



1 (b) The county board shall make decisions affecting the hiring  
2 of new classroom teachers on the basis of the applicant with the  
3 highest qualifications.

4 (c) In judging qualifications for hiring employees pursuant to  
5 subsections (a) and (b) of this section, consideration shall be  
6 given to each of the following:

7 (1) Appropriate certification, licensure or both;

8 (2) Amount of experience relevant to the position; or, in the  
9 case of a classroom teaching position, the amount of teaching  
10 experience in the subject area;

11 (3) The amount of course work, degree level or both in the  
12 relevant field and degree level generally;

13 (4) Academic achievement;

14 (5) Relevant specialized training;

15 (6) Past performance evaluations conducted pursuant to section  
16 twelve, article two of this chapter; and

17 (7) Other measures or indicators upon which the relative  
18 qualifications of the applicant may fairly be judged.

19 (d) If one or more permanently employed instructional  
20 personnel apply for a classroom teaching position and meet the  
21 standards set forth in the job posting, the county board of  
22 education shall make a decision affecting the filling of the  
23 position on the basis of the following criteria:

24 (1) Appropriate certification, licensure or both;

- 1           (2) Total amount of teaching experience;
- 2           (3) The existence of teaching experience in the required  
3 certification area;
- 4           (4) Degree level in the required certification area;
- 5           (5) Specialized training directly related to the performance  
6 of the job as stated in the job description;
- 7           (6) Receiving an overall rating of satisfactory in the  
8 previous two evaluations conducted pursuant to section twelve,  
9 article two of this chapter; and
- 10          (7) Seniority.
- 11          (e) In filling positions pursuant to subsection (d) of this  
12 section, consideration shall be given to each criterion with each  
13 criterion being given equal weight. If the applicant with the most  
14 seniority is not selected for the position, upon the request of the  
15 applicant a written statement of reasons shall be given to the  
16 applicant with suggestions for improving the applicant's  
17 qualifications. When filling positions for guidance counselors  
18 pursuant to subsection (d) an applicant certified as a guidance  
19 counselor for any grade level, prekindergarten through twelve,  
20 shall be considered to hold the "appropriate certification" as set  
21 out in subdivision (1) of subsection (d) for any guidance counselor  
22 position. Any applicant who has experience as a guidance counselor  
23 in any grade level, prekindergarten through twelve, shall be  
24 considered to have the "existence of teaching experience in the

1 required certification area” as set out in subdivision (3) of  
2 subsection (d) for any guidance counselor position.

3 (f) With the exception of guidance counselors, the seniority  
4 of classroom teachers, as defined in section one, article one of  
5 this chapter shall be determined on the basis of the length of time  
6 the employee has been employed as a regular full-time certified  
7 and/or licensed professional educator by the county board of  
8 education and shall be granted in all areas that the employee is  
9 certified, licensed or both.

10 (g) Upon completion of one hundred thirty-three days of  
11 employment in any one school year, substitute teachers, except  
12 retired teachers and other retired professional educators employed  
13 as substitutes, shall accrue seniority exclusively for the purpose  
14 of applying for employment as a permanent, full-time professional  
15 employee. One hundred thirty-three days or more of said employment  
16 shall be prorated and shall vest as a fraction of the school year  
17 worked by the permanent, full-time teacher.

18 (h) Guidance counselors and all other professional employees,  
19 as defined in section one, article one of this chapter, except  
20 classroom teachers, shall gain seniority in their nonteaching area  
21 of professional employment on the basis of the length of time the  
22 employee has been employed by the county board of education in that  
23 area. ~~Provided, That if~~ If an employee is certified as a classroom  
24 teacher, the employee accrues classroom teaching seniority for the

1 time that that employee is employed in another professional area.  
2 For the purposes of accruing seniority under this paragraph,  
3 employment as principal, supervisor or central office  
4 administrator, as defined in section one, article one of this  
5 chapter, shall be considered one area of employment.

6 (i) Employment for a full employment term shall equal one year  
7 of seniority, but no employee may accrue more than one year of  
8 seniority during any given fiscal year. Employment for less than  
9 the full employment term shall be prorated. A random selection  
10 system established by the employees and approved by the board shall  
11 be used to determine the priority if two or more employees  
12 accumulate identical seniority. ~~Provided, That when~~ When two or  
13 more principals have accumulated identical seniority, decisions on  
14 reductions in force shall be based on qualifications.

15 (j) Whenever a county board is required to reduce the number  
16 of professional personnel in its employment, the employee with the  
17 least amount of seniority shall be properly notified and released  
18 from employment pursuant to the provisions of section two, article  
19 two of this chapter. The provisions of this subsection are subject  
20 to the following:

21 (1) All persons employed in a certification area to be reduced  
22 who are employed under a temporary permit shall be properly  
23 notified and released before a fully certified employee in such a  
24 position is subject to release;

1           (2) An employee subject to release shall be employed in any  
2 other professional position where the employee is certified and was  
3 previously employed or to any lateral area for which the employee  
4 is certified, licensed or both, if the employee's seniority is  
5 greater than the seniority of any other employee in that area of  
6 certification, licensure or both;

7           (3) If an employee subject to release holds certification,  
8 licensure or both in more than one lateral area and if the  
9 employee's seniority is greater than the seniority of any other  
10 employee in one or more of those areas of certification, licensure  
11 or both, the employee subject to release shall be employed in the  
12 professional position held by the employee with the least seniority  
13 in any of those areas of certification, licensure or both; and

14           (4) If, prior to August 1, of the year a reduction in force is  
15 approved, the reason for any particular reduction in force no  
16 longer exists as determined by the county board in its sole and  
17 exclusive judgment, the board shall rescind the reduction in force  
18 or transfer and shall notify the released employee in writing of  
19 his or her right to be restored to his or her position of  
20 employment. Within five days of being so notified, the released  
21 employee shall notify the board, in writing, of his or her intent  
22 to resume his or her position of employment or the right to be  
23 restored shall terminate. Notwithstanding any other provision of  
24 this subdivision, if there is another employee on the preferred

1 recall list with proper certification and higher seniority, that  
2 person shall be placed in the position restored as a result of the  
3 reduction in force being rescinded.

4       (k) For the purpose of this article, all positions which meet  
5 the definition of classroom teacher as defined in section one,  
6 article one of this chapter shall be lateral positions. For all  
7 other professional positions, the county board of education shall  
8 adopt a policy by October 31, 1993, and may modify the policy  
9 thereafter as necessary, which defines which positions shall be  
10 lateral positions. The board shall submit a copy of its policy to  
11 the state board within thirty days of adoption or any modification,  
12 and the state board shall compile a report and submit the report to  
13 the Legislative Oversight Commission on Education Accountability  
14 by December 31, 1993, and by that date in any succeeding year in  
15 which any county board submits a modification of its policy  
16 relating to lateral positions. In adopting the policy, the board  
17 shall give consideration to the rank of each position in terms of  
18 title; nature of responsibilities; salary level; certification,  
19 licensure or both; and days in the period of employment.

20       (l) After the fifth day prior to the beginning of the  
21 instructional term, no person employed and assigned to a  
22 professional position may transfer to another professional position  
23 in the county during that instructional term unless the person  
24 holding that position does not have valid certification. The

1 provisions of this subsection are subject to the following:

2       (1) The person may apply for any posted, vacant positions with  
3 the successful applicant assuming the position at the beginning of  
4 the next instructional term;

5       (2) Professional personnel who have been on an approved leave  
6 of absence may fill these vacancies upon their return from the  
7 approved leave of absence; and

8       (3) The county board, upon recommendation of the  
9 superintendent may fill a position before the next instructional  
10 term when it is determined to be in the best interest of the  
11 students. ~~Provided, That the~~ The county superintendent shall  
12 notify the state board of each transfer of a person employed in a  
13 professional position to another professional position after the  
14 fifth day prior to the beginning of the instructional term. The  
15 Legislature finds that it is not in the best interest of the  
16 students particularly in the elementary grades to have multiple  
17 teachers for any one grade level or course during the instructional  
18 term. It is the intent of the Legislature that the filling of  
19 positions through transfers of personnel from one professional  
20 position to another after the fifth day prior to the beginning of  
21 the instructional term should be kept to a minimum.

22       (m) All professional personnel whose seniority with the county  
23 board is insufficient to allow their retention by the county board  
24 during a reduction in work force shall be placed upon a preferred

1 recall list. As to any professional position opening within the  
2 area where they had previously been employed or to any lateral area  
3 for which they have certification, licensure or both, the employee  
4 shall be recalled on the basis of seniority if no regular, full-  
5 time professional personnel, or those returning from leaves of  
6 absence with greater seniority, are qualified, apply for and accept  
7 the position.

8 (n) Before position openings that are known or expected to  
9 extend for twenty consecutive employment days or longer for  
10 professional personnel may be filled by the board, the board shall  
11 be required to notify all qualified professional personnel on the  
12 preferred list and give them an opportunity to apply, but failure  
13 to apply shall not cause the employee to forfeit any right to  
14 recall. The notice shall be sent by certified mail to the last  
15 known address of the employee, and it shall be the duty of each  
16 professional personnel to notify the board of continued  
17 availability annually, of any change in address or of any change in  
18 certification, licensure or both.

19 (o) Openings in established, existing or newly created  
20 positions shall be processed as follows:

21 (1) Boards shall be required to post and date notices which  
22 shall be subject to the following:

23 (A) The notices shall be posted in conspicuous working places  
24 for all professional personnel to observe for at least five working

1 days;

2 (B) The notice shall be posted within twenty working days of  
3 the position openings and shall include the job description;

4 (C) Any special criteria or skills that are required by the  
5 position shall be specifically stated in the job description and  
6 directly related to the performance of the job;

7 (D) Postings for vacancies made pursuant to this section shall  
8 be written so as to ensure that the largest possible pool of  
9 qualified applicants may apply; and

10 (E) Job postings may not require criteria which are not  
11 necessary for the successful performance of the job and may not be  
12 written with the intent to favor a specific applicant;

13 (2) No vacancy shall be filled until after the five-day  
14 minimum posting period;

15 (3) If one or more applicants meets the qualifications listed  
16 in the job posting, the successful applicant to fill the vacancy  
17 shall be selected by the board within thirty working days of the  
18 end of the posting period;

19 (4) A position held by a teacher who is certified, licensed or  
20 both, who has been issued a permit for full-time employment and is  
21 working toward certification in the permit area shall not be  
22 subject to posting if the certificate is awarded within five years;  
23 and

24 (5) Nothing provided herein shall prevent the county board of

1 education from eliminating a position due to lack of need.

2 (p) Notwithstanding any other provision of the code to the  
3 contrary, where the total number of classroom teaching positions in  
4 an elementary school does not increase from one school year to the  
5 next, but there exists in that school a need to realign the number  
6 of teachers in one or more grade levels, kindergarten through six,  
7 teachers at the school may be reassigned to grade levels for which  
8 they are certified without that position being posted. ~~Provided,~~  
9 ~~That the~~ The employee and the county board of education must  
10 mutually agree to the reassignment.

11 (q) Reductions in classroom teaching positions in elementary  
12 schools shall be processed as follows:

13 (1) When the total number of classroom teaching positions in  
14 an elementary school needs to be reduced, the reduction shall be  
15 made on the basis of seniority with the least senior classroom  
16 teacher being recommended for transfer; and

17 (2) When a specified grade level needs to be reduced and the  
18 least senior employee in the school is not in that grade level, the  
19 least senior classroom teacher in the grade level that needs to be  
20 reduced shall be reassigned to the position made vacant by the  
21 transfer of the least senior classroom teacher in the school  
22 without that position being posted. ~~Provided, That the~~ The  
23 employee ~~is~~ must be certified, licensed or both and agrees to the  
24 reassignment.

1           (r) Any board failing to comply with the provisions of this  
2 article may be compelled to do so by mandamus and shall be liable  
3 to any party prevailing against the board for court costs and  
4 reasonable attorney fees as determined and established by the  
5 court. Further, employees denied promotion or employment in  
6 violation of this section shall be awarded the job, pay and any  
7 applicable benefits retroactive to the date of the violation and  
8 payable entirely from local funds. Further, the board shall be  
9 liable to any party prevailing against the board for any court  
10 reporter costs including copies of transcripts.

11           (s) The county board shall compile, update annually on July 1  
12 and make available by electronic or other means to all employees a  
13 list of all professional personnel employed by the county, their  
14 areas of certification and their seniority.

NOTE: The purpose of this bill is to allow guidance counselors to compete equally for all guidance counselor positions regardless of whether the position is posted for the elementary grade levels or the secondary grade levels.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.