

# CSBA Sample

## Administrative Regulation

### Health And Welfare Benefits

AR 4154 4254,4354

#### Personnel

\*\*\*Note: The following optional administrative regulation should be revised to reflect district practice and collective bargaining agreements. \*\*\*

#### Affordability of Health Coverage

\*\*\*Note: The following section is for use by districts that have an average of 50 or more full-time equivalent (FTE) employees over the preceding calendar year. The federal Patient Protection and Affordable Care Act (PPACA) (42 USC 300gg-300gg95; 26 USC 4980H; 26 CFR 54.4980H-1-54.4980H-6) requires such districts to offer FTE employees and their dependents (not including spouses) the opportunity to enroll in an "affordable" district-sponsored group health plan or health insurance coverage. Pursuant to 26 USC 4980H and 26 CFR 54.4980H-4, health coverage will be deemed "affordable" if the employee's contribution for employee-only health coverage does not exceed 9.5 percent of his/her modified adjusted household income, as defined in 26 USC 5000A. Because the district generally will not know the employee's household income, 26 CFR 54.4980H-5 provides that the district can meet its obligation if it meets any of the "safe harbor" standards listed in items #1-3 below. All these methods are optional and the district may choose to use one or more of these methods for all its employees or for any category of employees, provided it does so on a uniform and consistent basis for all employees within the same category. The district may retain or delete any of the items below or specify its own method for ensuring affordability. \*\*\*

\*\*\*Note: See the accompanying Board policy for additional requirements of the PPACA. \*\*\*

The Superintendent or designee shall seek written assurance from the district's health insurance carrier(s) that the health plan offered to full-time district employees and their dependents meets all requirements of the federal Patient Protection and Affordable Care Act. (42 USC 300gg-300gg95; 26 USC 4980H; 26 CFR 54.4980H-1-54.4980H-6)

The Superintendent or designee also shall ensure that each employee's contribution to the employee-only health coverage does not exceed 9.5 percent of his/her modified household income, as defined in 26 USC 5000A. The Superintendent or designee shall calculate the affordability of the coverage using one or more of the following methods in a uniform and consistent basis for all employees within the same category: (26 USC 4980H; 26 CFR 54.4980H-4-54.4980H-5)

1. The district shall ensure that the lowest cost employee-only coverage does not exceed 9.5

percent of wages paid to the employee by the district for the calendar year as reported on the employee's W-2 tax form. For an employee not offered coverage for an entire calendar year, the wages shall be adjusted to reflect the period for which coverage was offered.

2. The district shall ensure that the employee's required monthly contribution for the lowest cost employee-only coverage does not exceed 9.5 percent of an amount equal to 130 hours multiplied by the employee's hourly rate of pay on the first day of the plan year or his/her lowest hourly pay during the calendar month, whichever is lower.

3. The district shall ensure that the employee's contribution does not exceed 9.5 percent of a monthly amount determined as the federal poverty line for a single individual for the applicable calendar year, divided by 12.

### Retired Certificated Employees

\*\*\*Note: Education Code 7000 requires that any district which provides health and welfare benefits or dental care benefits for its certificated employees must make those benefits available to retired certificated employees and their spouses or eligible surviving spouses as provided in the following section. \*\*\*

\*\*\*Note: Pursuant to Education Code 7000, any eligible person who elects to enroll in the benefits program may be required to pay all premiums, dues, and other charges, including any increases in the rate of premiums or dues for these persons, and all costs incurred by the district in administering the program; see the accompanying Board policy. Education Code 7000 allows districts, if appropriate, to require persons eligible for these benefits to pay different rates as a class. Education Code 7000 specifies three classes based on age and Medicare benefits for which the plan must provide separate rates. Government Code 12940 provides that, with respect to retiree health benefits and health care reimbursement plans in effect on or after January 1, 2011, it is not discrimination based on age to provide health benefits or health care reimbursement plans to retired persons that are altered, reduced, or eliminated when the retirees become eligible for Medicare health benefits. \*\*\*

\*\*\*Note: The following section does not apply to employees who receive health care coverage under the Public Employees' Medical and Hospital Care Act (PEMHCA), Government Code 22750-22944. \*\*\*

Any former certificated employee who retired from the district under any public retirement system and his/her spouse/domestic partner shall be permitted to enroll in the health and welfare and/or dental care benefit plan currently provided for certificated employees. The plan also shall be available to any surviving spouse/domestic partner of a former certificated employee who either retired from the district under any public retirement system or was, at the time of death, employed by the district and a member of the State Teachers' Retirement System. (Education Code 7000)

A retired certificated employee or surviving spouse/domestic partner shall be allowed to enroll in the coverage within 30 days of losing active employee coverage. If he/she does not enroll during

this initial enrollment period, he/she may be denied further opportunity to do so. (Education Code 7000)

### COBRA/Cal-COBRA Continuation Coverage

\*\*\*Note: The following section reflects requirements for both the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) program (26 USC 4980B; 29 USC 1161-1168; 26 CFR 54.4980B-1-54.4980B-10) and the California Continuation Benefits Replacement Act (Cal-COBRA) program (Health and Safety Code 1366.20-1366.29; Insurance Code 10128.50-10128.59). These programs contain requirements designed to alleviate lapses in coverage due to employee termination, death, separation or divorce, reduction in hours, eligibility for Medicare, or a dependent child of the covered employee ceasing to be a dependent child. COBRA applies to districts with at least 20 employees. Pursuant to Health and Safety Code 1366.21, Cal-COBRA applies to districts with 2-19 employees which have contracted for health care and/or disability coverage through a group benefit plan. If the district has contracted to provide administrative services for the health care service plan as authorized by Health and Safety Code 1366.25, it may expand the following section to reflect additional requirements of plan administrators. \*\*\*

\*\*\*Note: The following section should be revised by districts that offer a group health insurance plan but not a group disability benefits plan. This section also should be revised by districts with employees who receive health care coverage under PEMHCA, Government Code 22750-22944. \*\*\*

Covered district employees and their qualified beneficiaries shall be offered the opportunity to continue health and disability insurance coverage when they otherwise would lose coverage due to one of the following qualifying events: (Health and Safety Code 1366.21, 1366.23, 1373; Insurance Code 10128.51, 10128.53, 10277; 26 USC 4980B; 26 CFR 54.4980B-4)

1. Death of the covered employee
2. Termination or reduction in hours of the covered employee's employment, other than termination by reason of the employee's gross misconduct

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)  
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

3. Divorce or legal separation of the covered employee
4. The covered employee becoming entitled to Medicare benefits

\*\*\*Note: For purposes of item #5 below, Health and Safety Code 1373 and Insurance Code 10277 require that the age at which a person ceases to be a dependent child, as specified in the health plan, must be at least 26 years, except that certain specified health plans beginning before January 1, 2014 may exclude adult children younger than age 26 who are eligible to enroll in an

employer-sponsored health plan. In addition, Health and Safety Code 1373 and Insurance Code 10277 require a health services plan or insurer to continue coverage for a dependent child who attains the age specified in the plan if he/she is incapable of self-sustaining employment by reason of a physically or mentally disabling injury, illness, or condition and is chiefly dependent on the subscriber or insured for support and maintenance. Health and Safety Code 1373 and Insurance Code 10277 also require that, if the plan provides coverage for a dependent child who is over age 26 and enrolled at a secondary or postsecondary educational institution, continued coverage must be provided during any break in the school calendar and during a medical leave of absence as specified. \*\*\*

5. A dependent child ceasing to be a dependent child of the covered employee

Continuation health coverage shall be the same as provided to similarly situated individuals under the group benefit plan. (Health and Safety Code 1366.23; Insurance Code 10128.53; 26 USC 4980B)

\*\*\*Note: Districts should select the appropriate option below based on the number of district employees. \*\*\*

OPTION 1: (Districts with 20 or more employees)

\*\*\*Note: Pursuant to 26 USC 4980B and 29 USC 1163, the 30-day notification period specified below may be revised if a longer time period is specified in the health plan. \*\*\*

The Superintendent or designee shall notify the health care service plan administrator of a qualifying event listed in item #1, 2, or 4 above, within 30 days of the event. A covered employee or qualified beneficiary shall notify the service plan administrator of a qualifying event listed in item #3 or 5 above within 60 days of the event or of the date that the beneficiary would lose coverage, whichever is later. (26 USC 4980B; 29 USC 1163, 1166; 26 CFR 54.4980B-6)

Continuation coverage shall be terminated in accordance with the district's insurance plan and federal and state law. (26 USC 4980B; 26 CFR 54.4980B-6; Health and Safety Code 1373.621; Insurance Code 10116.5)

OPTION 2: (Districts with 2-19 employees)

\*\*\*Note: If the district contracts to perform the administrative services of a health care service plan as authorized by Health and Safety Code 1366.25, the following two paragraphs should be revised to reflect the plan administrator to whom the notifications should be directed. \*\*\*

The Superintendent or designee shall provide written notification to the health care service plan administrator of a qualifying event listed in item #2 above, within 30 days of the event.

A covered employee or qualified beneficiary shall provide written notification to the health care service plan administrator regarding any other qualifying event listed above within 60 days of the

event or of the date that the covered employee or qualified beneficiary was notified of the ability to continue coverage, whichever is later. (Health and Safety Code 1366.24, 1366.25; Insurance Code 10128.54, 10128.55)

Continuation coverage shall be terminated in accordance with the district's insurance plan and state law. (Health and Safety Code 1366.22, 1366.27, 1373.621; Insurance Code 10116.5, 10128.52, 10128.57)

\*\*\*Note: The following paragraph applies to all districts. \*\*\*

The Superintendent or designee shall notify covered employees and qualified beneficiaries of the availability of conversion and continuation coverage. This notification shall include the statement in Labor Code 2800.2 encouraging individuals to examine their options carefully before declining such coverage. (Labor Code 2800.2)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

#### Disability Insurance

\*\*\*Note: The following notice is provided by the California Employment Development Department. \*\*\*

The Superintendent or designee shall give notice of disability insurance rights and benefits to each new employee and each employee leaving work due to pregnancy, nonoccupational illness or injury, the need to provide care for any sick or injured family member, or the need to bond with a minor child within the first year of the child's birth or placement in connection with foster care or adoption. (Unemployment Insurance Code 2613)

(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)

(cf. 4161/4261/4361 - Leaves)

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)

(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)

(cf. 4261.1 - Personal Illness and Injury Leave)

\*\*\*Note: The following paragraph does not apply to employees of districts that have contracted for health care coverage through PEMHCA, Government Code 22750-22944. \*\*\*

When disabled by an injury sustained from a violent act while performing duties within the scope of employment and performing creditable employment, a certificated or classified employee may continue in the district health and dental care plans upon meeting criteria specified by law. The employee shall pay all employer and employee premiums and related administrative costs. (Education Code 7008)

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