

# CODESP NEWS

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## CODESP TRAINING UPDATE

On Friday, March 8, over 60 participants were present at Newport-Mesa USD for a CODESP training meeting. CODESP Board Member Marc Steele led off the meeting sharing information from his Instructional Aide classification study. The study resulted in a new classification of Instructional Aide-Speech and Language. These individuals will work under the supervision of a credentialed Language Speech-Specialist/Pathologist.

Andi Rohrer, Personnel Analyst at Newport-Mesa USD, shared her district's Volunteer Fingerprinting Policy that clearly identifies which campus visitors need to be fingerprinted. The policy states that volunteers who work with students shall be in the constant presence of a district employee unless they have been fingerprinted and received criminal record clearance.

Executive Director Marianne Tonjes provided an update on the "No Child Left Behind Act." Unfortunately there has been no clear-cut answers provided, only that the California Department of Education (CDE) is waiting for the federal government to provide more clarification. The latest email stated that there may be further guidance from the US Department of Education, but that may not be for some time. The CDE representative wrote that the State has no plans at this time to issue any kind of standards or guidelines, but added that standards could be issued down the road.

They also stated that they think the most important aspect to note is that the rigorous assessment in the new law must test not only a knowledge of reading, writing, and math, but also must demonstrate the ability to assist in instructing reading, writing, and math (or those readiness skills if appropriate).

By the emails received, there are several opinions on this subject (see page 4). Districts should take this time as we await further clarification from the federal government to gather test preparation materials for applicants to assist them in passing examinations that may contain pre-algebra, etc. We recently updated *Tips to Increase Test Scores* under Training Presentations at [www.codesp.com](http://www.codesp.com).

## UPCOMING MEETINGS

### *March Training*

**March 22**, Santa Clara COE will host ***Current Issues in School District Employment***, presented by Patti White, an attorney with Littler Mendelson.

Ms. White will assist participants in understanding the most complex legal issues impacting your human resource responsibilities. Participants will learn how to avoid an ADA discrimination complaint, prevent liability for discrimination, retaliation, harassment, discipline, and termination.

Ms. White has extensive experience in advising employers about human resources issues, including training supervisors and preparing personnel policies, representing management in employment discrimination proceedings (EEOC and DFEH), sexual harassment, Americans with Disabilities Act, family leave cases, and wage and hour disputes. She represents special districts, cities, county offices of education, community college districts and K-12 public school districts.

The meeting will be from 10 – 12 noon in the Oak Grove Conference Room. A map is on the website.

### *April Training*

**April 19**, from 10 a.m. - 12 noon, Lemon Grove School District in the San Diego area will host a meeting on ***Selection Planning***. This workshop will be presented by Executive Director Marianne Tonjes and will cover the basics of job analysis, recruitment, selection planning, and test design. If you need to brush-up on your skills, or if new staff needs training, this class will provide some practical tips to get your district's classified testing program organized.

Training meetings provide excellent networking opportunities. RSVP to [marcodesp@aol.com](mailto:marcodesp@aol.com).

# REFERENCE CHECK DISCLOSURES

A new state law, effective January 1, 2002, affects investigation of applicants and employees. New amendments to California's Investigative Consumer Reporting Act (ICRA) require employers to inform both employees and applicants when the company obtains "investigative reports," including reference checks, and in most cases limits an employer's ability to maintain the confidentiality of reports even if they are prepared in-house.

*California Civil Code §1786.53. Disclosure requirement when investigative consumer reporting agency not used.*

*Any person who collects, assembles, evaluates, compiles, reports, transmits, transfers, or communicates information on a consumer's character, general reputation, personal characteristics, or mode of living for the purposes specified in subdivision (a) of Section 1786, in lieu of using the services of an investigative consumer reporting agency, shall provide that information to the consumer at the time of the meeting or interview with the consumer, or within seven days of the date the person obtains the information regarding the consumer, whichever is earlier.*

Under the federal Fair Credit Reporting Act (FCRA) and its state counterpart ICRA, employers that wish to obtain background checks on applicants and employees are required to comply with certain notice and disclosure obligations. Effective January 1, 2002, new amendments to ICRA create additional notice and disclosure obligations when a company acquires an "investigative consumer report" about an applicant or employee. These new amendments also appear to include in-house investigative reports.

Common examples of investigative reports in the employment context include reference checks, criminal background checks, and investigations of harassment and other misconduct. ICRA appears to cover medical screenings for use of drugs and alcohol as well. Such reports can be generated from a variety of sources, including third-party companies, the Internet, public records, or through interviews with employees and references.

According to an article in the March 4, 2002, California Employment Law Letter, by attorneys Victor Schachter and Thomas Moyer, ICRA does not apply to reports that are limited to specific factual information relating to a consumer's credit record (e.g., a credit report). In addition, the Act probably does not apply to physical fitness tests, vision tests, or ability tests designed to assess an individual's performance or capacity to perform certain tasks. Under certain circumstances, however, even interview notes, employment verifications, driving record checks, and educational records that comment on an individual's reputation or character may be considered "investigative consumer reports" for purposes of the Act.

ICRA's Notice Requirements:

When an investigative report on an applicant or employee is initiated, you must notify that person *in writing within three days*. The notice must include:

- √ the name and address of the organization conducting the investigation;
- √ the nature and scope of the investigation requested; and
- √ a summary of the employee's rights to obtain information regarding the report.

Under the "old" California law, employers could prepare in-house reports, rather than go through third-party companies, without providing notification. Amendments to ICRA, however, eliminate that exception and now require you to provide notice to all applicants and employees even when the reports are prepared internally. In addition, ICRA now requires you to inform workers that you are seeking an investigative consumer report for promotion, reassignment, or retention decisions.

The new requirement which covers in-house reports applies regardless of whether the individual requests a copy of the report or whether an adverse action was taken against the individual based on the report. Even if you decide to hire the applicant, you must provide that individual with a copy of the investigative consumer report.

The wide coverage of the ICRA creates uncertainty and many questions, including whether all currently "routine" employment checks fall under its purview. Due to the uncertainty districts may want to ask for brief summaries that indicate that an applicant is "eligible" or "ineligible" for employment or districts may only want to seek "verbal" reports. Until the courts offer some guidance about the scope and impact of ICRA, districts should consult with counsel to ensure that they don't violate any of the statute's new notice and disclosure obligations.

# **UPCOMING TRAINING**

## **CODESP SPONSORED TRAINING PROGRAMS**

March 22, Santa Clara COE, San Jose  
April 19, Lemon Grove SD, San Diego area  
May 3, Hacienda-La Puente USD, City of Industry  
May 3, Berkeley USD, Berkeley  
May 17, San Juan USD, Carmichael (Sacramento)

## ***WESTERN IPMA***

The Western Region IPMA conference will be held April 17 - 19 at the Hyatt Islandia (800-233-1234) in San Diego. The theme of the conference is *Reality HR*. Early registration is \$245. For more information visit [www.ipma-hr.org](http://www.ipma-hr.org) (link to Western Region).

## ***WRIPAC***

WRIPAC's spring conference will be held in Napa on April 25 - 26 at the Napa Valley Marriott. Preconference workshops will include *Job Analysis* (\$250 for members) on April 23 - 24 and *Functioning as an Internal Consultant* (\$100 for members) on the 24th.

There is no cost for WRIPAC membership and no registration fees for the conference. Attendance at two of the three yearly conferences and participation on a committee are required for membership. To register for the workshops email: [sstocks@co.tulare.ca.us](mailto:sstocks@co.tulare.ca.us). To make reservations call 800-228-9290. The room rate is \$129/night.

WRIPAC is an organization of public jurisdictions which have joined together to develop and share personnel selection procedures. **[www.wripac.com](http://www.wripac.com)**.

## ***SD/CSPCA***

The San Diego section will be the hosts for the Southern California School Personnel Commissioners Association's Spring conference at the Wyndham Palm Springs Hotel June 7, 8, and 9. The theme of the conference is *Doing More with Less in Lean Times*. Some of the topics that will be addressed in sessions include: The Practical Uses of Job Analysis; Creative Recruitment and Selection Strategies; Instructional Aide-Changing Standards for Academic Proficiency Testing; and Classification Studies.

You can obtain more information by emailing Norma Johnson at the San Diego COE at [normaj@sdcoe.k12.ca.us](mailto:normaj@sdcoe.k12.ca.us).

**NEW MEMBER**

**WELCOME TO CODESP!**

**Snowline Joint Unified School  
District**

***C-CIB***

New questions have been added in the following computerized test item banks:

Data Processing, Audio Visual, and-Mechanic

We have added extra items to choose from to the sample Instructional Aide test packet. You may use the test as is, or substitute items with the items we have provided in the packet. If that still isn't enough, we will send you more items to review. If you would like, we can divide your test into sections for Language, Reading and Math. This is helpful when you allow candidates to retest only those areas where they did not receive a passing score.

A new Sample Secretarial Exam is also available. The sample test should be reviewed by subject matter experts and you can shorten the test by crossing out the items you do not want on the key and faxing it to our office. If you would like other items to choose from, we have over 16,500 in the item bank. To receive CODESP test materials complete a **C-CIB Request Form**.

## **VICTOR VALLEY UHSD**

**DIRECTOR OF CLASS. PERSONNEL**

**\$74,627 — \$90,944**

Victor Valley UHSD has announced an opening for Director-Classified Personnel Services. Submit an application and supplemental no later than April 5, 2002. Contact Armida Valdivia at (760) 955-3200 ext. 209.

# CSEA PRELIMINARY ANALYSIS

On January 25, 2002, the California School Employee's Association (CSEA) issued a statement, Impact of New Federal Law on Title I Paraprofessionals, Preliminary Analysis. In this report CSEA expressed concern over the new requirements as summarized below:

**Important Note:** The California Department of Education issued a letter to district superintendents (1/16/02) on Section 1119 to clarify that EXISTING and NEW paraprofessionals need to meet only one of the above (listed in the Act) three criteria, not all three. Therefore HR 1 (of the Act) does not require all Title I paraprofessionals to obtain the minimum 2 years of higher education, or obtain an Associate's degree, provided they have met the assessment and proficiency standards, as described in the act.

Moreover, since California already requires local school districts to assess paraprofessionals for their proficiency in basic reading, writing, and math skills before assigning them to a school site (EC 45361.5 and EC 45344.5), CSEA believes that existing Title I funded paraprofessionals in California are already in compliance with this new federal law, and therefore, require no additional college coursework or academic assessment to retain their current positions.

## **Many Questions Remain Regarding the Provisions of HR 1**

HR 1 has left open many questions regarding the feasibility of its reform efforts and many questions regarding the details of its language. In the weeks ahead, the CSEA Governmental Relations Office will be working closely with State Superintendent of Public Instruction Delaine Eastin and the California State Department of Education to obtain clear guidelines on the requirements of HR 1. As these guidelines become known, they will be immediately published in a follow-up Legislative Report.

## **CODESP**

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