _____ Date: _____

Reviewed and agreed to by: _____ Date: _____
(Incumbent)

JOB QUALIFICATIONS

When determining job qualifications, those qualifications should relate directly to the job description. Employers have gotten into serious trouble when job qualifications were designed to fit a specific person's resume rather than the job description. If you are going to require an advanced degree, such as a master's degree or Ph.D., you may be called upon to prove the job relatedness of that degree.

School districts also need to be aware of certification requirements in determining job qualifications. Each state has specific requirements for school personnel. These requirements should serve as a basis for developing job qualifications. Other qualifications can be added to meet the specific needs of the position.

BONA FIDE OCCUPATIONAL QUALIFICATIONS

A term often used in connection with equal employment practices is BFOQ--bona fide occupational qualification. BFOQ is a defense provided in Section 703(e) of Title VII. It allows an employer to justify an employment practice that is based on one's sex, religion, or national origin, and would otherwise be illegal because of discrimination. Race can never be used as a BFOQ. It should be noted that the use of BFOQ is confined to very restrictive areas. The Equal Employment Opportunity Commission and the Federal courts have allowed a very restrictive interpretation of the use of BFOQ. For example, it could apply to a school district that is seeking to fill a position for a boys' or girls' locker room attendant.

Following is text from Section 703(e) under Title VII of the Civil Rights Act:

> Notwithstanding any other provisions of the [title], (1) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program on the basis of his religion, sex, or national origin in those circumstances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

DEVELOPING A POSITION ANNOUNCEMENT
(Specific to Administrative Vacancies)

An "Announcement of Vacancy" can range from a simple typewritten announcement to an elaborate printed brochure. Whether you choose to announce in a simple, inexpensive manner or in an elaborate brochure, the following information should be included in the announcement:

1. Name and address of the school district

2. Position to be filled

3. Information about the district:

   a. Location relative to a larger well-known community (if a small community)
   b. Student population
   c. Number of schools
   d. Staff size
   e. Industry or community's economic base
   f. General fund budget and assessed valuation

4. Qualifications expected:

   a. Skills as they relate to needs expressed in job description
   b. Personal qualities
   c. Certification requirements

5. Salary and benefits

6. Composition of the screening and selection committee (e.g., school board members, administrative personnel)

7. Procedures for application:

   a. Formal application
   b. Resume
   c. Placement file with recommendations, credentials
   d. Copy of administrative certificate
   e. Time lines for applications, interviews, selection process

This prepared announcement should be sent to all those who request an application form and those agencies that might help in recruiting (university placement offices, state school boards associations, state employment agencies, etc.). A shortened version of the announcement can be used for newspaper advertisements.

ADVERTISING THE VACANCY

All professional vacancies should be advertised statewide. A district may choose to advertise administrative vacancies out of state as well. The most economical means for advertising a vacancy would be to list it with:

1. Placement offices in the university system

2. State employment office and teacher placement office

3. State administrator newsletters and school boards association newsletters

4. Newspapers (newspaper ads are expensive, but running an ad on a weekend in a newspaper of sizeable circulation can be very effective in recruiting candidates who might not otherwise be in touch with the placement services)

It is important that all vacancies be advertised within the school district where the vacancy has occurred. (Your negotiated agreement may also require this action.)

APPLICATION FORM

The application form is an important and essential component in the hiring process. Applicants may send in resumes, references, and other employment records, but it is the application form that provides the basic objective information on each candidate. The completed application form is the first information used in the screening process.

There has been a great deal of concern about the kinds of questions that legally may be included on an application form. A detailed list of "Employment Application Form Questions Which May Lead to Discrimination," from EEOC, is found at the end of this section. It should be noted that specific questions about age, race, sex, religion, or national origin are not in themselves illegal, but once the question is asked, the employer must prove that the information was not used to discriminate. If information an employer is seeking does not relate directly to job skills or job performance, the question should not be asked.

The application form that follows serves as a suggested model for professional positions in a school district. By printing the application form on heavyweight paper, all extra papers, written references, etc., that become part of the application form can be kept together in a file system.

For administrative positions, an additional list of questions for consideration has been included.

APPLICATION FORM

_____ School District

_____

_____, _____ _____
City State Zip Code

For District Use Only

Job Code Number _____

Credentials Received _____

Interviewed by:

_____ Date _____

_____ Date _____

Rejection Letter Sent _____

Elected _____ Accepted _____

Position _____ School _____

Degree _____ + _____ = _____
(base) (total)

_____

Date of Application ___/___/___

Name _____
(last) (first) (middle initial)

Present Address _____
(street) (city) (state) (zip code)

Phone _____ At this number until _____, 19___
(area code)

Permanent Address _____
(street) (city) (state) (zip code)

Phone _____
(area code)

Position for which you are applying _____

Other positions for which you are qualified _____

_____

Date that you are available for work _____

This application will be considered only for the specific position that you have indicated above. If you want to be considered for other vacancies this school year, please check here. _____

Adapted from the application form used at Missoula County High School District, Missoula, Montana.

EDUCATION

Name of School and Location. Indicate high school, college or university, graduate work, and summer school, in order taken.	Dates	Time Spent	Qtr. Hrs.	Degree or Diploma	Major: Subject and Quarter Hrs. Credit	Minors: Subject and Quarter Hrs. Credit

(Note: If your work is listed in "Semester Hours," make note of the fact.)

STUDENT TEACHING EXPERIENCE
(Beginning Teachers Only)

Name of School and Location	Dates	Type of Experience: Block Program all day for quarter or semester, subjects taught, etc.

TEACHING and/or OTHER INSTRUCTIONAL EXPERIENCE

Name of School and Location	Dates	Number of Teachers in System	Number of Years	Nature of Work. Specify grades and subjects, extracurricular work handled.

Total Number of Years _____

CERTIFICATION

Are you properly certified to teach in this state? _____ If not, are you eligible? _____

Describe type of certificate _____

PERSONAL DATA

General Health _____

If you have any physical limitations that require any special environmental accommodations not ordinarily found in schools, please describe these.

_____

Are you an American citizen? _____

Have you ever been convicted of a felony? _____ If "yes," what? where?

_____ (Not necessarily a bar to employment)

Do you claim veteran's preference? _____ If yes, branch of service

_____ Dates of service _____

EXTRACURRICULAR INTERESTS

Please indicate areas in which you have experience and/or ability to assist in an extracurricular program. This includes such areas as: *music*, *forensics*, *publications*, and *athletics*. List the specific activities, not just the areas, for which you are qualified and are willing to direct.

1. _____ 2. _____ 3. _____

4. _____ 5. _____ 6. _____

PROFESSIONAL DATA

Are you employed at the present time? _____ If so, where? _____

_____

Why are you leaving your current employment? _____

_____

Are you willing to accept your place on a salary schedule based on training and experience? _____

Are you willing to attend and supervise school activities as assigned?

_____

Will you participate willingly in committee and other professional work?

_____

REFERENCES

Give as references those persons who can speak about your qualities as they relate to the position that you are seeking. Include persons for whom you have taught and those who know your abilities and character.

PLEASE COMPLETE THE FOLLOWING INFORMATION EVEN IF THESE PEOPLE ARE ALSO INCLUDED IN YOUR PLACEMENT FILE.

Name and Title of Reference	Name of Business or School	Address and Phone

Include with this application the following:

A statement of not more than 500 words expressing your philosophy of education as it pertains to the position for which you are applying.

IMPORTANT:

It is your responsibility to request that your college or university provide us with a transcript and a copy of your placement papers.

Furnish all of the information requested in the various sections of this application.

You will be contacted by the personnel office if the administration determines an interview is desired.

You should not sign a contract unless you consider it binding.

Please return application to: _____

_____

_____

I certify that the statements contained herein are true.

Applicant's Signature _____ Date _____

QUESTIONS TO BE INCLUDED FOR ADMINISTRATIVE APPLICANTS

1. Describe management experience in the following areas:

   a. District management - Policy development
      - Federal programs
      - School law
   b. Building management
   c. Budget management - Preparation of budget
      - Mill levies and bond issues
   d. Personnel management - Hiring
      - Dismissals
      - Contract negotiations

2. Professional memberships

3. Why do you want to be a superintendent or principal?

4. Strengths and weaknesses that you would bring to this job

5. What is rewarding about being a school superintendent or principal?

6. What are the basic characteristics of a school district in which you would like to work?

EMPLOYMENT APPLICATION FORM QUESTIONS WHICH MAY LEAD TO DISCRIMINATION

The following is a list of questions commonly found in public and private employment application forms. Each of them inquires into a factor which might be considered in a manner which might violate Title VII of the Civil Rights Act of 1964 or another law aimed at achieving equal employment opportunities for all.

An employer should be aware that by inquiring about any of these factors he or she is running a risk of encouraging unlawful discrimination by employees and of providing evidence which may be used by complainants in proving charges of discrimination made against the employer. Even when the employer does not use the information solicited by these questions, the questions may have the unlawful effect of tending to discourage women or minorities from even applying for jobs.

It is equally important to remember, however, that this list is concerned only with the potential unlawful use of information. Quite different considerations are involved when the purpose of seeking information is to carry out an affirmative action program.

Finally, if some of the information discussed below is needed for postemployment purposes, it can be obtained after the applicant has been selected for employment.

1. AGE? DATE OF BIRTH? The Age Discrimination in Employment Act (29 U.S.C. 621-34) prohibits discrimination on the basis of age against individuals who are between the ages of 40 and 70, inclusive. A majority of states also have laws prohibiting age discrimination. Thus, the answer to this question could be used unlawfully.

2. ARRESTS? Consideration of arrest records is almost certainly unlawful. An arrest is no indication whatsoever of guilt, and, historically, minorities have suffered proportionately more arrests than others. See *Carter* v. *Gallagher*, 451 F. 2d 315 (8th Cir. 1971); *Gregory* v. *Litton Systems, Inc.*, 316 F. Supp. 401 (C.D. Calif. 1970). The U.S. Department of Labor has also recognized the potential for discrimination in the consideration of arrest records. See 60-2.24(d)(3) of Revised Order No. 4, which establishes standards and guidelines for the affirmative action programs required of government contractors.

3. AVAILABLE FOR SATURDAY AND SUNDAY WORK? This question may serve to discourage applications from persons of certain religions which prohibit their adherents from working on Saturday or Sunday. On the other hand, it may be necessary to know whether an applicant can work on these days.

   Section 701(j) of Title VII, as amended in 1972, prohibits discrimination on the basis of religion and defines religion to include "all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he [or she] is

unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business." If this kind of question is asked, it would be desirable to indicate that a reasonable effort will be made to accommodate the religious needs of employees.

4. CHILDREN UNDER 18? NUMBER OF CHILDREN? AGE OF CHILDREN? WHAT ARRANGEMENTS WILL YOU MAKE FOR CARE OF MINOR CHILDREN? The purpose of these questions is to explore what the employer believes to be a common source of absenteeism and tardiness. But why explore this area in such an indirect way and in a way that applies only to women for all practical purposes? There are a number of common causes of absenteeism and tardiness that affect both men and women and that would be worthy of exploration if this is a matter of substantial concern to the employer. The U.S. Supreme Court has ruled that in the absence of proof of business necessity, Title VII prohibits an employer from having one hiring policy for women and another for men--each having preschool age children. See *Phillips v. Martin Marietta Corp.*, 400 U.S. 542 (1971).

5. CITIZEN OF WHAT COUNTRY? The Commission has adopted Guidelines on Discrimination Because of National Origin, which contain the following statement: "Because discrimination on the basis of citizenship has the effect of discriminating on the basis of national origin, a lawfully immigrated alien who is domiciled or residing in this country may not be discriminated against on the basis of his [or her] citizenship," except pursuant to national security requirements required by Federal statute or executive order. At least one Federal court has expressly agreed with this analysis (*Guzman* v. *Polich & Benedict Construction Co.*, 1970), and one has disagreed (*Espinoza* v. *Farah Mfg. Co.*, 1972). State and Federal courts have declared invalid laws in several states which exclude non-citizens from public employment. A recent U.S. Supreme Court decision has upheld the constitutionality of a New York state law that requires public school teachers to be American citizens.

6. CONVICTIONS (OTHER THAN FOR TRAFFIC VIOLATIONS)? To the extent that this question implies an absolute bar to the employment of an applicant who has a conviction record, it is probably unlawful (see *Carter* v. *Gallagher*, 451 F. 2d 351 (8th Cir. 1971)). This is because some minority groups in our society have conviction records in substantial excess of the average, taking into consideration their relative numbers and the extent of their "criminal" activity. On the other hand, an employer probably has the right to exclude persons who have been convicted of <u>certain</u> offenses from consideration for <u>certain</u> kinds of jobs, at least if this is done on a carefully considered basis. To avoid frightening off qualified applicants who have irrelevant criminal records, the best practice would be to obtain conviction information through local police departments rather than from applicants. If this is not possible, the application might indicate that the existence of a criminal

record does not constitute an automatic bar to employment. In addition, each person who will evaluate information concerning criminal records should be given careful instructions as to its limited usefulness.

7. CREDIT RECORD? (CHARGE ACCOUNTS? OWN YOUR OWN HOME? OWN YOUR OWN FURNITURE? OWN A CAR?) Because minority persons are far poorer on the average than whites, consideration of these factors has an adverse effect on minorities and is probably unlawful unless required by considerations of business necessity (see EEOC Decision 72-0427 (1971), CCH Employment Practices Guide par. 6312). The U.S. Department of Labor has also recognized the potential for discrimination in the consideration of credit records (see par. 60-2.25(d)(3) of Revised Order No. 4 establishing standards and guidelines for affirmative action programs required of government contractors).

8. EYES? HAIR? Eye color and hair color are not related to the performance of any job and may serve to indicate an employee's race.

9. FIDELITY BOND EVER REFUSED TO YOU? This question presumably represents an indirect effort to find flaws that may exist in an individual's past. The difficulty with this means, however, is that a fidelity bond may be denied for totally arbitrary and discriminatory reasons which the individual does not have an adequate opportunity to know of or challenge. Thus this method of ascertaining an individual's past history should be dropped in favor of some other method that is not so likely to be infected with bias.

   The Maryland Commission on Human Relations has issued an order prohibiting an employer from asking about bond refusals because of the discriminatory impact this kind of question may have (CCH Employment Practices Guide par. 5047).

10. FRIENDS OR RELATIVES WORKING FOR US? This question can affect the friends or relatives of present employees. Such a preference for or against friends or relatives would be unlawful if it has the effect of reducing employment opportunities for women or minorities. It would have this unlawful effect if the present work force differs significantly in its proportion of women or minorities from the area population from which workers are recruited. This question may also be asked because of a company rule that only one partner in a marriage can work for the employer. There is a growing recognition that such a rule hurts women far more often than men and that the rule serves no necessary business purpose.

11. GARNISHMENT RECORD? In *Johnson* v. *Pike Corporation of America*, 332F. Supp. 490 (C.D. Calif. 1971), the court ruled that an employer violated Title VII by discharging a black employee because his wages had been garnisheed several times. This district court based its conclusion on the reasoning of the Supreme Court's testing ruling, *Griggs* v. *Duke Power Co.*, 401 U.S. 424 (1971), and on the district court's findings that minorities suffer wage garnish-

ments substantially more often than do whites and that wage garnishments do not affect a worker's ability to perform his or her work effectively.

12. HEIGHT? WEIGHT? Some employers have imposed minimum height or weight requirements for employees which are not related to the job to be performed and which have the effect of excluding above-average percentages of women and members of certain nationality groups. Unless height or weight is directly related to a job requirement, these questions should not be asked.

13. LOWEST SALARY WILL ACCEPT? Women have generally had poorer-paying jobs than men and have been paid less than men for the same work. As a result of this discrimination, a woman might be willing to work for less pay than a man. It is unlawful, however, to pay a woman less than a man would be paid because of community wage patterns that are based on discrimination. See *Hodgson* v. *City Stores, Inc.*, 332 F. Supp. 942 (M.D. Ala., 1971).

14. MAIDEN NAME? This is not relevant to a person's ability to perform a job and could be used for a discriminatory purpose. For example, a woman's maiden name might be used as an indication of her religion or national origin. This item also constitutes an inquiry into marital status, which is discussed separately.

15. MARITAL STATUS? Some employers have refused to hire a married woman for certain jobs. For example, for many years most airlines refused to permit a married woman to be a flight attendant, though other types of airline employees could be married. This practice was held to violate Title VII of the Civil Rights Act of 1964 in *Sprogis* v. *United Air Lines*, 444 F. 2d 1194 (7th Cir. 1971), and par. 1604.4(a) of the Commission's Guidelines on Discrimination Because of Sex expresses the same conclusion. It would also violate Title VII for an employer to refuse to hire a married woman or to pay a married woman less than a married man for the same work because the woman's pay represents a second income but the man's does not. Finally, an employer could not refuse to hire a married women for any job or for particular jobs because of the employer's beliefs concerning morality or family responsibility.

16. MR., MISS, OR MRS.? This is simply another way of asking the applicant's sex and (for women only) marital status (discussed elsewhere). Even asking an applicant's first name normally serves no other preemployment purpose than to indicate the applicant's sex.

17. PRIOR MARRIED NAME? This question asks, in effect, whether an individual has been divorced. By its nature, however, it asks this question only of women, because a woman usually changes her name at marriage. Thus, the question is discriminatory unless the employer must have the information as a means of identification for purposes of preemployment investigation.

18. SEX? Title VII prohibits discrimination in employment on the basis of sex, except in the few instances in which sex may be a "bona fide occupational qualification reasonably necessary to the normal operation" of the employer's business. There are virtually no jobs that can be performed by only one sex or the other. For this reason, it would be desirable to omit from an application form any questions asking the applicant's sex, if the application is intended for general use.

19. SPOUSE'S NAME? To the extent that this question asks for marital status, the comments on marital status apply. A spouse's name may also be used as an indication of religion or national origin.

20. SPOUSE'S WORK? To the extent that this question asks for marital status, the comments on marital status apply. In addition, some employers have been reluctant to hire a woman if that would make her the second breadwinner in the family, whereas there is seldom any objection to hiring a man if that would make him the second breadwinner. Such a policy is unlawful under Title VII and other nondiscrimination laws.

21. WIDOWED, DIVORCED, OR SEPARATED? Recent statistics show that many more black than white persons are either widowed, divorced, or separated and that a much larger proportion of women than men in the labor force is either widowed, divorced, or separated. Thus, this question has a potential for adversely affecting women and blacks.

Source: Equal Employment Opportunity Commission.

SCREENING AND SELECTION COMMITTEE

COMMITTEE COMPOSITION

The screening committee is responsible for "screening out" the unqualified candidates and for choosing for the interview process those most qualified and best suited for the job. It is critical that in hiring administrative personnel, this committee be representative of a broad range of ideas and points of view. In addition to administrators (principals and central office staff), the committee membership should include representatives of the teaching staff, parents, and other community members. The district personnel officer and affirmative action officer are also included on the committee. There should be a balance of men, women, and minorities. A committee made up of people with diverse backgrounds will allow for greater diversity of possible candidates. For the purpose of hiring teachers, the committee should include the building principal and other appropriate staff.

The work of the screening committee will require long hours. If there is a large number of applicants, the job can become very tedious. The first task of the screening committee is to make sure it has a clear understanding of the job description and the selection criteria.

SELECTION CRITERIA

Selection criteria should follow directly from the job description. Specific skills and qualifications should be listed and used as a measure for each candidate.

APPLICATION REVIEW FORM

It is most helpful if each committee member uses a rating form assigning numerical values to listed criteria. This provides an objective list for the purposes of comparing and choosing the top-rate candidates. The following form is a suggested screening tool to be used by the committee when reviewing application forms (including written references and all other information requested as part of the application procedure). It is during this process that the written statement of goals or of a philosophy becomes very important in candidate selection.

APPLICATION REVIEW FORM

Applicant Name _____

Position Title _____ Location _____

Education Level _____

Experience _____

Current Teaching Certificate Yes _____ No _____

What Endorsement _____

After reading the application form and all other information related to it, rate the candidate on a scale of (1) to (5), with (1) being low and (5) being high in the areas of *administration, leadership, public relations*. (Words in italic are merely suggested areas of concern; different areas would be chosen for the differing positions.)

1. How would you rate the candidate in the area of *(administrative ability)*? _____

   Comments:

2. How would you rate the candidate in the area of *(commitment to education)*? _____

   Comments:

3. How would you rate the candidate in the area of *(educational philosophy)*? _____

   Comments:

4. Shall this applicant be interviewed? Yes _____ No _____

   Comments:

Signature _____

INTERVIEW PROCESS

Although it may seem to be very time-consuming to develop a structured interview process, it is a very worthwhile investment because it provides comparable areas of information for each candidate. A properly conducted interview lessens the chance of a school district receiving a complaint of age, race, or sex discrimination.

After the selection committee has reviewed and evaluated all of the application forms, the top three to seven (or whatever number seems reasonable) candidates should be selected for the interview process. To assure equal and fair treatment of each candidate, an interview form and a series of predetermined questions to be asked of each candidate should be used. An interview form will also provide necessary documentation if a discrimination complaint would ever be filed against the district.

Specific questions can be developed for each of the designated areas.

SAMPLE INTERVIEW QUESTIONS

A set of interview questions must be developed for each vacancy. In order to be fair and consistent, the same questions should be asked of each candidate. The interview stage is the most critical phase of the hiring process. It is during this process that the hiring agent assesses the candidates' particular strengths and weaknesses for a very specific job.

A series of questions should be designed that will elicit the most information in a brief period of time. It would be impossible to design specific questions without having the needs of a particular vacancy at hand. However, the following examples serve as types of questions that can be used to elicit certain responses.

1. Closed Questions. The responses to these types of questions are usually yes or no. A closed question should be used for checking on specific facts.

   Examples: How many years did you serve as a principal?

   Do you have administrative certification in this state?

2. Open Questions. An open question will allow the candidate an opportunity to respond with more elaboration. Use open questions to explore the experience, knowledge, abilities, and attitudes of the candidate.

   Examples: Give a brief overview of your work experience.

   Describe an aspect of your work in education or another area that has been most meaningful to you.

3. Probing Questions. These questions will help to explain or clarify issues. Probing questions will often follow an open question.

   Examples: Why do you think the students reacted in the way they did (as related to a specific issue)?

   How did you feel after the school board made that decision?

4. Example or Situational Questions. With this type of question, the interviewer presents a situation or problem and asks the candidate how the situation could be handled. These types of questions allow the candidate to share practical experience, problem-solving ability, and judgment.

   Examples: How would you handle criticism from the community?

   If you were asked to consider an open campus for high school seniors, what problems would you anticipate and how would you solve them?

In order to have a balanced interview, all types of questions should be used. These techniques provide the foundation for developing a specific series of questions. It is important that the content of the questions relate directly to job requirements. Assess the needs of the job vacancy and develop questions accordingly.

INTERVIEW FORM

Applicant Name _____

Position Title _____

Rate the candidate for each area on a scale of one (1) to five (5), with one (1) representing less than adequate and five (5) representing high-quality or superior attributes.

AREAS	COMMENTS	RATING
Appearance, Dress Public Presence Poise		
Leadership Ability Initiative Enthusiasm		
Communication Skills Self-Expression Use of Language		
Community Involvement Involvement in Professional Associations		
Problem-Solving Skills and Decision-Making Skills		

AREAS	COMMENTS	RATING
Administrative Knowledge and Experience		
Response to Pressure Attitude		

Other Areas of Concern

Comments:

Interviewer Signature _____

FINAL SELECTION

After the interview process has been completed, the names of two or possibly three finalists should be taken by the superintendent to the school board, with a recommendation for hiring one of those top candidates. All background information as well as the selection committee's rationale for recommendation should be a part of the presentation to the board.

The hiring procedure is still not complete. The remaining tasks are:

1. Final determination of salary and fringe benefits (If salary parameters were included, this should be an easy task.)

2. Specific job assignments

3. Evaluation procedures (frequency and format)

4. Promotion procedures

For purposes of hiring a superintendent, a working guide for preparing a contract for your superintendent follows. It is almost impossible to prepare a "universal" contract for this purpose since each school district will have some unique feature in its employment agreement.

Please keep in mind that this sample contract is only a working guide and should be modified as necessary to fit your individual needs.

THE SUPERINTENDENT'S CONTRACT

It is hereby agreed by and between the Board of Education of the (Name of School District), located in (City, State), and (Name of Superintendent) that the said Board, in accordance with its action, found in the minutes of the meeting held on the (Date) day of (Month), (Year), has and does hereby employ the said (Name of Superintendent) as Superintendent of Schools for a three-year period commencing (Date), (Year). Both parties agree that said employee shall perform the duties of the Superintendent of Schools in and for the public schools in said District as prescribed by the laws of the State of (State), and by the rules and regulations made thereunder by the Board of Education of said District.

WITNESSETH

FIRST: SALARY
That, in consideration of a salary of $_____, said Superintendent agrees to perform faithfully the duties of Superintendent of Schools and to serve as Executive Officer of the Board of Education. The annual salary shall be paid in equal installments in accordance with the policy of the Board governing payment of other professional staff members in the District.

SECOND: AMENDMENT OF SALARY
That the Board of Education hereby retains the right to adjust the annual salary of the Superintendent during the term of his or her contract, said salary adjustment not to reduce the annual salary below the figures stated above, unless it is part of a uniform plan affecting the entire District. Any adjustment in salary made during the life of this contract shall be in the form of an amendment and shall become a part of this contract.

THIRD: CERTIFICATION
That it is agreed that the Superintendent will furnish throughout the life of this contract a valid and appropriate certificate to act as Superintendent of Schools in the State of _____, as directed by the Board of Education.

Sample contract used with permission from the American Association of School Administrators, Paul Salmon, Executive Director. Format suggested by Dr. Victor Cottrell, President, Ventures for Excellence.

FOURTH: USE OF TIME

The Superintendent hereby agrees to devote his or her time, skill, labor, and attention to said employment during the term of this contract, provided, however, that the Superintendent, with approval of the Board President, may undertake consultative work, speaking engagements, writing, lecturing, or other professional duties and obligations that are associated with the position and the professional growth and development of the Superintendent or the prestige of the District, in so far as such outside commitments do not interfere with the efficient operation of the District.

FIFTH: USE OF PERSONNEL

The Superintendent shall select, recommend for employment subject to Board approval, organize, place on appropriate salary schedules or salary ranges, and direct, transfer, assign, or reassign all personnel in the manner which, in his or her judgment, best serves the School District, subject to the guidelines set by the Board in the annual budget for the District and in Board policies.

SIXTH: ORGANIZATIONAL PATTERNS

The Superintendent shall recommend the appropriate organizational patterns, programs, courses of study, and teaching materials and methods required to accomplish the goals and objectives as stated by the Board, subject to the guidelines set by the Board in the annual budget for the District and in Board policies.

SEVENTH: POLICY

The Board agrees to delegate to the Superintendent through written policy statements the function of specifying the required actions and designing the detailed arrangements under which the schools shall be operated. The Board further agrees not to change the terms of this contract, except by agreement with the Superintendent. The Board, individually and collectively, further agrees to refer to the Superintendent for his or her study and recommendation, those criticisms, complaints, and suggestions that are called to the attention of the Board.

EIGHTH: HEALTH

That the Superintendent does hereby agree to have a comprehensive medical examination every year, starting Fall _____, and that a statement certifying to the physical competency of the Superintendent of Schools shall be filed with the Clerk of the Board of Education and treated as confidential information by the Board, the cost of said medical report to be borne by the District.

NINTH: DISABILITY

That should the Superintendent in the opinion of the Board be unable to perform his or her duties by reason of illness, accident, or other cause beyond his or her control, and said disability exist for a continuous period of six months, or if said disability is, in the opinion of the Board, permanent, irreparable, or of such nature as to make the performance of his or her duties impossible, the Board may at its option terminate this agreement, whereupon the respective duties, rights, and obligations hereof shall terminate.

TENTH: PERFORMANCE REVIEW

That the Board of Education shall on a quarterly basis devote a portion or all of one meeting to a discussion of the working relationships and performance agreements between the Superintendent and the Board of Education. After the first year, the above will be carried out at least semiannually.

ELEVENTH: CONTRACT EXTENSION

This contract shall be in effect for a three-year period unless it is superseded by a new contract mutually agreed to by the Board and the Superintendent. Unless the Board gives the Superintendent written notice one year prior to the termination of his or her contract that clearly states his or her deficiencies and then makes available reasonable assistance and resources to allow the Superintendent to accomplish what the Board desires, the Superintendent is deemed reemployed for an additional year and the said Superintendent, when this contract is automatically extended according to the aforesaid provisions, shall file a written notice with the Clerk of the Board of Education within fifteen (15) days thereafter of his or her acceptance of the extension of this contract. Failure to file such notice shall be regarded as conclusive evidence of his or her nonacceptance of the extension.

TWELFTH: DISCHARGE

That throughout the term of this contract the Superintendent shall be subject to discharge for good and just causes, provided, however, that the Board does not arbitrarily or capriciously call for dismissal, and that the Superintendent shall have the right to service of written charges, notice of hearing, and a fair hearing before the Board. If the Superintendent chooses to be accompanied by legal counsel at the hearing, said legal expenses will be incurred by the Superintendent.

THIRTEENTH: MILEAGE

That the Board of Education will provide a travel expense stipend for a mutually agreed upon amount.

FOURTEENTH: PROFESSIONAL MEETINGS

That the Superintendent shall attend appropriate professional meetings at the local, state, and national levels, subject to the approval of the Board, with the expenses of said attendance to be incurred by the District.

FIFTEENTH: LEAVE DAYS

That the Superintendent shall receive twenty (20) days vacation annually, exclusive of legal holidays, and shall be entitled to fifteen (15) working days sick leave annually. Vacation shall be taken within twelve (12) months of the year in which it is earned, except that two weeks can be accumulated for use in the following year. Earned sick leave shall be cumulative to a maximum of one hundred eighty (180) days, or in accordance with state legislation.

SIXTEENTH: PERSONAL GROWTH GOALS AND DISTRICT GOALS

The Board members and the Superintendent will agree to hold each other accountable for the setting and achievement of individual growth objectives mutually agreed upon. A method of evaluating mutually agreed upon objectives will also be a part of the agreement. Likewise, the Superintendent will develop, in cooperation with the Board and the District staff, goals for the entire District, including means of measuring such accomplishments.

SEVENTEENTH: FRINGE BENEFITS

The Superintendent shall receive benefits and other health coverages according to other employees within the District. Any improvement of fringe benefits as may evolve through bargaining or provided on any other basis to teachers during the course of this contract will automatically apply to the Superintendent.

EIGHTEENTH: LEGAL ACTIONS

Any legal actions taken against the Superintendent as a result of recommendations given by the Superintendent and action taken by the Board shall be the responsibility of the School Board. The Board will have the responsibility of providing legal assistance to the Superintendent should such a situation arise.

NINETEENTH: MEMBERSHIP FEES

Membership fees and dues resulting from the Superintendent's involvement in community service groups shall be paid by the Board.

TWENTIETH: That the Superintendent shall fulfill all aspects of this contract, any exception thereto being by mutual consent of the Board and the Superintendent.

Dated this _____ day of _____, 19_____.

_____
(PRESIDENT, Board of Education)

_____
(CLERK, Board of Education)

_____
(Superintendent)

ISSUES

SECTION III

OTHER ISSUES RELATED TO THE HIRING PROCESS

The material in this section covers those areas that sch l districts may wish to consider in their hiring procedures, as well as some suggestions for handling charges of discrimination, should they occur. A list of books and periodicals related to the hiring process concludes this section.

USING OUTSIDE AGENCIES AND RESOURCES IN THE HIRING PROCESS

A school district may choose to use an outside agency to assist in the hiring process. There are a number of factors that may lead to this decision. If a school district is having difficulty in recruiting qualified candidates, if there is very limited time in which to fill a position, or other similar factors exist, a school district may find it advantageous to use outside resources to aid it in filling a position. Such assistance usually requires a service fee, but could be well worth the investment in terms of the school board's time and the need to find the best qualified candidate.

The state school boards association and university personnel are two commonly used in-state resources. Another resource that is nationally recognized for its success in placing highly qualified administrators is Ventures for Excellence, located in Lincoln, Nebraska. This organization has participated in the National School Boards Academy with workshops on superintendent selection. It is totally separate from any placement agency, and provides a comprehensive assessment process as well as a highly structured interview process. The company makes extensive use of advertising, which enables it to search out applicants who fill the specific needs of a district. For further information, contact:

Dr. Victor Cottrell, President
Ventures for Excellence
Box 83232
Lincoln, Nebraska 68501
(402) 483-2844

There may be other agencies of a similar nature that have been successful in satisfying the hiring needs of school districts. Ventures for Excellence is mentioned as a proven resource.

DOS AND DON'TS OF HIRING

The following are guidelines that may assist in the hiring process. These suggestions are especially helpful in ensuring that your hiring practices are fair. The list is by no means exhaustive, but attempts to cover the major problem areas in the hiring process.

1. Respond to those candidates who are not hired.

   If the number of applicants is great, even a form letter is better than no response.

2. Give reasons for not hiring.

   By stating the reason, whether it be education, experience, or other qualifications that were lacking, the employer ensures some protection against a discrimination suit.

3. Make selection criteria very specific and comprehensive.

   There may be many qualified candidates for a very limited number of openings. Consequently, selection criteria need to be very specific for the job requirements; also, they must be adhered to strictly.

4. Use interview forms.

   This documentation is important to dispel any hint of discrimination. If all candidates are asked the same questions, there can be no grounds for claims of unfair treatment.

5. Resist the urge to feel obligated to hire "local" candidates.

   Selection criteria and required qualifications must relate to job performance requirements, and preference given to hometown residents without regard for other advertised qualifications may lead to a charge of discrimination.

AFFIRMATIVE ACTION PLAN: WHO NEEDS IT?

Executive Order 11246 requires affirmative action programs by all Federal contractors and subcontractors and requires that firms with contracts over $50,000 and 50 or more employees develop and implement written programs, which are monitored by an assigned Federal compliance agency.

Aside from the requirements of Executive Order 11246, it would be a good idea for all school districts to examine ways they can eliminate any discrimination that might exist in policies, practices, and other institutional barriers that cause and/or perpetuate inequities. Affirmative action in its broadest definition means that an employer takes positive steps to eliminate prospective discrimination, including the elimination of the effects of any past discrimination.

Action that a school board could take to eliminate discrimination would be:

1. Develop a statement of policy of nondiscrimination. This policy should be adopted as an official policy by the local board of education.

2. Designate a school district employee as a coordinator of compliance efforts.

3. Develop and implement a grievance procedure.

4. Implement a self-evaluation* to assess district policies and procedures for compliance with employment laws and to modify policies and procedures where necessary to ensure compliance.

5. Take appropriate action to remedy any discriminatory practices found in the self-evaluation.

Adapted from: "What Needs To Be Known; Affirmative Action." Nebraska School Boards Association Bulletin, Vol. X, No. 9, May-June 1978, by Beth B. Buehlmann and Twila Christensen Liggett.

*Self-evaluation involves an analysis of the school district's employee positions in all classifications. This analysis would include for each position: (a) salary, (b) length of time in position, (c) employee's sex, (d) employee's race, (e) employee's ethnic origin, (f) employee's handicap condition. This analysis will show what kind of representation there is in each job classification. Other areas that need to be examined in the self-evaluation are: policies regarding leaves of absence, application forms, job descriptions and qualifications, insurance policies, retirement benefits, salary schedules, collective bargaining agreements, opportunities for in-service and training programs, fringe benefits, and employment procedures. If any of these areas are found to be discriminatory, immediate action for correction should be taken in order to bring the school district into compliance with employment regulations.

It should be noted that quotas are not a requirement of affirmative action plans. School districts may choose to set goals to provide a balanced and representative work force. Goals should not be set as absolutes but rather as an indication of a good faith effort to recruit women, minorities, or whatever population is underrepresented in the district's work force. There have been some court cases requiring employers to hire from a population that has been discriminated against, but these requirements have been used only in cases where the discrimination has been extensive.

In conclusion, one of the purposes of affirmative action is to ensure that individuals are considered on the basis of their own merit, not on the basis of a characteristic that is not job-related. Another purpose is to take the necessary steps to correct past injustices.

YOU'VE BEEN CHARGED WITH DISCRIMINATION--NOW WHAT?

In the event a charge of discrimination might be lodged against your school district, the following are some important but simple guidelines that may be of assistance.

1. Don't panic or overreact. This may only serve to detonate an already volatile situation. Remember, there may have been a valid reason for the charge.

2. If there was discrimination, face it! Right the wrong as quickly as possible.

3. Do not retaliate in any way. Cases involving retaliation are given top priority (if handled by the state Fair Employment Practices Agency).

If the school district has kept complete records, the process of responding to a discrimination charge will be simplified. On the following pages is a sample interrogatory that a school district might face if charged with discrimination.

A FAIR EMPLOYMENT PRACTICES AGENCY INTERROGATORY
(SAMPLE)

1. State the full name and address of the business establishment named herein as the respondent if the name and/or address is not accurately stated in the cover letter.

2. State the name, address, phone number, and title of the individual from whom further information concerning the subject of this interrogatory may be obtained.

3. Describe the subject job classification(s) (i.e., permanent, temporary, part-time, full-time, starting rate of pay, etc.).

4. Describe the method by which applicants for the subject job classification(s) are usually recruited or obtained.

5. State whether the subject job classification(s) was advertised at any time within the past year in any newspaper(s). If yes, attach a copy of the advertisement(s) and invoice(s).

6. State whether the subject job classification(s) was listed at any time within the past year with any placement service. If yes, indicate which placement service(s) was used and attach a copy of any such listing.

7. State whether the subject job classification(s) was listed at any time within the past year with the state Job Services. If yes, indicate where listing was made (which local or placement office) and attach a copy of the listing.

8. State the number of applicants for employment in the subject job classification(s) for each subject job classification. Indicate for each applicant:

   (a) Name
   (b) Position for which this person applied
   (c) Age
   (d) Disposition of application (hired or not hired)

   Attach a copy of application materials for each applicant.

9. State in detail the procedure for processing applications for employment for the subject job classification(s).

10. If an oral interview is used, state the instances in which it is used, the nature of the questions asked in each instance, and the criteria for successful performance at the interview.

11. State whether any written instructions are given the interviewer to guide him or her in making his or her determination. If yes, attach a copy of each such document.

12. State the following information for each person who participates in the processing, selection, and hiring of applicants for the subject job classification(s) and indicate the function that each performs:

    (a) Name
    (b) Title/position
    (c) Date of entry into present position
    (d) Race, sex, national origin, ancestry
    (e) Function

13. State the date and location of the complainant's application of inquiry for employment. Attach a copy of the complainant's application and all other records relating to the disposition of the application.

14. State the specific reason(s) that the complainant was not hired.

15. State the following information for each person who participated in the processing of the complainant's application or inquiry for employment and indicate the function that each performed:

    (a) Name
    (b) Title/position
    (c) Date of entry into present position
    (d) Age
    (e) Function

16. State the following for each person who now occupies, or has occupied during the 1981-82 school year, the subject job classification(s):

    (a) Name
    (b) Address/telephone number
    (c) Age
    (d) Date of entry
    (e) Title of position held

17. Set forth the qualifications for the subject position. If these qualifications are in written form, attach a copy.

18. Indicate which of the qualifications referred to in the previous question were not met by the complainant.

19. Identify the last five persons hired into the subject job classification and all persons hired after the complainant applied. Indicate the age of each person identified. Attach copies of all relevant records relating to each application.

20. Of the person(s) hired after the complainant applied, which qualifications of said person(s) were superior to those of the complainant? How were they determined to be superior?

21. Indicate the following for each person forty-five (45) years of age or older who has applied for any teaching position with respondent during the past two (2) years:

(a)
(b) [illegible]ss/telephone number
(c) [illegible]t time of application
(d) Position for which this person applied
(e) Disposition of application (hired or not hired)
(f) If not hired, reason not hired
(g) Age of person who filled this position

22. In which positions is the complainant qualified to substitute-teach for the respondent?

23. Attach copies of complainant's pay records indicating when and in what capacity the complainant has substitute-taught for the respondent during the 1980-81 and 1981-82 school years.

24. Attach copies of pay records indicating when and in what capacity any other person has substitute-taught for the respondent during the 1981-82 school year in any position for which the complainant was qualified to substitute.

25. Make any further comment you wish concerning this matter.

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