

**Regular Governing Board Meeting AGENDA**  
**Thursday, February 16, 2017, 4:00 PM**

<b>Lee Pontes ♦ Julie Russell ♦ Maria Simon ♦ Lou Smith ♦ Esther Valdes</b> <b>Student Board Representative: Owen Schafer</b> <b>Superintendent/Secretary: Karl Mueller      Recording Secretary: Kami McElligott</b>
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*Times indicated are Anticipated and Serve as Guidelines for Discussion; this meeting will be videotaped and will show live on Time Warner Cable, Channel 19, and also on the internet at [www.coronadotv.me](http://www.coronadotv.me)*

**1.0 CALL TO ORDER**

**2.0 OPEN SESSION**

Speaker Cards will be accepted by the President via the Recording Secretary at this time. Speaker Cards will be accepted prior to the start of that item you wish to address. Once an item begins Speaker Cards will not be accepted.
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- 2.1 Pledge to the American Flag
- 2.2 Approval of the Agenda: Any changes to the agenda must be made at this time
- 2.3 Village Choir Performance
- 2.4 Coronado Schools Foundation Telethon Update
- 2.5 ACT Presentation
- 2.6 Board Member Comments
- 2.7 Superintendent's Comments

**3.0 COMMENTS FROM THE AUDIENCE**

Anyone wishing to address the Board on agenda, non-agenda, and/or Closed Session items may do so. Individual speakers will be limited to three minutes. Total public input on any one subject will be limited to twenty minutes, and may be extended at the discretion of the Board President. Comments on an agenda item may be taken when the agenda item is discussed by the Board. Comments on non-agenda items will be heard before the Consent Motion if there are three speaker cards or less per topic. If there are more than three speaker cards per topic, then the comments from the audience may be held until the end of the agenda.
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**4.0 CONSOLIDATED MOTION FOR CONSENT CALENDAR**

- 4.1 Approve the Board Meeting Minutes of January 5 and January 19, 2017
- 4.2 Approve/Ratify Purchase Orders and Warrants
- 4.3 Approve/Ratify Contracts for Services
- 4.4 Approve the Personnel Register
- 4.5 Approve Change Orders from California Commercial Pools - Change Order No. 21 in the amount of \$200.00 for the CUSD 2014/15-012 Pool Deck Replacement and Miscellaneous Improvements at the Brian Bent Memorial Aquatics Complex
- 4.6 Adopt Annual Board Resolutions Regarding Business Operations
- 4.7 Resolution to Close Charter Schools Enterprise (6200) Fund
- 4.8 Nominate 2017 California School Boards Association Delegate Assembly Representatives

**5.0 ACTION ITEMS**

- 5.1 Revision to Coronado High School Science Graduation Requirements
- 5.2 Approve Comprehensive Safety Plans for Village and Silver Strand Elementary Schools,

Coronado Middle School, and Coronado High School

- 5.3 Approve the Tentative Agreement between the Coronado Unified School District (CUSD) and the Association of Coronado Teachers (ACT), including the 2017-2018 School Calendar

## **6.0 REPORTS**

- 6.1 Learning Department Report, including: Updates on Local Control Accountability Plan (LCAP) 2017-20 development, CUSD Strategic Planning, and CA State Accountability/CA School Dashboard

## **7.0 FIRST READING**

- 7.1 Adopt Revisions to Board Policies, Board Bylaws, Administrative Regulations, and/or Exhibits (First Reading)

## **8.0 ORGANIZATIONAL BUSINESS**

- 8.1 Proposed List of Agenda Items for Future Board Meetings

- 8.2 Upcoming Meetings

- Regular Board Meeting, March 2, 2017
- Board Workshop, March 3, 2017
- Regular Board Meeting, April 13, 2017
- Special Board Meeting, May 18, 2017
- Special Board Meeting, June 8, 2017
- Regular Board Meeting, June 22, 2017
- Regular Board Meeting, August 17, 2017
- Regular Board Meeting, September 14, 2017

## **9.0 ITEMS PULLED CONSOLIDATED MOTION FOR CONSENT CALENDAR**

## **10.0 CONVENE TO CLOSED SESSION**

- 10.1 Level III Employee Grievance Consideration

## **11.0 RECONVENE TO OPEN SESSION**

- 11.1 Reconvene to Open session and report out

## **12.0 ADJOURN**

Individuals who require special accommodation (American Sign Language Interpreter, accessible seating, documentation in accessible formats, etc.) should contact the Superintendent or designee at least two days before the meeting date. In compliance with Government Code section 54957.5, non-exempt writings that are distributed to a majority or all of the Board in advance of a meeting, may be viewed at 201 Sixth Street, Coronado, CA 92118, or at the scheduled meeting. In addition, if you would like a copy of any record related to an item on the agenda, please contact Kami McElligot, Executive Assistant to the Superintendent/Board, at (619) 522-8900, ext. 1025.

## AGENDA - February 16, 2017

### 4.0 CONSOLIDATED MOTION FOR CONSENT CALENDAR

#### DISTRICT ORGANIZATION AND BOARD OPERATIONS

4.1 Approve the Board Meeting Minutes of January 5 and January 19, 2017 (Action)

##### **Background Information:**

Presented for Board Approval:

- January 5, 2017, Special Meeting Minutes
- January 19, 2017, Regular Meeting Minutes

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##### **Superintendent's Recommendation:**

That the Board approve the attached minutes with any necessary modifications.

Moved \_\_\_\_\_ Seconded \_\_\_\_\_

Ayes \_\_\_\_\_ Noes \_\_\_\_\_ Absent \_\_\_\_\_ Abstain \_\_\_\_\_ Student \_\_\_\_\_

##### **ATTACHMENTS:**

	<u>Description</u>	<u>Upload Date</u>	<u>Type</u>	<u>File Name</u>
▢	SBM Minutes 1-5-2017	2/9/2017	Cover Memo	SBM_1-5-17_min.pdf
▢	RBM Minutes 1-19-2017	2/9/2017	Cover Memo	01-19-17_RBM.pdf



**Special Governing Board Meeting MINUTES**  
**Thursday, January 5, 2017, 3:00 PM**

**Lee Pontes ♦ Julie Russell ♦ Maria Simon ♦ Lou Smith ♦ Esther Valdes**  
**Student Board Representative: Owen Schafer**  
**Superintendent/Secretary: Karl Mueller      Recording Secretary: Kami McElligott**

**1.0 CALL TO ORDER**

President Simon called to order at 3:00 PM at Coronado Unified School District, 201 Sixth Street, Coronado, CA.

**2.0 OPEN SESSION**

Speaker Cards will be accepted by the President via the Recording Secretary at this time. Speaker Cards will be accepted prior to the start of that item you wish to address. Once an item begins Speaker Cards will not be accepted.

2.1 Pledge to the American Flag

2.2 Approval of the Agenda: Any changes to the agenda must be made at this time

Motion: Smith

Second: Pontes

Vote: 4-0

**#41**

**3.0 COMMENTS FROM THE AUDIENCE**

Anyone wishing to address the Board on agenda, non-agenda, and/or Closed Session items may do so. Individual speakers will be limited to three minutes. Total public input on any one subject will be limited to twenty minutes, and may be extended at the discretion of the Board President. Comments on an agenda item may be taken when the agenda item is discussed by the Board. Comments on non-agenda items will be heard before the Consent Motion if there are three speaker cards or less per topic. If there are more than three speaker cards per topic, then the comments from the audience may be held until the end of the agenda.

**4.0 GOVERNING BOARD WORKSHOP**

4.1 The Governing Board invited the Senior Director of Learning to discuss CDE Metrics, new LCAP Template and the new State Accountability System

Senior Director of Learning, Claudia Gallant updated the Board on the CDE Metrics, new LCAP Template, and the new State Accountability System.

**5.0 ORGANIZATIONAL BUSINESS**

5.1 Future Agenda Items/Board Member Comments

5.2 Next Regular Board Meeting, Thursday, January 19, 2017, 4:00 PM

**6.0 ADJOURN**

The meeting adjourned at 4:56 PM

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a meeting, may be viewed at 201 Sixth Street, Coronado, CA 92118, or at the scheduled meeting. In addition, if you would like a copy of any record related to an item on the agenda, please contact Kami McElligott, Executive Assistant to the Superintendent/Board, at (619) 522-8900, ext. 1025.

**Regular Governing Board Meeting MINUTES**  
**Thursday, January 19, 2017, 4:00 PM**

**Lee Pontes ♦ Julie Russell ♦ Maria Simon ♦ Lou Smith ♦ Esther Valdes**  
**Student Board Representative: Owen Schafer**  
**Superintendent/Secretary: Karl Mueller     Recording Secretary: Kami McElligott**

*Times indicated are Anticipated and Serve as Guidelines for Discussion; this meeting will be videotaped and will show live on Time Warner Cable, Channel 19, and also on the internet at [www.coronadotv.me](http://www.coronadotv.me)*

## **1.0 CALL TO ORDER**

President Simon called the meeting to order at 4:00 PM at Coronado Unified School District, 201 Sixth Street, Coronado, CA.

### **Roll Call**

The following Board Members were present: Maria Simon, Lou Smith, Lee Pontes, Julie Russell and Esther Valdes. Also present were Superintendent Karl Mueller, and Associate Superintendent Keith Butler.

## **2.0 OPEN SESSION**

Speaker Cards will be accepted by the President via the Recording Secretary at this time. Speaker Cards will be accepted prior to the start of that item you wish to address. Once an item begins Speaker Cards will not be accepted.

2.1 Pledge to the American Flag

2.2 Approval of the Agenda: Any changes to the agenda must be made at this time

Motion: Smith

Second: Russell

Vote: 4-0

**#42**

2.3 Health Occupation Students of America

Presentation HOSA Presentation by its Officers.

2.4 Coronado Schools Foundation Chief Executive Officer Patty Cowan will Present the CSF Semi-Annual Report

Chief Executive Officer, Patty Cowan presented the CSF Semi-Annual Report.

2.5 ACT Presentation

ACT President, Jennifer Landry updated the Board on several new certificated staff members.

2.6 Superintendent's 2017 State of the District Address

Superintendent Karl Mueller presented the State of the District Presentation.

2.7 Board Member Comments

The Board Members gave an update on their site visits and activities for the month. Student Board Representative, Owen Schafer was absent as he was attending the Inauguration.

2.8 Superintendent's Comments

Superintendent Muller updated the Board on his activities. He stated the CUSD staff should be celebrated for their commitment to the students. He thanked Dr. Butler for his wisdom and Patience and wishes him the best of luck.

### 3.0 COMMENTS FROM THE AUDIENCE

Anyone wishing to address the Board on agenda, non-agenda, and/or Closed Session items may do so. Individual speakers will be limited to three minutes. Total public input on any one subject will be limited to twenty minutes, and may be extended at the discretion of the Board President. Comments on an agenda item may be taken when the agenda item is discussed by the Board. Comments on non-agenda items will be heard before the Consent Motion if there are three speaker cards or less per topic. If there are more than three speaker cards per topic, then the comments from the audience may be held until the end of the agenda.

- Jennifer Landry, ACT President and CMS Teacher, updated the Board on the state of negotiations with ACT.

### 4.0 CONSOLIDATED MOTION FOR CONSENT CALENDAR

Motion: Smith                      Second: Pontes                      Vote: 5-0                      #43

- 4.1 Approve the Board Meeting Minutes of December 15, 2016
- 4.2 Approve Revised Board Meeting Calendar
- 4.3 Approve/Ratify Purchase Orders and Warrants
- 4.4 Approve/Ratify Contracts for Services
- 4.5 Authorize Disposal of Surplus Property
- 4.6 Approve the Personnel Register
- 4.7 Approve New Job Description for Adult Education Teacher on Special Assignment (TOSA)
- 4.8 Approve New Job Description for Senior Director of Business Services
- 4.9 Approve a Temporary Separate ASB Account to Process Donations
- 4.10 Approve Notice of Completion – California Commercial Pools - CUSD 2014/15-012 Pool Deck Replacement and Miscellaneous Improvements at the Brian Bent Memorial Aquatics Complex
- 4.11 Approve Resolutions to Designate Authorized Representatives to San Diego County Schools Fringe Benefits Consortium and to the San Diego County Schools Risk Management Joint Powers Authority for Workers' Compensation, Property & Liability Or Any Other Risk or Plan Authorized By Law
- 4.12 Adopt Resolutions Authorizing Delegation of Power to Contract and Regarding Bidding and Management of Capital Improvement Projects
- 4.13 Accept Uniform Complaint Quarterly Report

## **5.0 ACTION ITEMS**

### **5.1 Approve Implementation of a Supplemental Employee Retirement Plan (SERP)**

Motion: Simon

Second: Pontes

Vote: 5-0

**#44**

### **5.2 Elect One Board Member and One Alternate Board Member to Represent the Coronado Unified School District to Serve on the Coronado Financing Authority and the Successor Agency**

Motion: Simon Second: Valdes Vote: 5-0 **#45** Member Smith was appointed to serve on the Coronado Financing Authority with Member Russell to serve as the alternate.

## **6.0 REPORTS**

### **6.1 Business Services Report**

Associate Superintendent Keith Butler presented the Business Services Report and thanked the current and past Board for their support and stated it has been a pleasure to work in Coronado.

### **6.2 Learning Report: Instructional Program to Support English Learners**

Senior Director of Learning, Claudia Gallant presented the Learning Department Report.

### **6.3 Update on CASLE, Committee to Analyze the Student Learning Environments (Oral, 15 minutes)**

CASLE Committee Member and Trustee Smith gave an update to the Board on the progress made and current status.

## **7.0 FIRST READING**

### **7.1 Revision to Coronado High School Science Graduation Requirements**

## **8.0 ORGANIZATIONAL BUSINESS**

### **8.1 Proposed List of Agenda Items for Future Board Meetings**

### **8.2 Upcoming Meetings**

- Regular Board Meeting, February 16, 2017
- Regular Board Meeting, March 9, 2017
- Regular Board Meeting, April 13, 2017
- Special Board Meeting, May 18, 2017
- Special Board Meeting, June 8, 2017
- Regular Board Meeting, June 22, 2017
- Regular Board Meeting, August 17, 2017
- Regular Board Meeting, September 14, 2017



## **9.0 CONVENE TO CLOSED SESSION**

The Board convened to Closed Session at 7:20 PM

- 9.1 Student Matters: Settlement Agreement, Government Code 54962 and Education Code 35146
- 9.2 Conference with Legal Counsel, Anticipated and /or Pending Litigation, Government Code Section 54956.9 (one case)
- 9.3 Discussion of Negotiations with ACT (Employee Organization) with Superintendent Mueller (Chief Negotiator), per Government Code 5495
- 9.4 Public Employee Releases/Resignations/Discipline/Dismissals/Reassignments/Non-Reelections (Government Code Section 54957)

## **10.0 RECONVENE TO OPEN SESSION**

### **10.1 Report Any Action Taken in Closed Session**

The Board reconvened to Open Session at 8:44 PM. The following action was reported: On motion by Member Smith, seconded by Member Pontes, the Board voted unanimously on Agenda Item 9.1 to accept Student Settlement Agreement. The Board gave direction to proceed with \$1,000 file fee and direction for meditation on Agenda Item 9.2. No other action was taken in Closed Session.

## **11.0 ADJOURN**

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Karl Mueller, Superintendent

## AGENDA - February 16, 2017

### 4.0 CONSOLIDATED MOTION FOR CONSENT CALENDAR

#### **BUSINESS & FISCAL MANAGEMENT**

##### 4.2 Approve/Ratify Purchase Orders and Warrants (Action)

##### **Background Information:**

A list of all purchase orders has been submitted to the Governing Board per Education Code 39657. Warrants submitted for ratification and approval represent invoiced payments against purchase orders previously approved. Warrants were audited and approved by the County Superintendent of Schools prior to payment.

##### **Reports:**

Separate cover

##### **Financial Impact:**

Purchase Orders November 1, 2016 through November 30, 2016      \$248,034.30

Commercial Warrants November 1, 2016 through November 30, 2016    \$999,648.782

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##### **Superintendent's Recommendation:**

That the Board approve/ratify the listed purchase orders and warrants.

Moved \_\_\_\_\_ Seconded \_\_\_\_\_

Ayes \_\_\_\_\_ Noes \_\_\_\_\_ Absent \_\_\_\_\_ Abstain \_\_\_\_\_ Student \_\_\_\_\_

##### **ATTACHMENTS:**

	<u>Description</u>	<u>Upload Date</u>	<u>Type</u>	<u>File Name</u>
▣	PO Report December 2016	1/31/2017	Cover Memo	PO_BOARD_REPORT_for_December_2016_2017-01-31.pdf
▣	Warrant Report December 2016	1/31/2017	Cover Memo	WARRANT_BOARD_LIST_DECEMBER_2016_2017-01-31.pdf

**PO Board Report for DECEMBER 2016**

PO No.	PO Date	Supplier	Object	Op Unit	Total	Description
0000004851	12/1/2016	MY PT	5800001	800	2,000.00	PHYSICAL THERAPY FOR SPECIAL ED STUDENT DATES:
0000004852	12/1/2016	SAN DIEGO CENTER FOR CHILDREN	5100001	800	17,948.75	INCLUSIVE EDUCATION PROGRAM FOR SPECIAL ED STU
0000004852	12/1/2016	SAN DIEGO CENTER FOR CHILDREN	5800001	800	25,000.00	INCLUSIVE EDUCATION PROGRAM FOR SPECIAL ED STU
0000004853	12/1/2016	E3 AUDIOMETRICS	4300001	800	570.00	CALIBRATION BY AUDIOMETRICS
0000004854	12/1/2016	ABACOR INC	4300007	755	2,700.00	OPEN PO FOR ACID
0000004855	12/1/2016	KATHY MATHIS	4300001	030	500.00	OPEN PO FOR REIMBURSEMENT FOR SUPPLIES AND FC
0000004856	12/1/2016	FOLLETT SCHOOL SOLUTIONS INC	4200001	010	773.84	PAYMENT FOR BOOK ORDER PLACED BY ROBIN LANG F
0000004857	12/1/2016	NATIONAL ART EDUCATION	5200001	010	239.00	REGISTRATION FOR TRACY HSU TO ATTEND THE NATIC
0000004858	12/1/2016	TOSHIBA BUSINESS SOLUTIONS	5800001	400	150.00	TOSHIBA MOVEMENT ORDER TO MOVE COPIER FROM R
0000004859	12/2/2016	FAGEN FRIEDMAN & FULFROST LLP	6200060	070	700.00	ATTORNEY FEES FOR OCTOBER 31, 2016
0000004860	12/2/2016	ABCANA INDUSTRIES INC	4300007	755	2,700.00	OPEN PO FOR ACID
0000004861	12/2/2016	JACKSON & BLANC	5600001	070	58,960.00	PO REPLACES ORIGINAL PO 0000004606 PO 4606 HAD TC
0000004862	12/2/2016	OFFICE DEPOT	4300001	015	86.57	#168321 - AT-A-GLANCE 3-MONTH WALL CALENDAR, DEC
0000004863	12/2/2016	KRISTEN LIVELY	4300001	400	84.35	REIMBURSE KRISTEN LIVELY FOR SCIENCE LAB CONSUM
0000004864	12/2/2016	CAHPERD	5200001	600	340.00	REGISTRATION FEE FOR RANDY BURGESS TO ATTEND (
0000004865	12/2/2016	OFFICE DEPOT	4300001	600	750.00	OPEN PO FOR COUNSELING DEPARTMENT
0000004866	12/5/2016	DELL COMPUTERS	4300001	400	260.82	DELL CHROME MANAGEMENT CONSOLE LICENSE, EDUC
0000004867	12/5/2016	LA MESA SEW & VAC	4300001	600	51.84	Janome Bobbins
0000004868	12/5/2016	TIFFANY BOUCHARD	5200002	900	41.58	Tiffany Bouchard's Mileage Claim
0000004869	12/5/2016	THE MARVEL GROUP INC	4300001	100	2,911.20	FOCUS DESK WITH EXTENSION SHELF AND CASTERS #
0000004869	12/5/2016	THE MARVEL GROUP INC	4300001	100	-	INTRODUCTORY FREE FOCUS DESK OFFER DISCOUNT-
0000004870	12/5/2016	ANGELY CALLANTA	5200002	900	16.74	Angely Callanta's Mileage Claim for Use of Private Vehicle
0000004871	12/5/2016	SMOKY BAYLESS	4300001	600	127.44	REIMBURSEMENT FOR A STEREO FOR FOREIGN LANGU
0000004872	12/5/2016	TEACHER'S DISCOVERY	4300001	600	12.96	ARGENTINA POSTER 1P1738
0000004872	12/5/2016	TEACHER'S DISCOVERY	4300001	600	4.59	BLOOM POSTER 1P1863
0000004872	12/5/2016	TEACHER'S DISCOVERY	4300001	600	12.96	COLOR POSTER 1P1436
0000004872	12/5/2016	TEACHER'S DISCOVERY	4300001	600	12.42	DON QUIXOTE POSTER
0000004872	12/5/2016	TEACHER'S DISCOVERY	4300001	600	37.75	DRY ERASE 10 1E0089510
0000004872	12/5/2016	TEACHER'S DISCOVERY	4300001	600	32.40	DRY ERASE POSTERS 1P1505
0000004872	12/5/2016	TEACHER'S DISCOVERY	4300001	600	4.59	FAILURE POSTER 1P1574
0000004872	12/5/2016	TEACHER'S DISCOVERY	4300001	600	192.78	FRENCH MAPS 1F0989
0000004872	12/5/2016	TEACHER'S DISCOVERY	4300001	600	4.59	KEEP CALM POSTER 1P1417
0000004872	12/5/2016	TEACHER'S DISCOVERY	4300001	600	12.96	LE LOUVRE POSTER 1P1520
0000004872	12/5/2016	TEACHER'S DISCOVERY	4300001	600	35.59	LES ARTISTES FRANCAIS #1Y0293
0000004872	12/5/2016	TEACHER'S DISCOVERY	4300001	600	12.96	MACHU PICCHU POSTER 1P1386
0000004872	12/5/2016	TEACHER'S DISCOVERY	4300001	600	105.84	MAGNETIC STUDENT DRY ERASE BOARDS/30 1E0089530
0000004872	12/5/2016	TEACHER'S DISCOVERY	4300001	600	2.69	MONTHS OF THE YEAR 1P2036
0000004872	12/5/2016	TEACHER'S DISCOVERY	4300001	600	10.64	MOROCCO FLAG 1M0049

0000004872	12/5/2016	TEACHER'S DISCOVERY	4300001	600	35.59	REGIONS OF FRANCE 1Y0308
0000004872	12/5/2016	TEACHER'S DISCOVERY	4300001	600	4.59	RESPONSIBLE POSTER 1P1068
0000004872	12/5/2016	TEACHER'S DISCOVERY	4300001	600	4.59	SPEAK POSTER 1P1416
0000004872	12/5/2016	TEACHER'S DISCOVERY	4300001	600	4.59	TWO LANGUAGES POSTER 1P1878
0000004873	12/5/2016	LAKE SHORE LEARNING MATERIALS	4300001	600	24.83	HEAVY DUTY POCKET CHART LK297/BLUE
0000004874	12/5/2016	LAW OFFICES OF SCHWARTZ	5800001	800	5,500.00	SETTLEMENT AGREEMENT #2016030556
0000004875	12/5/2016	SAN DIEGO REFRIGERATION	4300001	070	987.50	CONFIRMATION PO FOR \$987.50
0000004876	12/5/2016	EDWARD KRAMER	4300001	601	476.26	Ed Kramer reimb
0000004877	12/5/2016	TANYA WHITE	4300001	100	516.03	REIMBURSEMENT FOR CHARACTER COUNTS SUPPLIES
0000004878	12/5/2016	KRISTOPHER L APPLE	5800001	601	2,390.40	Consulting contract for Kristopher Apple Dates of Services: 9/2
0000004879	12/5/2016	MISSION JANITORIAL SUPPLY	4400001	070	2,034.94	CONFIRMATION PO TO PAY MISSION INVOICE #537358-01
0000004880	12/5/2016	OFFICE DEPOT	4300001	100	12.10	1/4" STAPLES #221051
0000004880	12/5/2016	OFFICE DEPOT	4300001	100	9.74	2 X 2 POST IT NOTES #971946
0000004880	12/5/2016	OFFICE DEPOT	4300001	100	20.36	3 X 3 POST IT NOTES #504728
0000004880	12/5/2016	OFFICE DEPOT	4300001	100	21.54	ASSORTED EXPO MARKERS #528712
0000004880	12/5/2016	OFFICE DEPOT	4300001	100	9.54	FINE POINT BLACK SHARPIES #203349
0000004880	12/5/2016	OFFICE DEPOT	4300001	100	9.54	FLORESCENT HIGHLIGHTERS #203174
0000004880	12/5/2016	OFFICE DEPOT	4300001	100	14.88	FORAY BALLPOINT BLUE PENS #355143
0000004880	12/5/2016	OFFICE DEPOT	4300001	100	13.33	MANILA FOLDERS #543280
0000004880	12/5/2016	OFFICE DEPOT	4300001	100	17.23	SCOTCH MAGIC TAPE & TAPE DISPENSER #567213
0000004880	12/5/2016	OFFICE DEPOT	4300001	100	14.35	STAPLER #908194
0000004880	12/5/2016	OFFICE DEPOT	4300001	100	14.02	WASHABLE MARKERS #914006
0000004880	12/5/2016	OFFICE DEPOT	4300001	100	14.79	WHITE CARD STOCK #348359
0000004881	12/5/2016	WHITNEY DESANTIS	4300001	100	106.92	REIMBURSEMENT FOR CHARACTER COUNTS SUPPLIES
0000004882	12/5/2016	TOSHIBA BUSINESS SOLUTIONS	4300001	100	700.00	OPEN PO #4365- ECDC CONTRACT #1106937-001ECDC-19
0000004883	12/5/2016	LAKE SHORE LEARNING MATERIALS	4300001	031	139.32	LAKE SHORE CLASSROOM CD & CASSETTE PLAYER WITH
0000004884		CANCELED				
0000004885	12/6/2016	PURCHASE ADVANTAGE CARD	4300001	030	1,500.00	EXTENSION OF PO #4116 FOR PURCHASE OF FOOD SUP
0000004886	12/6/2016	DELL COMPUTERS	4300001	100	1,458.00	BRETTFORD STORE AND CHARGE CORE 36M CART FOR
0000004886	12/6/2016	DELL COMPUTERS	4400001	100	10,646.64	DELL CHROMEBOOK 11, SERVICE, GOOGLE CHROME M/
0000004887	12/8/2016	MATTHEW ANDRIJASEVICH	4300001	100	100.00	REIMBURSEMENT FOR 5TH GRADE PURCHASE
0000004888	12/8/2016	TIFFANY BOUCHARD	5200001	900	466.63	Tiffany Bouchard's Travel expense Claim
0000004889	12/8/2016	ANGELY CALLANTA	5200001	900	338.21	Angely Gaviola's (Callanta) Travel Expense Claim
0000004890		CANCELED				
0000004891	12/8/2016	DELIBRAINY LLC	5800001	010	1,000.00	TRAINING FOR CURRICULUM CIRCLE OF EDUCATION TR
0000004892	12/8/2016	ASSOCIATION OF CORONADO	8699000		1,635.00	REISSUE CHECK TO ACT FOR TWO CHECKS ISSUED ANI
0000004893		CANCELED				
0000004894	12/8/2016	TRACY HSU	5200001	010	336.20	REIMBURSE TRACY HSU FOR AIRFARE FOR ANNUAL NA
0000004895	12/8/2016	FIREKING	4300001	400	35.00	CMS REPLACEMENT KEYS FOR CUM FILES (COMES WITH
0000004896	12/9/2016	UNITED RENTALS	5600001	070	5,000.00	OPEN PO FOR EQUIPMENT RENTAL 2016/17

0000004897	12/9/2016	EL CORDOVA GARAGE	5600001	070	5,000.00	OPEN PO TO REPLACE #4442 FOR 2016/17
0000004898	12/9/2016	SUPERINTENDENT OF SCHOOLS SDC	5200001	810	45.00	COMMUNICATION SEVERITY SCALES - CONF REGISTRA
0000004898	12/9/2016	SUPERINTENDENT OF SCHOOLS SDC	5200001	810	45.00	COMMUNICATION SEVERITY SCALES - CONF REGISTRA
0000004898	12/9/2016	SUPERINTENDENT OF SCHOOLS SDC	5200001	810	45.00	COMMUNICATION SEVERITY SCALES - CONF REGISTRA
0000004898	12/9/2016	SUPERINTENDENT OF SCHOOLS SDC	5200001	810	45.00	COMMUNICATION SEVERITY SCALES - CONF REGISTRA
0000004898	12/9/2016	SUPERINTENDENT OF SCHOOLS SDC	5200001	810	45.00	COMMUNICATION SEVERITY SCALES - CONF REGISTRA
0000004899	12/9/2016	VORTEX INDUSTRIES INC	5600005	070	7,975.16	BBMAC DOOR REVERSAL DSA CLOSEOUT
0000004900	12/9/2016	XCITE STEPS	5800001	800	2,000.00	PER SETTLEMENT AGREEMENT #2016030556 PARAGRAF
0000004901	12/9/2016	SIERRA SCHOOL EQUIPMENT CO	4300001	100	1,067.47	VS HOKKI STOOLS 15 " BLACK
0000004902	12/9/2016	EVELEEN COKER	5200001	010	262.96	REIMBURSEMENT FOR FLIGHT TO LUCY CALKINS CONF
0000004903	12/9/2016	PERRY FORD NATIONAL CITY	5600001	070	5,000.00	OPEN PO FOR VEHICLE REPAIR AND PARTS SUPPLIES
0000004904	12/9/2016	KAREN CARLSON	4300001	070	2,000.00	OPEN PO FOR REIMBURSEMENT FOR SUPPLIES 2016/17
0000004905	12/9/2016	AMERICAN LEAK DETECTION	5600005	070	10,000.00	OPEN PO FOR 2016/17
0000004906	12/9/2016	ALLIANCE FOR AFRICAN ASSISTANCE	5800001	800	5,000.00	INTERPRETATION SERVICES FOR CUSD FOR 2016/17DAT
0000004907	12/9/2016	BADGE EXPRESS INC	4300001	040	117.72	FARGO COLOR PRINT RIBBON YMCKO 250 PRINTS PAR
0000004907	12/9/2016	BADGE EXPRESS INC	4300001	040	1,668.60	IDENTIV ISO PVC PROXIMITY CARD PART # 4010 500 QT
0000004908	12/9/2016	SUSAN SMITH	4300001	100	80.03	REIMBURSEMENT 3RD GRADE SUPPLIES
0000004909	12/9/2016	SOUTH BAY UNION	5600003	601	276.00	Bus for Cygnet Field Trip Dec
0000004910	12/12/2016	SIERRA SCHOOL EQUIPMENT CO	4300001	015	892.00	OFFICE MASTER MODEL NO. YS72 WITH KR25 ARMS OVE
0000004911	12/12/2016	SIERRA SCHOOL EQUIPMENT CO	4300001	070	891.00	SIT ON IT MODEL NO. 90TB.UP.A.42.C6.FG2 ONCALL CHAI
0000004912	12/14/2016	SIERRA SCHOOL EQUIPMENT CO	4300001	015	194.19	RIGHT ANGLE MODEL NO. DS500 DOCKING STATION DRA
0000004913	12/14/2016	PATHWAY COMMUNICATIONS LTD	4400001	060	1,655.58	PROJECTOR CASIO XJ-M251 WITH HDMI, WARRANTY, IN
0000004914		CANCELED				
0000004915	12/14/2016	SPICERS PAPER	4300001	600	1,226.88	CASES OF PAPER/20 LB. WHITE PAPER LINE
0000004916	12/14/2016	CAMP YEARBOOK	5800001	600	200.00	CHS PORTION OF TRAINING AND DESIGN WORKSHOP F
0000004917	12/15/2016	VOYAGER SOPRIS LEARNING	4200001	010	562.00	READ WELL PLUS INSTRUCTOR PACKAGE #118447
0000004917	12/15/2016	VOYAGER SOPRIS LEARNING	4200001	010	676.00	READ WELL PLUS STUDENT PACKAGE FOR 6 #130868
0000004918	12/15/2016	VOYAGER SOPRIS LEARNING	4200001	010	324.00	READWELL 1 BLENDING CARDS #131406
0000004918	12/15/2016	VOYAGER SOPRIS LEARNING	4200001	010	36.72	READWELL 1 SOUND CARDS #131414
0000004918	12/15/2016	VOYAGER SOPRIS LEARNING	4200001	010	606.96	READWELL PLUS INSTRUCTOR PACKAGE #118447
0000004919	12/15/2016	CALIFORNIA ASSOCIATION OF	5300001	015	542.00	CASBO ORGANIZATIONAL MEMBERSHIP RENEWAL
0000004920	12/15/2016	OFFICE DEPOT	4300001	100	13.05	CRAYOLA COLORED PENCILS #504928
0000004920	12/15/2016	OFFICE DEPOT	4300001	100	205.15	X-ACTO SCHOOLPRO ELECTRIC PENCIL SHARPENER #5
0000004921	12/15/2016	SCHOOL SPECIALTY INC	4300001	600	3,149.28	RECTANGULAR TABLES #1496712
0000004922	12/15/2016	TWO WAY DIRECT INC	4300001	300	97.09	FNB-V132LI-UNI TWD, VERTEX BATTERIES PER ATTACHI
0000004923	12/15/2016	KELLY SAILERS	5200001	010	1,377.13	REIMBURSE KELLY SAILERS TRAVEL EXPENSES FOR AN
0000004924	12/15/2016	TWO WAY DIRECT INC	4300001	070	540.00	XTR200 WALKIE TALKIES FOR CUSTODIAL COMMUNICA1
0000004925	12/15/2016	SIERRA SCHOOL EQUIPMENT CO	4300001	100	2,134.94	VS HOKKI STOOLS BLACK 15"
0000004926	12/16/2016	JULIE SALVATIERRA	5900002	300	93.26	REIMBURSEMENT FOR POSTAGE EXPENSES
0000004927	12/16/2016	HEINEMANN	4300001	010	108.00	WUOD GRADE 3 ANCHOR CHART STICKY NOTES #WW34

0000004927	12/16/2016	HEINEMANN	4300001	010	129.60	WUOS GRADE 1 ANCHOR CHART STICKY NOTES #W142
0000004927	12/16/2016	HEINEMANN	4300001	010	108.00	WUOS GRADE 2 ANCHOR CHART STICKY NOTES #W243
0000004927	12/16/2016	HEINEMANN	4300001	010	170.00	WUOS GRADE 4 ANCHOR CHART STICKY NOTES #W445
0000004927	12/16/2016	HEINEMANN	4300001	010	108.00	WUOS GRADE 5 ANCHOR CHART STICKY NOTES #W546
0000004927	12/16/2016	HEINEMANN	4300001	010	108.00	WUOS KINDERGARTEN ANCHOR CHART STICKY NOTES
0000004928	12/16/2016	SHANE SCHMEICHEL	5200001	601	1,190.00	Open PO for Schmeichel travel to Sacto - Ed for Careers Conf
0000004929	12/16/2016	ANANDA DEJARNETTE	5200001	010	198.49	REIMBURSE ANANDA DEJARNETTE EXPENSES FOR ANN
0000004930	12/16/2016	SHANE SCHMEICHEL	5200001	601	1,200.00	Open PO for SS for CREATE CA conf, March 2017
0000004931	12/16/2016	OFFICE DEPOT	4300001	600	44.31	CASE OF PAPER 940593
0000004932	12/16/2016	DEMCO	5610500	600	1,069.10	PLATO STOOLS
0000004933	12/16/2016	PACIFIC PLUMBING SPECIALTIES	4300001	070	7,000.00	OPEN FOR SUPPLIES 2016/17
0000004934	12/16/2016	JUNIOR LIBRARY GUILD	4200001	010	510.30	ACN CATEGORY ADULT CROSSOVER HIGH PLUS /3 -YEA
0000004934	12/16/2016	JUNIOR LIBRARY GUILD	4200001	010	437.40	ACN CATEGORY ADULT CROSSOVER NONFICTION HIGH
0000004934	12/16/2016	JUNIOR LIBRARY GUILD	4200001	010	437.40	CTH CATEGORY CURRENT TRENDS HIGH / 3 -YEARS
0000004934	12/16/2016	JUNIOR LIBRARY GUILD	4200001	010	437.40	HH - HISOTRY HIGH / 3 -YEARS
0000004935	12/16/2016	COLLEGE BOARD	5300001	600	325.00	MEMBERSHIP RENEWAL DUE FOR CHS FOR 2016-2017 S
0000004936	12/16/2016	STAPLES ADVANTAGE	4300001	600	10.75	ITEM: 104968 WESTCOTT® 36" WOOD YARDSTICK
0000004936	12/16/2016	STAPLES ADVANTAGE	4300001	600	25.87	ITEM: 130674 STAPLES® DESKTOP TAPE DISPENSER, BL
0000004936	12/16/2016	STAPLES ADVANTAGE	4300001	600	6.79	ITEM: 1433580 JAM PAPER® MAILING ADDRESS LABELS,
0000004936	12/16/2016	STAPLES ADVANTAGE	4300001	600	42.98	ITEM: 382725 WESTCOTT® 6" SHATTERPROOF PLASTIC
0000004936	12/16/2016	STAPLES ADVANTAGE	4300001	600	18.34	ITEM: 485934 SCOTCH® MAGIC™ TAPE 810, 1/2" X 36 YD
0000004936	12/16/2016	STAPLES ADVANTAGE	4300001	600	22.67	ITEM: 487908 STAPLES® INVISIBLE TAPE, 3/4" X 1296", 12I
0000004936	12/16/2016	STAPLES ADVANTAGE	4300001	600	25.24	ITEM: 645838 STAPLES® LETTERSIZETRAYS, BLACK, 2/P
0000004936	12/16/2016	STAPLES ADVANTAGE	4300001	600	22.67	ITEM: 917878 BROTHER TZE2213/8" PTOUCHLABEL TAPE
0000004937	12/19/2016	COUNTY OF SAN DIEGO	5800010	070	911.00	FACILITY PERMIT RENEWAL PERIOD 01/13/2017 - 01/31/20
0000004938	12/19/2016	OFFICE DEPOT	4300001	600	68.89	DELL K4971 BLACK TONER/#705995
0000004939	12/19/2016	OFFICE DEPOT	4300001	600	730.06	HP80X #894076
0000004940	12/19/2016	SCHOOL SPECIALTY INC	4300001	600	301.95	RECTANGULAR TABLE #1496801
0000004941	12/19/2016	MARIA SIMON	5200001	009	160.91	EXPENSE REIMBURSEMENT FOR MARIA SIMON:CSBA CC
0000004942		CANCELED				
0000004943	12/19/2016	KAMI MCELLIGOTT	5200001	009	81.10	EXPENSE REIMBURSEMENT FOR KAMI MCELLIGOTT:CSE
0000004944		CANCELED				
0000004945	12/19/2016	TAMMY MARBLE	4300001	300	275.40	REIMBURSEMENT FOR BIKES AND RELATED ITEMS FOR
0000004946	12/19/2016	E3 AUDIOMETRICS	4300001	800	150.00	DETECTIV - MAICO REPAIR
0000004947	12/20/2016	BRIGHTVIEW LANDSCAPE SERVICES	5600001	070	3,488.00	ONE TIME MAINTENANCE SERVICE TO LANDSCAPE ARE,
0000004948	12/20/2016	JOHNSTONE SUPPLY	4300001	070	6,500.00	OPEN FOR 2016/17 SUPPLIES
0000004949	12/20/2016	SOUTH BAY FENCE INC	5600005	070	12,500.00	OPEN TO REPLACE #4028 2016/17

**PO TOTAL \$ 248,034.30**

**Site**

001	Districtwide
009	Superintendent Office
010	Curriculum and Instruction
015	Business Services
030	ECDC
031	Crown Preschool
040	Human Resources
050	Child Nutrition
060	Technology
070	Maintenance and Operations
100	Village Elementary
300	Strand
400	CMS
600	CHS
601	CoSA
602	Athletics
700	Palm Academy
750	Pathways Charter
755	BBMAC
800	Special Education
810	Pupil Services
900	Adult Education
910	ROP

**Warrant Board Listing December 2016**

Warrant ID	Name	Date	Amount	Description	Fund
14193121	SUPERINTENDENT OF SCHOOLS SDCOE	12/1/2016	150.00	What's New in Children's Liter	0100
14193122	FASTENAL COMPANY	12/1/2016	160.43	OPEN PO FOR PARTS 2016/17	0100
14193123	XCITE STEPS	12/1/2016	9,475.47	BEHAVIOR INTERVENTION FOR SPEC	0100
14193124	SOUTH BAY FENCE INC	12/1/2016	1,595.00	MODIFY EXISTING HAND RAIL UP T	4000
14193125	AZTEC FIRE & SAFETY, INC	12/1/2016	157.40	OPEN FOR AZTEC FIRE & SAFETY I	0100
14193126	A+ WINDOW CLEANING	12/1/2016	460.00	OPEN PO TO REPLACE #4027	0100
14193127	READYREFRESH BY NESTLE	12/1/2016	128.16	ARROWHEAD WATER ORDER FOR 2016	0100
14193128	CALIFORNIA-AMERICAN WATER CO	12/1/2016	19,340.82	OPEN PO FOR 2016/17 WATER USAG	0100
14193129	CLAUDIA GALLANT	12/1/2016	139.86	Open PO for mileage for Claudi	0100
14193130	OFFICE DEPOT	12/1/2016	2,596.84	OPEN PO FOR FRONT OFFICE SUPPL	0100
14193131	EL CORDOVA GARAGE	12/1/2016	1,625.31	OPEN PO FOR 2016/17 FOR MAINT	0100
14193132	KNORR SYSTEMS INC	12/1/2016	12,848.19	BECSYS 7 MECHANICAL ROOM CONTR	4000
14193133	MISSION JANITORIAL SUPPLY	12/1/2016	300.64	OPEN PO FOR SUPPLIES FOR OPERA	0100
14193134	MCGREGOR & ASSOCIATES INC	12/1/2016	737.80	OPEN PO FOR 2016/17 MONTHLY FEE	0100
14193135	PATHWAY COMMUNICATIONS LTD	12/1/2016	1,655.58	PROJECTOR CASIO XJ-M251 WITH H	4000
14193136	TOSHIBA BUSINESS SOLUTIONS	12/1/2016	169.54	OPEN PO FOR COPIES MADE ON TOS	0100
14193137	VALLEY INDUSTRIAL SPECIALTIES	12/1/2016	155.85	OPEN PO FOR PLUMBING SUPPLIES	0100
14193138	VECTOR RESOURCES INC	12/1/2016	3,598.60	CISCO UC ENHANCED USER LICENSE	4000
14193139	WAXIE	12/1/2016	5,669.20	OPEN PO FOR SUPPLIES FOR OPERA	0100
14193721	BALFOUR BEATTY CONSTRUCTION	12/2/2016	146,243.00	ENERGY CONSERVATION PROJECT SE	4000
14193722	LAW OFFICES OF SCHWARTZ	12/2/2016	5,500.00	PER SETTLEMENT AGREEMENT, #201	0100
14194299	SUPERINTENDENT OF SCHOOLS SDCOE	12/5/2016	222.75	SCIA BINDERS	0100
14194300	SABRA BERKLEY CHIDESTER	12/5/2016	840.00	2016-17 Chidester contract	0100
14194301	SHANNON E COULTER	12/5/2016	449.25	Reimbursement for DoDEA Post A	0100
14194302	PURCHASE ADVANTAGE CARD	12/5/2016	469.80	OPEN PO FOR PURCHASING FOOD SU	0100
14194303	CALIFORNIA ASSOCIATION OF	12/5/2016	105.00	REGISTRATION FOR CASBO EVENT O	0100
14194304	CLAUDIA GALLANT	12/5/2016	1,355.77	Reimbursement for DoDEA Post A	0100
14194305	FOLLETT SCHOOL SOLUTIONS INC	12/5/2016	773.84	PAYMENT FOR BOOK ORDER PLACED	0100
14194306	KATHY MATHIS	12/5/2016	401.19	OPEN PO FOR REIMBURSEMENT FOR	1200
14194307	MY PT	12/5/2016	700.00	PHYSICAL THERAPY FOR SPECIAL E	0100
14194308	NUCO2 LLC	12/5/2016	102.91	CO2 GAS	1900
14194948	KYLE MCCARTIN	12/6/2016	69.66	OPEN MILEAGE - KYLE MCCARTIN;	0100
14194949	CHARITY JOHNSON	12/6/2016	112.00	OPEN PO FOR TRAVEL/CONFERENCES	1300
14194950	NATIONAL ART EDUCATION	12/6/2016	239.00	REGISTRATION FOR TRACY HSU TO	0100
14194951	ABCANA INDUSTRIES INC	12/6/2016	586.02	OPEN PO FOR ACID	1900
14194952	AFFORDABLE DRAIN SERVICE INC	12/6/2016	216.00	OPEN PO FOR DRAIN CLEANING FOR	0100
14194953	CALIFORNIA-AMERICAN WATER CO	12/6/2016	6,433.02	OPEN PO FOR 2016/17 WATER USAG	0100
14194954	CORONADO LOCK AND KEY	12/6/2016	328.15	OPEN PO FOR LOCKS AND KEY FOR	0100



14194955	FAGEN FRIEDMAN & FULFROST LLP	12/6/2016	700.00	ATTORNEY FEES FOR OCTOBER 31,	4000
14194956	FREEFORM CLAY & SUPPLY	12/6/2016	633.99	OPEN PO FOR FY 16/17 FOR SERVI	0100
14194957	KEITH BUTLER	12/6/2016	83.72	OPEN PO FOR MATERIALS AND SUPP	0100
14194958	KNORR SYSTEMS INC	12/6/2016	5,131.88	KNOR FOR BBMAC CONTROLLER	0100
14194959	KRISTEN LIVELY	12/6/2016	84.35	REIMBURSE KRISTEN LIVELY FOR S	0100
14194960	SAN DIEGO GAS & ELECTRIC	12/6/2016	30,031.90	OPEN PO FOR 2016/17 SCHOOL YEA	0100
14195587	SOUTH BAY FENCE INC	12/7/2016	5,790.00	PO FOR DSA CLOSEOUT STRAND GRE	4000
14195588	STACY MORRISSEY	12/7/2016	19.88	Open mileage PO for Stacy Morr	0100
14195589	READYREFRESH BY NESTLE	12/7/2016	56.32	Open PO for CoSA Arrowhead wat	0100
14195590	CORONADO HARDWARE	12/7/2016	242.44	OPEN PO FOR SUPPLIES FOR MAINT	0100
14196354	SAN DIEGO CENTER FOR CHILDREN	12/8/2016	79,323.60	INCLUSIVE EDUCATION PROGRAM FO	0100
14196355	TECHTUBS	12/8/2016	727.60	PREMIUM TECH TUBS / 2	0100
14196356	MAINTEX INC	12/8/2016	395.28	OPEN PO FOR 2016/17	0100
14196357	JACKSON & BLANC	12/8/2016	5,896.00	PO REPLACES ORIGINAL PO 000000	0100
14196358	IRON MOUNTAIN	12/8/2016	294.01	OPEN PO FOR 2016/17 RECORD DES	0100
14196359	KRISTOPHER L APPLE	12/8/2016	534.40	Consulting contract for Kristo	0100
14196360	APPLE COMPUTER INC	12/8/2016	62.64	ADAPTER MINI DISPLAYPORT TO VG	0100
14196361	AT&T	12/8/2016	7,783.78	OPEN PO FOR 2016/17	0100
14196362	BANYAN TREE FOUNDATION ACADEMY	12/8/2016	8,607.36	INCLUSIVE EDUCATION PROGRAM FO	0100
14196363	CALIFORNIA-AMERICAN WATER CO	12/8/2016	4,917.57	OPEN PO FOR 2016/17 WATER USAG	0100
14196364	CAROLINA BIOLOGICAL SUPPLY CO	12/8/2016	348.62	840357 ENERGY TRANSFORMATIONS	0100
14196365	DAVY ARCHITECTURE	12/8/2016	1,800.00	CUSD DSA CLOSEOUT ASSISTANCE F	4000
14196366	DELTA EDUCATION	12/8/2016	10,104.49	Foss Kit Living Systems Next G	0100
14196367	EDCO DISPOSAL CORP	12/8/2016	4,689.22	OPEN PO FOR TRASH SERVICES FOR	1900
14196368	FLEET SCIENCE CENTER	12/8/2016	325.00	OUTREACH PROGRAM AT SILVER STR	0100
14196369	SOUTH BAY UNION	12/8/2016	48,361.04	OPEN PO FOR 2016/17 BUS TRANSP	0100
14196370	SPRINT	12/8/2016	3,670.06	CELLULAR SERVICE FOR CUSD FOR	0100
14197105	CHRISTY WHITE ASSOCIATES	12/9/2016	12,105.00	Audit Services	0100
14197887	ERIC HALL & ASSOCIATES LLC	12/12/2016	7,900.00	PROFESSIONAL SERVICE TO PROVID	0100
14198691	WHITNEY DESANTIS	12/13/2016	106.92	REIMBURSEMENT FOR CHARACTER CO	0100
14198692	SOUTH BAY FENCE INC	12/13/2016	595.00	OPEN PO FOR FENCE REPAIR DISTR	0100
14198693	ANGELY CALLANTA	12/13/2016	354.95	Angely Callanta's Mileage Clai	1100
14198694	JESSICA HARRISON	12/13/2016	270.00	2016-17 Jessica Harrison contr	0100
14198695	LA MESA SEW & VAC	12/13/2016	52.20	Janome Bobbins	0100
14198696	KATHERINE HARROFF	12/13/2016	425.00	Haroff contract 2016-17	0100
14198697	SMOKY BAYLESS	12/13/2016	127.44	REIMBURSEMENT FOR A STEREO FOR	0100
14198698	TANYA WHITE	12/13/2016	516.03	REIMBURSEMENT FOR CHARACTER CO	0100
14198699	KRISTOPHER L APPLE	12/13/2016	66.80	Consulting contract for Kristo	0100
14198700	APPLE COMPUTER INC	12/13/2016	507.32	REPLACE SHATTERED IMAC GLASS F	0100
14198701	AUTOMATED CONTROLS SERVICES	12/13/2016	656.63	OPEN PO FOR SERVICE/REPAIRS AN	0100

14198702	BARNES & NOBLE BOOK STORE	12/13/2016	864.41	Number Talks: Fractions, Decim	0100
14198703	DEPARTMENT OF JUSTICE	12/13/2016	343.00	OPEN PO FOR 2016/17 FINGERPRIN	0100
14198704	EL CORDOVA GARAGE	12/13/2016	168.90	OPEN PO FOR 2016/17 FOR MAINT	0100
14198705	GRAINGER	12/13/2016	275.04	OPEN PO FOR SUPPLIES FOR M&O F	0100
14198706	HUNTINGTON HARDWARE CO INC	12/13/2016	1,277.02	OPEN PO FOR 2016/17	0100
14198707	JASON RAMOS	12/13/2016	48.87	MILEAGE	0100
14198708	MISSION JANITORIAL SUPPLY	12/13/2016	2,034.94	CONFIRMATION PO TO PAY MISSION	0100
14198709	ROBINSON CO CONTRACTORS INC	12/13/2016	364.00	OPEN PO FOR ELECTRICAL AND LIG	0100
14198710	SCHOOLDUDE.COM INC	12/13/2016	6,065.57	ANNUAL SERVICE CONTRACT FOR SC	0100
14198711	SAN DIEGO REFRIGERATION	12/13/2016	987.50	CONFIRMATION PO FOR \$987.50	0100
14198712	TIFFANY BOUCHARD	12/13/2016	508.21	Tiffany Bouchard's Mileage Cla	1100
14198713	WAXIE	12/13/2016	411.48	OPEN PO FOR SUPPLIES FOR OPERA	0100
14199611	XCITE STEPS	12/14/2016	1,125.00	PER SETTLEMENT AGREEMENT #2016	0100
14199612	MARK MARGOLIES	12/14/2016	745.50	OPEN PO FOR INDEPENDENT CONSUL	0100
14199613	CESAR M VILLELA	12/14/2016	576.40	2016-17 Cesar M. Villela contr	0100
14199614	KAREN CARLSON	12/14/2016	123.57	OPEN PO FOR REIMBURSEMENT FOR	0100
14199615	PAL GENERAL ENGINEERING INC	12/14/2016	4,538.24	CONCRETE AND DRAINAGE - VARIOU	4000
14199616	EDWARD KRAMER	12/14/2016	476.26	Ed Kramer reimb	0100
14199617	COUNTYWIDE MECHANICAL	12/14/2016	2,746.73	OPEN PO REPLACEMENT FOR PO 396	0100
14199618	DATEL SYSTEMS INCORPORATED	12/14/2016	1,416.92	ONSITE SUPPORT & MAINTENANCE F	0100
14199619	EL CORDOVA GARAGE	12/14/2016	33.97	OPEN PO FOR 2016/17 FOR MAINT	0100
14199620	KNORR SYSTEMS INC	12/14/2016	1,113.43	OPEN PO FOR THE BBMAC PUMP ROO	0100
14199621	TRACY HSU	12/14/2016	336.20	REIMBURSE TRACY HSU FOR AIRFAR	0100
14199622	WARD'S SCIENCE	12/14/2016	63.72	ITEM 6672323 WIRE LEADS WITH A	0100
14200362	JASPERTRONICS	12/15/2016	185.98	BLFP240B PROJECTOR BULBS	0100
14200363	READYREFRESH BY NESTLE	12/15/2016	335.45	OPEN PO FOR 2016/17 SCHOOL YEA	0100
14200364	DELL COMPUTERS	12/15/2016	3,912.37	15 DELL CHROMEBOOK 11 AND LICE	0100
14200365	EDCO DISPOSAL CORP	12/15/2016	395.53	OPEN PO FOR 2016/17 FOR WASTE	0100
14200366	GOLDEN IMAGE WINDOW COVERING	12/15/2016	689.00	OPEN PO FOR SERVICE/REPAIR FOR	0100
14200367	LLOYD PEST CONTROL CO INC	12/15/2016	1,980.00	OPEN PO FOR SERVICE/REPAIRS (P	1300
14200368	TIME WARNER CABLE	12/15/2016	14.46	OPEN PO FOR CABLE CONVERTER BO	0100
14200369	WAXIE	12/15/2016	5,391.72	OPEN PO FOR SUPPLIES FOR OPERA	0100
14201168	SUPERINTENDENT OF SCHOOLS SDCOE	12/16/2016	750.00	Registration for Secondary NGS	0100
14201169	CAMP YEARBOOK	12/16/2016	200.00	CHS PORTION OF TRAINING AND DE	0100
14201170	MARK MARGOLIES	12/16/2016	747.00	OPEN PO FOR INDEPENDENT CONSUL	0100
14201171	KIRSTIN GREEN	12/16/2016	800.00	Mural Work	4000
14201172	JACKSON & BLANC	12/16/2016	5,896.00	PO REPLACES ORIGINAL PO 000000	0100
14201173	AUTOMATED CONTROLS SERVICES	12/16/2016	37.50	OPEN PO FOR SERVICE/REPAIRS AN	0100
14201174	DEBRA E RODGERS	12/16/2016	10.80	OPEN PO FOR MILEAGE FOR DEBBIE	0100
14201175	MISSION JANITORIAL SUPPLY	12/16/2016	1,013.12	OPEN PO FOR SUPPLIES FOR OPERA	0100

14201176	STANDARD ELECTRONICS	12/16/2016	459.92	OPEN PO TO REPLACE PO 4027 STA	0100
14201177	SPICERS PAPER	12/16/2016	37.23	P0206315 GLOBAL OFFICE PAPER 0	0100
14201178	TOSHIBA BUSINESS SOLUTIONS	12/16/2016	1,308.96	OPEN PO FOR FY 2016-17 FOR TOS	0100
14201179	UPS	12/16/2016	57.92	OPEN PO FOR POSTAGE USAGE FOR	0100
14202012	SUPERINTENDENT OF SCHOOLS SDCOE	12/19/2016	246.24	ONE BOX OF 500 QTY BUSINESS CA	0100
14202013	XCITE STEPS	12/19/2016	10,224.21	NPA BEHAVIOR INTERVENTION FOR	0100
14202014	COMMUNITY SCHOOL SAN DIEGO	12/19/2016	4,592.00	INCLUSIVE EDUCATION PROGRAM FO	0100
14202015	DAVID LYON	12/19/2016	325.00	OPEN PO FOR VIDEO STREAMING FO	0100
14202016	ROYAL WINDOW COVERINGS INC	12/19/2016	1,250.00	OPEN FOR 2016/17 BLIND/SHADE/W	0100
14202017	MATTHEW ANDRIJASEVICH	12/19/2016	100.00	REIMBURSEMENT FOR 5TH GRADE PU	0100
14202018	BANK OF AMERICA	12/19/2016	7,451.51	OPEN PO FOR CREDIT CARD PURCHA	0100
14202019	CDW GOVERNMENT INC	12/19/2016	318.25	HAP LASERJET PRO M402DN MFG #C	0100
14202020	BRAIN LEARNING	12/19/2016	3,500.00	INDEPENDENT EDUCATIONAL EVALUA	0100
14202021	KEITH BUTLER	12/19/2016	2,160.30	OPEN PO FOR TRAVEL AND CONFRER	0100
14202022	SAN DIEGO CENTER FOR VISION	12/19/2016	725.00	VISION THERAPY AND REASSESSMEN	0100
14202023	SHANE SCHMEICHEL	12/19/2016	1,730.59	Reimbursement for DoDEA Post A	0100
14202024	TOSHIBA BUSINESS SOLUTIONS	12/19/2016	549.14	COPY USAGE ON TOSHIBA COPIER A	0100
14202025	VALERO MARKETING AND SUPPLY CO	12/19/2016	1,027.64	OPEN PO FOR FUEL FY 2016/17	1300
14203170	THE INSTITUTE FOR EFFECTIVE	12/21/2016	9,931.32	INCLUSIVE EDUCATION PROGRAM FO	0100
14203171	DANIEL L GREEN	12/21/2016	1,300.00	2016-17 Green contract	0100
14203172	TEL TECH PLUS INC	12/21/2016	1,592.27	LOW VOLTAGE & FIBER OPTIC INST	4000
14203173	STACY MORRISSEY	12/21/2016	24.84	Open mileage PO for Stacy Morr	0100
14203174	CHARITY JOHNSON	12/21/2016	46.39	OPEN PO FOR FOOD PURCHASES FY	1300
14203175	ROYAL WINDOW COVERINGS INC	12/21/2016	1,700.00	OPEN FOR 2016/17 BLIND/SHADE/W	0100
14203176	FOOD 4 THOUGHT LLC	12/21/2016	550.75	OPEN PO FOR FARM FRESH FRUITS	1300
14203177	GALASSO'S BAKERY	12/21/2016	858.59	OPEN PO FOR FRESH BREAD FY 201	1300
14203178	ASSOCIATION OF CORONADO	12/21/2016	1,635.00	REISSUE CHECK TO ACT FOR TWO C	0100
14203179	BALFOUR BEATTY CONSTRUCTION	12/21/2016	243,612.00	ENERGY CONSERVATION PROJECT SE	4000
14203180	KAMI MCELLIGOTT	12/21/2016	81.10	EXPENSE REIMBURSEMENT FOR KAMI	0100
14203181	ANANDA DEJARNETTE	12/21/2016	198.49	REIMBURSE ANANDA DEJARNETTE EX	0100
14203182	CARE A VAN TRANSPORT	12/21/2016	30,790.00	OPEN PO FOR 2016/17 FOR SPECIA	0100
14203183	COUNTY OF SAN DIEGO	12/21/2016	911.00	FACILITY PERMIT RENEWAL PERIOD	0100
14203184	COLLEGE BOARD	12/21/2016	325.00	MEMBERSHIP RENEWAL DUE FOR CHS	0100
14203185	COMMERCIAL GAS APPLIANCE	12/21/2016	872.52	OPEN PO FOR SERVICE/REPAIRS FY	1300
14203186	DIAMOND JACK ENTERPRISES	12/21/2016	2,829.80	OPEN PO FOR PRODUCE FOR FY 201	1300
14203187	OFFICE DEPOT	12/21/2016	2,060.24	OPEN PO FOR ADULT EDUCATION OF	1100
14203189	GOLD STAR FOODS INC	12/21/2016	10,816.19	OPEN PO FOR FOOD FY 2016-17	1300
14203190	GRAINGER	12/21/2016	197.02	OPEN PO FOR SUPPLIES FOR M&O F	0100
14203191	HARRIS SCHOOL SOLUTIONS	12/21/2016	477.02	OPEN PO FOR SUPPORT FEES (TRAN	1300
14203192	HOLLANDIA DAIRY	12/21/2016	1,911.00	OPEN PO FOR FOOD FY 2016/17	1300

14203193	MARIA SIMON	12/21/2016	160.91	EXPENSE REIMBURSEMENT FOR MARI	0100
14203194	MY PT	12/21/2016	1,750.00	PHYSICAL THERAPY FOR SPECIAL E	0100
14203195	P&R PAPER SUPPLY COMPANY	12/21/2016	1,560.35	OPEN PO FOR PAPER PRODUCTS FY	1300
14203196	PJ CLEVELAND LLC	12/21/2016	3,034.40	OPEN PO FOR PREPARED AND PRESE	1300
14203197	PATHWAY COMMUNICATIONS LTD	12/21/2016	1,655.58	PROJECTOR CASIO XJ-M251 WITH H	4000
14203198	SHANE SCHMEICHEL	12/21/2016	300.00	Open PO for SS for CREATE CA c	0100
14203705	KYLE MCCARTIN	12/22/2016	37.26	OPEN MILEAGE - KYLE MCCARTIN;	0100
14203706	JOHNSTONE SUPPLY	12/22/2016	519.47	OPEN FOR 2016/17 SUPPLIES	0100
14203707	BRIGHTVIEW LANDSCAPE SERVICES	12/22/2016	3,488.00	ONE TIME MAINTENANCE SERVICE T	4000
14203708	AMERICAN RED CROSS	12/22/2016	27.00	OPEN PO FOR CERTIFICATION FEE	1900
14203709	AT&T	12/22/2016	4,272.52	OPEN PO FOR 2016/17	0100
14203710	CALIFORNIA-AMERICAN WATER CO	12/22/2016	20,091.01	OPEN PO FOR 2016/17 WATER USAG	0100
14203711	CARRIE FISHER-FERNAN	12/22/2016	150.00	OPEN PO FOR MATERIALS	1900
14203712	DELTA EDUCATION	12/22/2016	57,772.87	LM Foss Struc of Life Crayfish	0100
14203713	OFFICE DEPOT	12/22/2016	368.59	OPEN PO FOR 2016/17 - OFFICE S	0100
14203714	EVELEEN COKER	12/22/2016	262.96	REIMBURSEMENT FOR FLIGHT TO LU	0100
14203715	HANDWRITING WITHOUT TEARS INC	12/22/2016	143.59	BLACKBOARD WITH DOUBLE LINES	0100
14203716	HOME DEPOT	12/22/2016	1,739.29	OPEN PO FOR 2016/17 - SUPPLIES	0100
14203717	JULIE SALVATIERRA	12/22/2016	93.26	REIMBURSEMENT FOR POSTAGE EXPE	0100
14203718	LAKESHORE LEARNING MATERIALS	12/22/2016	188.50	LAKESHORE CLASSROOM CD & CASSE	6300
14203719	MASON'S SAW & LAWNMOWER	12/22/2016	179.37	OPEN PO FOR FY 2016/17 MASON'S	0100
14203720	NASCO MODESTO	12/22/2016	1,366.16	ITEM#: WA27428H COATS AND CLAR	0100
14203721	NUCO2 LLC	12/22/2016	238.11	TANK RENTAL FOR CO2	1900
14203722	SAN DIEGO GAS & ELECTRIC	12/22/2016	31,147.55	OPEN PO FOR 2016/17 SCHOOL YEA	0100
14203723	S&S BAKERY INC	12/22/2016	138.65	OPEN PO FOR FRESH BREAD SY 201	1300
14203724	SUSAN SMITH	12/22/2016	80.03	REIMBURSEMENT 3RD GRADE SUPPLI	0100
14203725	TOSHIBA BUSINESS SOLUTIONS	12/22/2016	118.94	OPEN PO FOR TOSHIBA COPIER IN	0100
14203726	VALLEY INDUSTRIAL SPECIALTIES	12/22/2016	432.50	OPEN PO FOR PLUMBING SUPPLIES	0100
14203727	WAXIE	12/22/2016	133.16	OPEN PO FOR SUPPLIES FOR OPERA	0100

**WARRANT TOTAL \$ 999,648.78**

**Fund**

0100	General Fund
1100	Adult Education Fund
1200	Child Development Fund
1300	Cafeteria Fund
1400	Deferred Maintenance Fund
1700	Special Reserve Other than Cap Outlay

1900	BBMAC
2518	Capital Facilities - Developer Fees
4000	Special Reserve - Capital Projects
5700	Foundation Permanent Fund
6200	Charter School Enterprise Fund
6300	Other Enterprise Fund (Crown Preschool)

## AGENDA - February 16, 2017

### 4.0 CONSOLIDATED MOTION FOR CONSENT CALENDAR

#### BUSINESS AND FISCAL MANAGEMENT

##### 4.3 Approve/Ratify Contracts for Services (Action)

##### **Background Information:**

Board Policy 3312 states “The Superintendent or designee may enter into contracts on behalf of the District. All contracts must be approved or ratified by the Governing Board. No contract made under this delegation of power shall be valid until the Board approves or ratifies the contract.

##### **Reports:**

The attached contracts need the approval/ratification of the Board.

##### **Financial Impact:**

The attached contracts listed above will be paid from the sources as noted. All of the listed contracts are included in the current 2016-17 District budget.

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##### **Superintendent's Recommendation:**

That the Board approve/ratify the contracts for services.

Moved \_\_\_\_\_ Seconded \_\_\_\_\_

Ayes \_\_\_\_\_ Noes \_\_\_\_\_ Absent \_\_\_\_\_ Abstain \_\_\_\_\_ Student \_\_\_\_\_

##### **ATTACHMENTS:**

	<u>Description</u>	<u>Upload Date</u>	<u>Type</u>	<u>File Name</u>
▣	Contracts for Services 2017-02-16	2/7/2017	Cover Memo	Contracts_for_Services_2017-02-16.pdf

The following contracts require approval/ratification from the Board at the February 16, 2017 Board Meeting.

<b>Name</b>	<b>Description</b>	<b>Dates</b>	<b>Amount</b>	<b>Source of Funds</b>
<b>Aces</b>	Behavior Intervention Services for Student #1	07/01/16 – 06/30/17	NTE \$ 59,030.00	Special Education
<b>Cue One Productions</b>	Technology Services for AME	03/01/17 – 03/31/17	NTE \$ 10,000.00	General Fund
<b>DoubleTree by Hilton</b>	AME Leadership Event	03/01/17 – 03/31/17	NTE \$29,595.00	General Fund
<b>Frenzel, Allison</b>	AME Industry Outreach	01/19/17 – 03/31/17	NTE \$500.00	General Fund
<b>Larson, Jeffrey</b>	AME Industry Outreach	01/19/17 – 03/31/17	NTE \$500.00	General Fund
<b>Maxim Staffing Solutions</b>	Health Care Personnel Staffing Agreement	12/27/16 – 12/26/17	NTE \$ 25,500.00	Special Education
<b>Marquand, Larry</b>	Counseling Services for STRS Employees	02/01/17 – 02/27/17	NTE \$1,000.00	General Fund
<b>K-12 Public Schools and Community Colleges Facilities Authority</b>	Emergency Roof Repairs	12/06/16 – 06/30/17	Additional \$2,417.00 Total Contract NTE \$ 35,817.00	Special Reserve for Capital Outlay
<b>Kline, Michael</b>	Pottery Demonstration	01/07/17 – 02/28/17	NTE \$ 650.00	General Fund
<b>Media Center for Art, Education, and Technology</b>	Video Services	01/20/17 – 04/30/17	NTE \$1,000.00	General Fund
<b>Rady Children's Hospital</b>	School Screening Services	01/17/17 – 06/30/17	Per Fee Schedule	General Fund
<b>San Diego Center for Children</b>	Student #1	01/01/16 – 06/30/16	NTE \$80.00	Special Education
<b>San Diego Superintendent of Schools/ Friendship School</b>	MOU for Student Attendant	07/01/16 – 06/23/17	NTE \$238.01	Special Education
<b>South Bay Union School District</b>	School Bus Services	07/01/15 – 06/30/17	Per Fee Schedule	General Fund
<b>Wellness Workdays</b>	Dietetic Internship Program	02/01/17 – 06/30/17	N/A	N/A
<b>US-Japan Psychological Services</b>	Bilingual Evaluation for Student #1	07/01/16 – 06/30/17	NTE \$3,250.00	Special Education

<b>BBMAC POOL RENTAL CONTRACTS</b>			
<b>Name</b>	<b>Description</b>	<b>Dates</b>	<b>Rental Income Amount</b>
<b>Granite Gators</b>	Swim Practice	03/09/17 – 03/18/17	\$7,291.50
<b>Parkland Pirates</b>	Swim Practice	03/24/17 – 03/30/17	\$1,347.00
<b>San Jose State</b>	Swim Practice	01/01/17 – 01/04/17	\$265.50
<b>Sea World- Aquatica</b>	Swim Practice	01/15/17 – 06/18/17	\$8,331.00
<b>University of Wisconsin</b>	Swim Practice	01/03/17 – 01/13/17	\$5,283.00

**4.0 CONSOLIDATED MOTION FOR CONSENT CALENDAR**

**PERSONNEL**

**4.4 Approve the Personnel Register (Action)**

**Background Information:**

Attached is a report of the personnel actions processed by the Human Resource Department including hires, changes in assignment, resignations and retirements.

For inquiries regarding this Board item, please contact Human Resources Senior Director, Rita Beyers at 619-522-8900, ext. 1010 or via email at [rita.beyers@coronadousd.net](mailto:rita.beyers@coronadousd.net).

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**Superintendent's Recommendation:**

Subject to passage of a pre-placement physical and all pre-placement processing on all hires, the Superintendent recommends Board approval of the Personnel Register.

Moved \_\_\_\_\_ Seconded \_\_\_\_\_

Ayes \_\_\_\_\_ Noes \_\_\_\_\_ Absent \_\_\_\_\_ Abstain \_\_\_\_\_ Student \_\_\_\_\_

**ATTACHMENTS:**

	<u>Description</u>	<u>Upload Date</u>	<u>Type</u>	<u>File Name</u>
□	Feb. 2017 Personnel Register	2/14/2017	Cover Memo	February_2017_personnel_register.pdf



## MID-MANAGEMENT PERSONNEL REGISTER

### APPROVE EMPLOYMENT

Name	Position	Salary	Effective Date
Gary Hamels	Interim Senior Director of Business Services	Hourly	1/11/17

### APPROVE RETIREMENT

Name	Position	Reason	Effective Date
Claudia Gallant	Senior Director of Learning	Personal	6/30/17
Kathleen Mathis	Director of Preschool & Child Care Services	Personal	6/30/17

## CERTIFICATED PERSONNEL REGISTER

### APPROVE EMPLOYMENT

Name	Position	Salary	Effective Date
Kyle McCartin	Teacher CHS .20 FTE	Range 5, Step 1	1/03/17
Osvaldo Mendoza	Teacher CHS 1.0 FTE	Range 6, Step 8	2/08/17
Anna Woerman	Temp Adult Ed/CTE Teacher	Range 4, Step 9	1/09/17-6/16/17
William Wohleb	Temp Adult Ed/CTE Teacher	Hourly	1/23/17-6/16/17

### APPROVE RETIREMENT

Name	Position	Reason	Effective Date
Bonnie Carpenter	Teacher	Personal	6/30/17
Stephanie Gregory	Teacher	Personal	6/30/17
Lynn Hanson-Rowe	Teacher	Personal	6/30/17
Susan Howe	Teacher	Personal	6/30/17
Melisa Knepper	Teacher	Personal	6/30/17
Debra Lavage	Teacher	Personal	6/30/17
Kathleen MacDonald	Teacher	Personal	6/30/17
Susan Smith	Teacher	Personal	6/30/17
Laurie Worthington	Teacher	Personal	6/30/17

### APPROVE RESIGNATION

Name	Position	Reason	Effective Date
Alison Black	Teacher	Personal	6/30/17
Laura Bradford	Teacher	Personal	2/08/17

## CLASSIFIED PERSONNEL REGISTER

### APPROVE EMPLOYMENT

Name	Position	Salary	Effective Date
Jennifer Borden	Instr Asst/PE Aide Strand .475 FTE	Range 5, Step 1	2/01/17
Simone Calfee	Instr Asst/Beh Health Care ECDC .4375 FTE	Range 7, Step 1	1/27/17
Chandler Churchill	Lifeguard	Hourly	1/13/17
Susan Lechowicz	Campus Assistant CMS .25 FTE	Range 3, Step 1	2/07/17
Andre Murphy	Instr Asst – PE Aide Village .4688 FTE	Range 4, Step 1	1/30/17

### APPROVE RESIGNATION

Name	Position	Reason	Effective Date
Stephanie Hanson Kane	IA Preschool Strand	Personal	2/03/17
Tony Isabella	Varsity Football Coach	Personal	1/03/17
Bobbie Solomon	CHS Dive Coach	Personal	1/03/17

### APPROVE RETIREMENT

Name	Position	Reason	Effective Date
Rebecca Blum	IA Beh/Health Care	Personal	6/30/17
Mario Costantino	Grounds/Maint Worker	Personal	6/30/17
Karen Hayden	ASB Accounting Tech	Personal	6/30/17
Jaimie Hecht	Accounting Asst III	Personal	4/28/17
Cathy Hewitt	School Secretary I	Personal	6/30/17
Diane Marandola	Instructional Assistant	Personal	6/30/17
Frank Preciado	Maintenance Worker I	Personal	6/30/17
Phoebe Rippel	School Secretary I	Personal	6/30/17
Debra Rodgers	Admin Asst II	Personal	6/30/17
Nestor Tamares	Custodian	Personal	6/30/17
Tamara Warlick	Office Asst III	Personal	6/30/17
Ramiro Vazquez	Custodian	Personal	6/30/17

### APPROVE CHANGE IN FTE

Name	Position	Salary	Effective Date
Alice Fernandez	IA- Child Care Worker Village from .375 FTE to .4688 FTE	Range 3, Step 1	2/01/2017

**4.0 CONSOLIDATED MOTION FOR CONSENT CALENDAR**

**SITES AND CONSTRUCTION**

4.5 Approve Change Orders from California Commercial Pools - Change Order No. 21 in the amount of \$200.00 for the CUSD 2014/15-012 Pool Deck Replacement and Miscellaneous Improvements at the Brian Bent Memorial Aquatics Complex (Action)

**Background Information:**

On June 25, 2015, the Governing Board authorized staff to award a contract for the CUSD 2014/15-012 Pool Deck Replacement and Miscellaneous Improvements at the Brian Bent Memorial Aquatics Complex. The contract was awarded to California Commercial Pools.

**Reports:**

Change Order Numbers 01-08 were approved at the September 10, 2015 Board Meeting.

Change Order No. 09 was approved at the October 15, 2015 Board Meeting.

Change Order No. 10 and No. 18 were voided.

Change Order No. 11 is a district request to demolish and repour concrete at the southwest corner of the BBMAC classroom where concrete elevation doesn't match pool deck.

Change Order Numbers 12-17 were approved at the November 19, 2015 Board meeting, were to be considered part of enhancements to the original bid, and not part of work needed to mitigate preexisting DSA closeout conditions.

Change Order No. 19 is a district request to removal and replacement of decorative concrete at the entry to BBMAC to mitigate deterioration of mosaic tile-work.

Change Order No. 20 is a district request to demolish and repour the concrete ramp leading into the BBMAC classroom, as well as to install a proper drainage system to move water away from the entrance to the classroom.

Listed below is a summary of the revisions.

Original Contract Sum: \$1,084,000

Contract Sum will be Increased by Change Order No. 01: \$36,402

Contract Sum will be Increased by Change Order No. 02: \$9,844

Contract Sum will be Increased by Change Order No. 03: \$5,152

Contract Sum will be Increased by Change Order No. 04: \$2,484

Contract Sum will be Increased by Change Order No. 05: \$2,734

Contract Sum will be Increased by Change Order No. 06: \$22,466

Contract Sum will be Increased by Change Order No. 07: \$2,706

Contract Sum will be Unchanged by Change Order No. 08: \$0

Contract Sum will be Increased by Change Order No. 09: \$8,223

Contract Sum will be Increased by Change Order No. 11: \$7,837

Contract Sum will be Increased by Change Order No. 12: \$5,654

Contract Sum will be Increased by Change Order No. 13: \$5,424

Contract Sum will be Increased by Change Order No. 14: \$8,121

Contract Sum will be Increased by Change Order No. 15: \$497

Contract Sum will be Increased by Change Order No. 16: \$390

Contract Sum will be Increased by Change Order No. 17: \$20,296

Contract Sum will be Increased by Change Order No. 19: \$13,329

Contract Sum will be Increased by Change Order No. 20: \$21,755

Contract Sum will be Increased by Change Order No. 21: \$200

Total Change Orders

Contract Sum Including Change Orders: \$1,257,514

**Financial Impact:**

This is already in the 2016-17 Adopted Budget, funded from the Special Reserve Fund for Capital Projects.

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**Superintendent's Recommendation:**

That the Board ratify approval of the Change Orders for the CUSD 2014/15-012 Pool Deck Replacement and Miscellaneous Improvements at the Brian Bent Memorial Aquatics Complex.

Moved \_\_\_\_\_ Seconded \_\_\_\_\_

Ayes \_\_\_\_\_ Noes \_\_\_\_\_ Absent \_\_\_\_\_ Abstain \_\_\_\_\_ Student \_\_\_\_\_

## AGENDA - February 16, 2017

### 4.0 CONSOLIDATED MOTION FOR CONSENT CALENDAR

#### BUSINESS & FISCAL MANAGEMENT

##### 4.6 Adopt Annual Board Resolutions Regarding Business Operations (Action)

#### **Background Information:**

Pursuant to various sections of the Education Code, it is necessary that the Governing Board approve a series of resolutions prior to the beginning of each fiscal year in order to maintain a current register of persons authorized to act on behalf of the school district.

#### **Reports:**

The attached resolutions need the adoption of the Board.

#### **Financial Impact:**

None. For reporting purposes only.

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#### **Superintendent's Recommendation:**

That the Board adopt the attached Resolution #17-02-02 regarding Business Operations.

Moved \_\_\_\_\_ Seconded \_\_\_\_\_

Ayes \_\_\_\_\_ Noes \_\_\_\_\_ Absent \_\_\_\_\_ Abstain \_\_\_\_\_ Student \_\_\_\_\_

#### **ATTACHMENTS:**

	<u>Description</u>	<u>Upload Date</u>	<u>Type</u>	<u>File Name</u>
▣	Resolution #17-02-02	2/14/2017	Cover Memo	Resolution_17-02-02.pdf

**CORONADO UNIFIED SCHOOL DISTRICT  
RESOLUTION #17-02-02**

**DESIGNATING AUTHORIZED AGENTS TO FILE APPLICATIONS FOR IMPACT AID,  
FORMERLY PL874 AND 815 FUNDS, AND STATE AND FEDERAL CONSTRUCTION FUNDS**

Coronado Unified School District, San Diego County, on Motion of Member \_\_\_\_\_,  
Seconded by Member \_\_\_\_\_, effective February 27, 2017 through June 30, 2017.

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Board of the Coronado Unified School District and hereby ordered that effective February 27, 2017,

Karl Mueller, Rita Beyers, or Donnie Salamanca

are hereby designated as Authorized Agents of the District and are hereby authorized and directed to file on behalf of the Governing Board of the District, applications with the State Allocation Board under Chapter 10, Division 14, Education and applications in the forms required by the Commissioner of Education under Title VIII of the Elementary and Secondary Education Act of 1965, formerly PL 874 and 815 Funds requesting payment by the United State of America of funds to assist said School District, and further, that, Karl Mueller, Rita Beyers, or Donnie Salamanca are the designated authorized Agents of the Governing Board of said School District for the purpose of furnishing to the United States of America such information, data, and documents pertaining to the applications for funds as may be necessary in connection with such applications.

Further, that said Authorized Agents are authorized as representatives of the District to furnish such information as may be required to conduct and conclude all negotiations and execute such instruments as may be necessary for securing payment of the apportionments requested in the applications and the expenditure thereof.

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**PAYMENT ORDER RESOLUTION**

**IT IS RESOLVED AND ORDERED** that, in accordance with the provisions of Section 3100 et seq., Chapter 8, Division 4, Title I of the Government Code, the following person(s) be and are hereby designated to ascertain and certify that each employee of said district has taken the oath of allegiance.

Karl Mueller, Rita Beyers, Donnie Salamanca, or Designee by Authorized Letter

---

**AUTHORIZING DESIGNATED EMPLOYEES TO SIGN PURCHASE ORDERS**

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Board of the Coronado Unified School District and hereby ordered that effective February 27, 2017, Karl Mueller, Rita Beyers, Donnie Salamanca, and Claudia Gallant are authorized to sign any and all purchase orders on behalf of the District.

---

**RESOLUTION DESIGNATING AUTHORIZED AGENT TO RECEIVE MAIL AND PICK UP  
WARRANTS AT THE COUNTY OFFICE OF EDUCATION**

**IT IS RESOLVED AND ORDERED** that:

1. The authorized agents to receive mail from the Accounting/Payroll Section are Karl Mueller, Rita Beyers, and Donnie Salamanca.
2. The authorized person(s) or district(s) to pick up warrants from the County Office (other than the mail addressee) are Karl Mueller, Rita Beyers, Donnie Salamanca, Sharon Jimenez, Angelica Paredes, Jamie Hecht, or designee.

- |    |           | mail | hold/issue |  |
|----|-----------|------|------------|--|
| 3. | Check one |      | x          | Payroll warrants each and every month    |
|    | Check one |      | x          | Commercial warrants each and every month |
- 

**RESOLUTION DESIGNATING AUTHORIZED AGENT TO SIGN SCHOOL ORDERS  
(COMMERCIAL WARRANTS)**

**IT IS RESOLVED AND ORDERED** that, pursuant to the provisions of Education Code Section 42632 or 85232, Karl Mueller, Rita Beyers, or Donnie Salamanca be and are hereby authorized to sign any and all orders in the name of said District, drawn on the funds of said District.

---

**AUTHORIZING DESIGNATED EMPLOYEES TO SIGN WARRANTS FOR THE  
BBMAC, CAFETERIA, CASH CLEARING, CHILD CARE, PRESCHOOL, AND ADULT  
EDUCATION ACCOUNTS**

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Board of the Coronado Unified School District and hereby ordered that effective February 27, 2017, Karl Mueller, Rita Beyers, Donnie Salamanca, and Claudia Gallant are hereby authorized and empowered to sign any and all checks in the name of the Coronado Unified School District, drawn on the BBMAC, Cafeteria, Cash Clearing, Child Care, Preschool, and Adult Education Accounts of said District, with the requirement that two out of four sign.

---

**AUTHORIZING DESIGNATED EMPLOYEES TO SIGN WARRANTS FOR THE  
REVOLVING CASH FUND CHECKS**

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Board of the Coronado Unified School District and hereby ordered that effective February 27, 2017, Karl Mueller, Rita Beyers, Donnie Salamanca, and Claudia Gallant are hereby authorized and empowered to sign any and all checks in the name of the Coronado Unified School District, drawn on the Revolving Cash Funds of said District, with the requirement that two out of four sign.

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**AUTHORIZING DESIGNATED EMPLOYEES TO SIGN DOCUMENTS PERTAINING  
TO NEW HOUSING PROJECTS**

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Board of the Coronado Unified School District and hereby ordered that effective February 27, 2017, Karl Mueller, Rita Beyers, and Donnie Salamanca are hereby authorized to file on behalf of the Governing Board of the District, school availability letters, secured agreements, land use agreements, and other appropriate documents which pertain to residential housing and commercial projects lying within the city limits of Coronado, California within boundaries of the District.

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**BE IT FURTHER RESOLVED** that these motions shall stand until such time as rescinded, amended, or modified by further action of this Board. **PASSED AND ADOPTED** this 16th day of February 2017, by said Governing Board by the following vote:

AYES: \_\_\_\_\_ MEMBERS      NOES: \_\_\_\_\_ MEMBERS      ABSENT: \_\_\_\_\_ MEMBERS

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State of California      )  
   )ss.  
Count of San Diego      )

I, Karl Mueller, Secretary of the Governing Board, do hereby certify that the foregoing is a full, true and correct copy of a resolution duly passed and adopted by said Board at a regularly called and conducted meeting held on said date.

\_\_\_\_\_  
Secretary of the Governing Board

\_\_\_\_\_  
Date

\_\_\_\_\_  
Manual signature(s) of authorized  
person(s): (Rubber Stamp)

\_\_\_\_\_  
Facsimile signature(s), if applicable

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



## AGENDA - February 16, 2017

### 4.0 **CONSOLIDATED MOTION FOR CONSENT CALENDAR BUSINESS & FISCAL MANAGEMENT**

#### 4.7 Resolution to Close Charter Schools Enterprise (6200) Fund (Action)

##### **Background Information:**

After several years of operation, Pathways Charter School was closed Summer 2015. Following completion of all obligations, the District is seeking to close the fund and transfer all remaining balances in order to file a final dissolution notice with the Attorney General.

##### **Financial Impact:**

\$171,528.50 will be transferred to general fund (0100) from Charter Schools Enterprise (6200) Fund.

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##### **Superintendent's Recommendation:**

That the Board approve closing Charter Schools Enterprise (6200) Fund and transferring funds to General Fund (0100).

Moved \_\_\_\_\_ Seconded \_\_\_\_\_

Ayes \_\_\_\_\_ Noes \_\_\_\_\_ Absent \_\_\_\_\_ Abstain \_\_\_\_\_ Student \_\_\_\_\_

##### **ATTACHMENTS:**

	<u>Description</u>	<u>Upload Date</u>	<u>Type</u>	<u>File Name</u>
▢	Resultion for Fund 6200	2/7/2017	Cover Memo	Close_Fund6200.doc

## RESOLUTION

Coronado Unified School District

Resolution Number 17-02-01

## Resolution to close Charter Schools Enterprise (6200) Fund

And Transfer Balances to General (0100) Fund

On motion of Member \_\_\_\_\_, Seconded by  
Member \_\_\_\_\_, the following resolution is adopted:

WHEREAS, Coronado Unified School District, County of San Diego, State of California (District) is duly authorized and existing under the law of said state: and

WHEREAS, the Charter Schools Enterprise Fund 6200 established by the District for the purpose of opening and operating a charter school is no longer required:

WHEREAS, a balance of \$171,528.50 remains in the fund.

THEREFORE, BE IT RESOLVED, that the Coronado Unified School District shall close the restricted fund with the San Diego County Auditor and Treasurer named Charter Schools Enterprise Fund.

PASSED AND ADOPTED by the governing Board on \_\_\_\_\_ by the following vote:

AYES:

NOES:

ABSENT:

[illegible]

I, \_\_\_\_\_, Clerk / Secretary of the Governing Board, do hereby certify that the foregoing is a full, true, and correct copy of the resolution duly passed and adopted by the said Board at a regularly called and conducted meeting held on said date.

Clerk / Secretary of Governing Board

**4.0 CONSOLIDATED MOTION FOR CONSENT CALENDAR**

**DISTRICT ORGANIZATION AND BOARD OPERATION**

**4.8 Nominate 2017 California School Boards Association Delegate Assembly Representatives (Action)**

**Background Information:**

Ballots for the election of representatives to CSBA's Delegate Assembly for the year 2017 have been printed. The Delegate Assembly is the primary policy making body of CSBA. The ballot contains the names of individuals nominated by member boards in subregions (San Diego County is in Region 17). There are seven (7) vacancies in Region 17 for representatives to the Delegate Assembly.

School boards who are CSBA members are eligible to nominate representatives to the CSBA's Delegate Assembly up to March 15, 2017. Delegate Assembly nominations within each geographic subregion or area must be made by boards within that subregion or area. Individual candidate's biographical sketches have been provided to the Board under separate cover. Attached is a list of candidates for Region 17 Delegate Assembly.

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**Superintendent's Recommendation:**

That the Board determine which candidates they wish to nominate for the seven (7) vacancies for CSBA Delegate Assembly, Region 17 (San Diego County) for the year 2017. The Superintendent recommends the following as representatives for the 2017 CSBA Delegate Assembly:

That the Board nominate:

Leslie Ray Bunker (Chula Vista ESD)  
Gelia Cook (Lakeside Un. SD)  
Beth Hergesheimer (San Dieguito Un. HSD)  
Tamara Otero (Cajon Valley Un. SD)  
Dawn Perfect (Ramona USD)  
Barbara Ryan (Santee SD)  
Louis Smith (Coronado USD)

Moved \_\_\_\_\_ Seconded \_\_\_\_\_

Ayes \_\_\_\_\_ Noes \_\_\_\_\_ Absent \_\_\_\_\_ Abstain \_\_\_\_\_ Student \_\_\_\_\_

**ATTACHMENTS:**

<u>Description</u>	<u>Upload Date</u>	<u>Type</u>	<u>File Name</u>
Official 2017			
□ Delegate Assembly Ballot	2/7/2017	Cover Memo	Official_2017_Delegate_Assembly_Ballot.pdf

**REQUIRES BOARD ACTION**

This complete, **ORIGINAL** Ballot must be **SIGNED** by the Superintendent or Board Clerk and returned in the enclosed envelope postmarked by the post office No later than **WEDNESDAY, MARCH 15, 2017**. Only ONE Ballot per Board. Be sure to mark your vote "X" in the box. *A PARTIAL, UNSIGNED, PHOTOCOPIED, OR LATE BALLOT WILL NOT BE VALID.*

OFFICIAL 2017 DELEGATE ASSEMBLY BALLOT  
REGION 17  
(San Diego County)

Number of vacancies: 7 (Vote for no more than 7 candidates)

*Delegates will serve two-year terms beginning April 1, 2017 – March 31, 2019*

*\*denotes incumbent*

	Leslie Ray Bunker (Chula Vista ESD)
	Stephen Cochrane (Del Mar Un. SD)
	Gelia Cook (Lakeside Un. SD)
	Beth Hergesheimer (San Dieguito Un. USD)*
	Tamara Otero (Cajon Valley Un. SD)*
	Dawn Perfect (Ramona USD)*
	Barbara Ryan (Santee SD)*
	Louis M. Smith (Coronado USD)
	Cipriano Vargas (Vista USD)

\_\_\_\_\_  
*Provision for Write-in Candidate Name*

\_\_\_\_\_  
*School District*

\_\_\_\_\_  
*Signature of Superintendent or Board Clerk*

\_\_\_\_\_  
*Title*

\_\_\_\_\_  
*School District Name*

\_\_\_\_\_  
*Date of Board Action*

*See reverse side for list of all current Delegates in your Region.*

**Region 17 – Katie Dexter, Director (Lemon Grove SD)**  
**24 Delegates (18 elected/6 appointed)**

**Below is a list of all the current Delegates from this Region.**

Elvia Aguilar (South Bay Union SD), term expires 2018  
Barbara Avalos (National SD), term expires 2018  
Kevin Beiser (San Diego USD), appointed term expires 2017  
Brian Clapper (National SD), term expires 2018  
Beth Hergesheimer (San Dieguito Union HSD), term expires 2017  
Claudine Jones (Carlsbad USD), term expires 2018  
Michael McQuary (San Diego USD), appointed term expires 2018  
Tamara Otero (Cajon Valley Union SD), term expires 2017  
Dawn Perfect (Ramona USD), term expires 2017  
Eduardo Reyes (Chula Vista, ESD), term expires 2018  
Barbara Ryan (Santee ESD), term expires 2017  
Debra Schade (Solana Beach ESD), term expires 2018  
Nicholas Segura (Sweetwater Union HSD), appointed term expires 2018  
Charles Sellers (Poway USD), appointed term expires 2019  
Arturo Solis (Sweetwater Union HSD), appointed term expires 2017  
Marla Strich (Encinitas Union ESD), term expires 2018  
Sharon Whitehurst-Payne (San Diego USD), appointed term expires 2017  
Vacant, term expires 2017  
Vacant, term expires 2017  
Vacant, term expires 2017  
Vacant, term expires 2018  
Vacant, term expires 2018  
Vacant, term expires 2018

**County Delegate**

Guadalupe Gonzalez (San Diego COE), term expires 2019

<b><u>Counties</u></b>
------------------------

San Diego

## 5.0 INSTRUCTIONAL PROGRAMS & STUDENT ACTIVITIES

### 5.1 Revision to Coronado High School Science Graduation Requirements (Action)

#### **Background Information:**

The CUSD Governing Board passed Resolution #14-05-01, approving the adoption of the Next Generation Science Standards for grades K-12 in May 2014. CUSD has a transition plan for all grades, currently as follows:

Grade	Status	State Assessment	Instructional Materials <i>(CA State Board of Education will adopt new NGSS aligned materials in 2018-19)</i>
K-2	Awareness Phase	N/A	Spring 2017 Delta Education Foss Kits to be purchased as bridge materials and training for implementation in 2017-18
3-5	Gr 3 and 4 Awareness/ Transition Phase	N/A	Fall/Winter 2016-17 Delta Education/Foss Kits were purchased as bridge materials; Jan 2017 training for implementation of at least one unit in 2016/17; 2017-18 teach all 3 units
	Gr 5 Transition Phase	Tested Grade: Spring 2017 – Pilot Test Spring 2018 – Field Test Spring 2019 – Operational Test  <i>Note: the new NGSS test will assess 5<sup>th</sup> grade students on K-5 standards.</i>	Fall/Winter 2016-17 Delta Education/Foss Kits were purchased as bridge materials; Jan 2017 training for implementation of at least one unit in 2016/17; 2017-18 teach all 3 units.
6-8	Full Implementation Year 4	Gr 8 is Tested Grade Spring 2017 – Pilot Test Spring 2018 – Field Test Spring 2019 – Operational Test	CMS teachers wrote curriculum/digital text aligned to NGSS which is constantly being updated.
9-12	Transition Phase	Gr 11 or 12 will be Tested Grade when operational based on likely completion of proposed 3- year course sequence) Spring 2017 –Gr 12 Pilot Test Spring 2018 – Field Test Spring 2019 – Operational Test	CHS teachers are currently revising all science courses to align to NGSS and proposed 3-year course sequence using current instructional materials.

#### **Reports:**

The Next Generation Science Standards (NGSS) allows for different course models and sequences for

CA high schools: integrated or transitional science course content, and 3 or 4 year course sequences. The entire CHS science department has studied these options and strongly recommends that CUSD adopt a 3-year traditional course sequence: Biology, Chemistry, Physics with Earth/Space Science standards integrated into all three courses.

(Please reference pg. 28 of the NGSS Framework

[http://www.nextgenscience.org/sites/default/files/Appendix%20K\\_Revised%208.30.13.pdf\\_.](http://www.nextgenscience.org/sites/default/files/Appendix%20K_Revised%208.30.13.pdf_.))

This 3-year course sequence would necessitate a 3-year graduation requirement for Coronado High School students in order for all students to receive instruction on all of the NGSS, instead of the current 2-year science graduation requirement. CUSD proposes that this new graduation requirement be implemented beginning in the 2017-18 school year affecting next year's freshman class. If approved, this 3-year science requirement would not affect students in grades 10-12 for the 2017-18 school year.

It is important to note the following:

- Of the current 2016-17 12<sup>th</sup> grade students, 64% of students have already completed or are currently taking 3 or more Science classes.
- A 3-year course sequence is recommended by the University of California A-G guidelines.

At the January 19, 2017 meeting of the Governing Board, Coronado High School principal Jennifer Moore and CHS Science teacher Amanda Vanasse presented information on this new requirement and related information. CHS administration, the CHS Science Department, and CUSD administration recommend to the Governing Board that they approve the 3-year science graduation requirement and 3-year traditional course sequence for Coronado High School.

**Financial Impact:**

Transitional Instructional materials and/or paid time for curriculum revisions, until which time the CA State Board of Education approves NGSS aligned instructional materials (CDE will approve NGSS instructional materials circa 2018-19).

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**Superintendent's Recommendation:**

That the Board approve the Revision to Coronado High School Science Graduation Requirements.

Moved \_\_\_\_\_ Seconded \_\_\_\_\_

Ayes \_\_\_\_\_ Noes \_\_\_\_\_ Absent \_\_\_\_\_ Abstain \_\_\_\_\_ Student \_\_\_\_\_

**AGENDA - February 16, 2017**

**5.0 DISTRICT ORGANIZATION AND BOARD OPERATION**

5.2 Approve Comprehensive Safety Plans for Village and Silver Strand Elementary Schools, Coronado Middle School, and Coronado High School (Action)

**Background Information:**

The District is committed to safe and secure campus environments for all students. Each site principal develops and updates school disaster preparedness/safety plans annually.

**Reports:**

The comprehensive Safety Plans for all schools are included under separate cover and are available for review at the District Office.

After the Board accepts the Safety Plans, copies will be provided to the Coronado Police and Fire Departments

**Financial Impact:**

None

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**Superintendent's Recommendation:**

That the Board approve the comprehensive Safety Plans for all District Schools.

Moved \_\_\_\_\_ Seconded \_\_\_\_\_

Ayes \_\_\_\_\_ Noes \_\_\_\_\_ Absent \_\_\_\_\_ Abstain \_\_\_\_\_ Student \_\_\_\_\_



## AGENDA - February 16, 2017

### 5.0 DISTRICT ORGANIZATION AND BOARD OPERATION

5.3 Approve the Tentative Agreement between the Coronado Unified School District (CUSD) and the Association of Coronado Teachers (ACT), including the 2017-2018 School Calendar (Action)

#### **Background Information:**

Negotiations between representatives of the Association of Coronado Teachers (ACT) and Coronado Unified School District (CUSD) representatives occurred during the 2016-2017 school year.

#### **Reports:**

ACT and CUSD representatives met during the 2016-17 school year to discuss, clarify, and revise language contained within the certain articles in the Agreement between ACT and CUSD. ACT and CUSD representatives also discussed the calendar for the 2017-2018 school year.

Amendments to six articles (1, 15, 18, 19, 20, 26) were tentatively agreed to when negotiations were concluded February 7, 2017. The 2017-2018 school year calendar was also tentatively agreed by the conclusion of negotiations.

The six amended articles and the 2017-2018 school year calendar have been reviewed and ratified by ACT membership. A revised contract will be provided to the Board and ACT membership.

The amendments and DRAFT Calendar for 2017-2018 are attached.

#### **Financial Impact:**

The total cost of the negotiated agreement is estimated to be \$507,947 including: 1) an additional teacher to implement the class size reduction; and 2) salary costs and the associated benefits and taxes such as Worker's Compensation and STRS.

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#### **Superintendent's Recommendation:**

That the Board approve the Tentative Agreement between the Coronado Unified School District and Association of Coronado Teachers.

Moved \_\_\_\_\_ Seconded \_\_\_\_\_

Ayes \_\_\_\_\_ Noes \_\_\_\_\_ Absent \_\_\_\_\_ Abstain \_\_\_\_\_ Student \_\_\_\_\_

#### **ATTACHMENTS:**

	<u>Description</u>	<u>Upload Date</u>	<u>Type</u>	<u>File Name</u>
▣	ACT Settlement Disclosure	2/10/2017	Cover Memo	AB1200_2017-18_02082017_-.pdf
▣	ACT CUSD Negotiation Agreements	2/7/2017	Cover Memo	ACT_CUSD_Negotiated_Agreements_2.7.17.pdf
▣	2017-2018 School Calendar	2/7/2017	Cover Memo	2017-18_Calendar_Final_Draft.pdf

# Disclosure of Collective Bargaining Agreement

Page 1 of 7

In Accordance with AB 1200 (Statutes of 1991, Chapter 1213);  
GC § 3547.5 (Statutes of 2004, Chapter 52)

## Coronado Unified School District

Name of Bargaining Unit: ACT Certified: x Classified: \_\_\_\_\_

The proposed agreement covers the period: Beginning: 7/1/2017 Ending: 6/30/2020

This agreement will be acted upon by the Governing Board at its meeting on: 16-Feb-17  
Date

### A. Proposed Change in Compensation

Compensation	Cost Prior to Proposed Agreement	Fiscal Impact of Proposed Agreement					
		Current Year 2017 - 2018		Year 2 2017 - 2018		Year 3 2018 - 2019	
		(b)	(c)	(b)	(c)	(b)	(c)
	(a) \$	\$	%	\$	%	\$	%
1. Step & Column - Increase (Decrease) due to movement plus any changes due to settlement							
2. Salary Schedule - Increase (Decrease)	\$350,559.00	\$11,685,300.00	0.00%	\$12,035,900.00	3.00%	\$12,035,900.00	0.00%
3. Other Compensation - Increase (Decrease) in Stipends, Bonuses, etc.	\$350,559.00		0.00%		0.00%		0.00%
4. Statutory Benefits - Increase (Decrease) in STRS, PERS, FICA, WC, UI, Medicare, etc.	\$63,737.00	\$2,125,600.00	0.00%	\$2,189,400.00	3.00%	\$2,189,400.00	0.00%
5. Health/Welfare Benefits - Increase (Decrease)							
6. Total Compensation - Increase (Decrease) Total Lines 3(a), 4(a), 5(a)	\$414,296.00	\$13,810,900.00	3333.58%	\$14,225,300.00	100.00%	\$14,225,300.00	50.00%
7. Total Number of Represented Employees		176.00		176.00		176.00	
8. Total Compensation Cost for Average Employee - Increase (Decrease)		\$78,471.02		\$80,825.57		\$80,825.57	

Impact on other Funds: None

- A. Provide a brief narrative of the proposed change in compensation, including percentage change(s), effective date(s), and comments and explanations as necessary:**

Starting with the 2017-18 fiscal year, the certificated bargaining unit (ACT) will receive a 3%, on scale, salary increase.

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- B. Proposed Negotiated Changes in Non-Compensation Items (class size adjustments, staff development days, teacher prep time, etc.)**

Class sizes in grades TK through 1<sup>st</sup> grade will be decreased to an average of 25:1 from the current average of 27:1. It is estimated that this will add one teacher to the elementary staff starting in 2017-18.

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- C. What are the specific impacts on instructional/support programs to accommodate the settlement? Include the impact of non-negotiated changes such as staff reductions and program reductions/eliminations.**

The district is reviewing general fund budget reductions in 2017-18 to accommodate these increases and align with the January 2017 Governor's Budget. In addition, a SERP will be implemented in 2017-18 which is likely to result in staff reductions and impact salary cost.

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**D. What contingency language is included in the proposed agreement?**

**Include specific areas identified for reopeners, applicable fiscal years, and specific contingency language.**

The proposed agreement's term is July 1, 2017 – June 30, 2020. During the term of the agreement, each party may open three articles per year.

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**E. Source of Funds for Proposed Agreement**

**1. Current Year**

General Fund

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**2 How will the ongoing cost of the proposed agreement be funded in future years?**

With projected revenue and some expenditure reductions throughout the budget.

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**3. If multi-year agreement, what is the source of funding, including assumptions used, to fund these obligations in future years? (Remember to include compounding effects in meeting obligations)**

N/A

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**F. Impact of Proposed Agreement on Current Year Unrestricted Reserves**

Page 4 of 7

## 1. State Reserve Standard

a. Total Expenditures, Transfers Out, and Uses (Including Cost of Proposed Agreement)	\$36,130,700
b. State Standard Minimum Reserve Percentage for this District	3.00%
c. Projected P-2 ADA	2,957.00
d. State Standard Minimum Reserve Amount for this District (Line 1a times Line 1b, or \$50,000, whichever is greater, for a district with less than 1,001 ADA)	\$1,083,921.00

## 2. Budgeted Unrestricted Reserve (After Impact of Proposed Agreement)

a. General Fund Budgeted Unrestricted Designated for Economic Uncertainties	
b. General Fund Budgeted Unrestricted Unappropriated Amount	\$16,400.00
c. Special Reserve Fund 17-Budgeted Designated for Economic Uncertainties	\$2,400,000.00
d. Special Reserve Fund 17-Budgeted Unappropriated Amount	
e. Total District Budgeted Unrestricted Reserves	\$2,416,400.00

3. Do unrestricted reserves meet the state standard minimum reserve amount?

Yes

No

**G. Certification**

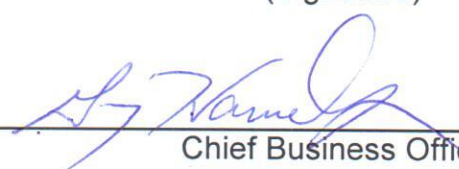
The information provided in this document summarized the financial implications of the proposed agreement and is submitted to the Governing Board for public disclosure of the major provisions of the agreement in accordance with the requirements of AB 1200 and Government Code § 3547.5.

We hereby certify that the costs incurred by the school district under this agreement can be met by the district during the term of the agreement.

District Superintendent  
(Signature)*Assistant Supt.*

2/8/2017

Date

Chief Business Official  
(Signature)

2/8/2017

Date

Contact Person:

*Gary Hanks*

Telephone No.:

619 522 8900

EXT 1013

**H. Impact of Proposed Agreement on Current Year Operating Budget\***

Date of governing board approval of budget revisions in Col. 2: 16-Feb-17  
 in accordance with Education Code § 42142 and Government Code § 3547.5

Provide a copy of board-approved budget revisions and board minutes. In addition, provide two expenditure reports generated by the district's financial system: one showing the budget by major object before the changes and a second showing the budget by major object after the changes.

If the board-approved revisions are different from the proposed budget adjustments in Col. 2, provide a revised report upon approval of the district governing board.

	(Col. 1) Latest Board- Approved Budget Before Settlement as of 2017-18	(Col. 2) Adjustments as a Result of Settlement	(Col. 3) Other Revisions	(Col. 4) (Cols. 1 + 2 + 3) Total Impact on Budget
<b>REVENUES:</b>				
LCFF Sources (8010-8099)	23,775,415			23,775,415
Remaining Revenues (8100-8799)	12,355,281			12,355,281
<b>TOTAL REVENUES</b>	36,130,696	0	0	36,130,696
<b>EXPENDITURES:</b>				0
1000 Certificated Salaries	15,254,381	350,559		15,604,941
2000 Classified Salaries	5,481,274			5,481,274
3000 Employee Benefits	9,252,021	63,767		9,315,787
4000 Books and Supplies	1,098,814			1,098,814
5000 Services and Operating Expenses	5,014,099			5,014,099
6000 Capital Outlay				0
7000 Other	(14,893)			(14,893)
<b>TOTAL EXPENDITURES</b>	36,085,696	414,326	0	36,500,022
OPERATING SURPLUS (DEFICIT)	0	(414,326)	0	(369,326)
OTHER SOURCES AND TRANSFERS IN				0
OTHER USES AND TRANSFERS OUT	45,000			45,000
CURRENT YEAR INCREASE (DECREASE) IN FUND BALANCE	(45,000)	(414,326)	0	(414,326)
BEGINNING BALANCE	2,524,208			2,524,208
CURRENT YEAR-ENDING BALANCE	2,479,208			2,109,882
<b>COMPONENTS OF ENDING BALANCE:</b>				
Nonspendable (9711-9719)				0
Restricted (9740)	948,747			948,747
Committed (9750/9760)	1,090,000			1,090,000
Assigned (9780)	469,086			469,086
Reserve Economic Uncertainties (9789)				0
Unassigned/Unappropriated (9790)	16,375			16,375

If the total amount of the adjustment in Column 2 does not agree with the amount of the total cost shown on page 1, please explain:

Reserves for Economic Uncertainties are held in Special Reserve #17=\$2,400,000

\*This supplement is a composite recap of "all" the bargaining agreements shown on the preceding pages.

Revised: 07/2011



## DISCLOSURE OF COLLECTIVE BARGAINING AGREEMENT

### GENERAL INSTRUCTIONS

- Please submit this form to the county superintendent of schools and make available to the public for review at least ten (10) working days prior to the date the governing board will take action on the proposed bargaining agreement.
- Separate documents must be completed for each collective bargaining agreement, but if more than one agreement is discussed at the same time, you may summarize the financial impact of "all" agreements on page 4 (supplement).
- Include, as applicable, *Cost Prior to Proposed Agreement, Current Year, Year 2 and Year 3* information for the period covered in the proposed agreement. For example, for a 2-year multi-year agreement, complete *Cost Prior to Proposed Agreement, Current Year and Year 2*.
- Any time a contract is reopened with a financial impact on "any area of compensation," a disclosure of the proposed agreement must be made.
- The specific manner in which the public is made aware of the proposed agreement and its availability for public inspection and review is at the discretion of the local district.
- The governing board shall adopt revisions to its budget needed in the current fiscal year to fulfill the terms of the collective bargaining agreement within 45 days of adoption (EC § 42142). Provide a copy of the board-approved budget revisions and board minutes to the county office. In addition, provide two expenditure reports generated by the district's financial system: one showing the budget by major object before the changes and a second showing the budget by major object after the changes.
- All revisions to the budget needed in the current fiscal year to meet the costs of the collective bargaining agreement shall be adopted no later than the statutory deadline for certification of the next interim report by the county superintendent of schools (GC § 3547.5, EC § 42131).

### SPECIFIC INSTRUCTIONS FOR COMPLETION

#### PROPOSED CHANGE IN COMPENSATION

##### 1. Step and Column

- a. Cost Prior to Proposed Agreement: Enter the total annual cost of all salaries for the bargaining unit prior to the proposed agreement. Remove any "one-time" bonuses or payments that were paid in prior year, if applicable.
- b. \$: Enter the annual increase cost of *Step and Column* movement on the *Salary Schedule* for the affected bargaining unit.
- c. %: Divide the annual cost of *Step and Column*, Line 1(b), by the *Cost Prior to Proposed Agreement*, Line 1(a).

##### 2. Salary Schedule

- a. Cost Prior to Proposed Agreement: Enter the amount from Line 1(a) plus Line 1(b).
- b. \$: Enter the annual \$ amount of the proposed change in the *Salary Schedule*.

### 3. Other Compensation

Description: Indicate specific changes in *Other Compensation* for the current year. For example: 1% off schedule or \$200/employee. For Year 2 and Year 3, explain in "Comments" section, if applicable.

- a. Cost Prior to Proposed Agreement: Enter the amount from Line 2(a).
- b. \$: Enter the annual amount of the proposed change in *Other Compensation*.
- c. %: Divide the amount by the *Cost Prior to the Proposed Agreement*, Line 3(a).

### 4. Statutory Benefits

- a. Cost Prior to Proposed Agreement: Enter the total prior year cost of *Statutory Benefits* of the bargaining unit prior to the proposed agreement. If applicable, exclude any "one-time" benefit costs that would not carry over to current year.
- b. \$: Enter the amount of the proposed change in *Statutory Benefits* resulting from changes in *Salary Schedule*, *Step and Column*, and *Other Compensation* reported on Line 1(b) through Line 3(b).
- c. %: Divide Line 4(b) by the amount of dollars shown in *Cost Prior to Proposed Agreement*, Line 4(a).

### 5. Health/Welfare Benefits

- a. Cost Prior to Proposed Agreement: Enter the total annual cost of *Health/Welfare Benefits* of the bargaining unit prior to the proposed agreement. If applicable, exclude any "one-time" costs that would not carry over to current year.
- b. \$: Enter the amount of the proposed change in *Health/Welfare Benefits*, resulting from the affected bargaining unit agreement.
- c. %: Divide Line 5(b) by the amount of dollars shown in *Cost Prior to Proposed Agreement* Line 5(a).

### 6. Total Compensation

- a. Cost Prior to Proposed Agreement: Total Lines 3(a), 4(a), and 5(a).
- b. \$: Total Lines 1(b), 2(b), 3(b), 4(b), and 5(b).
- c. %: Divide the total by *Cost Prior to Proposed Agreement*, Line 6(a).

### 7. Total Number of Represented Employees

Enter the total full-time equivalent (FTE) employees for the affected bargaining unit for each applicable year.

### 8. Total Compensation Cost for Average Employee

- a. Cost Prior to Proposed Agreement: Divide *Cost Prior to Proposed Agreement*, Line 6(a) by Prior Year FTE Employees, Line 7.
- b. \$: Divide *Total Compensation*, Line 6(b) by FTE employees, Line 7, for each applicable year.
- c. %: Divide *Total Compensation Cost for Average Employee*, Line 8(b) by *Cost Prior to Proposed Agreement*, Line 8(a).



## ACT and CUSD Negotiated Agreements

February 7, 2017

### Article I: 1.1.3 Term:

This agreement shall commence on July 1, 2017 and continue in effect until June 30, 2020. For each school year covered by this Agreement, each party shall have the right to reopen three articles of the Agreement.

### Article 15.1.4

At the request of site administration and with approval of the unit member involved, a unit member can teach/substitute for another teacher/employee during ~~their~~ **the unit member's** preparatory period on any given day. The unit member will be compensated at **the hourly rate as defined in 19.1.2** ~~the hourly rate.~~

### Article 18.1.2

***For teachers who are on less than a full-time contract, the District will prorate its premium payments equal to the teacher's contract percentage. To participate in the District's benefit coverage, teachers must pay the remaining portion of the District's payment and the employee portion (if any) of benefit plan they select.*** ~~have benefits paid by the District equal to their percentage as determined within their contract. (The percentage of the benefits will match the percentage of full-time employment).~~

### Article 19.1 Salary Schedule

19.1.1 The Salary Schedule for unit members is attached to this Agreement and is marked as Appendix B.

Appendix B – Salary Schedule:

Beginning in the 2017-18 school year, a salary increase of **three (3)** percent on schedule.

19.1.2 Beginning in the 2017-18 school year, the hourly rate will be the ~~per diem~~ **hourly** rate of column one, step one **of the salary schedule.**

### Article 20 Class Size

20.1 For the 2017-2018 through the 2019-2020 school years, the target class size for grades ~~Transitional Kindergarten through 3~~ **Transitional Kindergarten through 1** shall be an annual school-wide average of ~~twenty-six (26)~~ **twenty-five (25) to one (1)** and for grades **2-3 shall be an annual school-wide average of twenty-seven (27) to one (1).**

20.3 In grades 6 through 12, the target for class size will be a ~~District-wide~~ **school-wide** average of thirty-two (32) in core curricular areas, including language arts, mathematics, social science, and science, and excluding physical education, special education, and electives.

**Article 26.1: Calendar**


The first day of school for students shall be the ~~last~~ fourth Thursday of August.

\* The calendar for the 17-18 school year has been negotiated and agreed to. See attached.

# Coronado Unified School District

## DRAFT 2017 – 2018 Staff Calendar

Month	M	T	W	T	F	Student Days	Cumulative Student Days	Holiday Legal-Local	
Jul	3	4	5	6	7	0	0	1	7/4 Independence Day
Jul	10	11	12	13	14	0	0		<b>Holidays for classified staff</b>
Jul	17	18	19	20	21	0	0		School Day Only (SDO) staff: start, day off, end
Jul	24	25	26	27	28	0 0	0		10.5 mo. (SS, Village, CMS office staff) start, end
Jul/Aug	31	1	2	3	4	0	0		11 mo. (CHS office staff) start, end
Aug	7	8	9	10	11	0	0		Days off for all SDO, 10.5 mo. and 11 mo. Staff
Aug	14	15	16	17	18	0	0		8/21-23 Teacher Workdays
Aug	21	22	23	24	25	2 2	2		8/24 <b>First Day of School</b>
Aug/Sep	28	29	30	31	1	5	7		
Sep	4	5	6	7	8	4	11	1	9/4 Labor Day
Sep	11	12	13	14	15	5	16		
Sep	18	19	20	21	22	5	21		
Sep	25	26	27	28	29	5 24	26		
Oct	2	3	4	5	6	5	31		
Oct	9	10	11	12	13	4	35	1	10/9 Fall Holiday
Oct	16	17	18	19	20	5	40		
Oct	23	24	25	26	27	5 19	45		
Oct/Nov	30	31	1	2	3	5	50		
Nov	6	7	8	9	10	4	54	1	11/10 Veterans Day
Nov	13	14	15	16	17	5	59		
Nov	20	21	22	23	24	0 14	59	2 3	11/20-24 Thanksgiving Recess
Nov/Dec	27	28	29	30	1	5	64		
Dec	4	5	6	7	8	5	69		
Dec	11	12	13	14	15	5	74		
Dec	18	19	20	21	22	0	74	5	12/18-1/2 Winter Recess
Dec	25	26	27	28	29	0 15	74	1 4	
Jan	1	2	3	4	5	3	77	1 1	
Jan	8	9	10	11	12	5	81		1/12 Teacher Workday
Jan	15	16	17	18	19	4	85	1	1/15 Dr. M.L. King, Jr. Day
Jan	22	23	24	25	26	4 16	90		
Jan/Feb	29	30	31	1	2	5	95		
Feb	5	6	7	8	9	5	100		
Feb	12	13	14	15	16	4	104	1	2/12 Lincoln Day
Feb	19	20	21	22	23	4 18	108	1	2/19 Washington Day
Feb/Mar	26	27	28	1	2	5	113		
Mar	5	6	7	8	9	5	118		
Mar	12	13	14	15	16	5	123		
Mar	19	20	21	22	23	5	128		
Mar	26	27	28	29	30	0 20	128	1 4	3/26-4/2 Spring Recess
Apr	2	3	4	5	6	4	132	1	
Apr	9	10	11	12	13	5	137		
Apr	16	17	18	19	20	5	142		
Apr	23	24	25	26	27	5 19	147		
Apr/May	30	1	2	3	4	5	152		
May	7	8	9	10	11	5	157		
May	14	15	16	17	18	5	162		
May	21	22	23	24	25	5 20	167		
May/Jun	28	29	30	31	1	4	171	1	5/28 Memorial Day
Jun	4	5	6	7	8	5	176		
Jun	11	12	13	14	15	4 13	180		6/14 <b>Last Day of School</b>
Jun	18	19	20	21	22	0	180		6/15 Teacher Workday
Jun	25	26	27	28	29	0			

 Schools closed on bordered days

**180 Student Days / 185 Teacher Workdays**

*TBD Approved by Governing Board*

## 6.0 INSTRUCTIONAL PROGRAMS & STUDENT ACTIVITIES

6.1 Learning Department Report, including: Updates on Local Control Accountability Plan (LCAP) 2017-20 development, CUSD Strategic Planning, and CA State Accountability/CA School Dashboard

### **Background Information:**

In 2014, Local Control Funding Formula legislation was passed requiring each district to have a Local Control Accountability Plan (LCAP), the intent of which is to improve the performance of all students, including students with disabilities, in the state's 8 priority areas and local priority areas; and to demonstrate how services are provided to meet the needs of all significant subgroups. The LCAP is intended by the California Department of Education to be a comprehensive planning tool to coordinate all educational services and funding. It is approved annually by both the Governing Board (by June 30) and the local County Office of Education (circa August).

In addition, the entire accountability system for all public schools has undergone a major redesign since the suspension of the previous Academic Performance Index system using multiple criteria to determine status and growth. Alignment to the new federal accountability law, Every Student Succeeds Act (ESSA), is also pending with future impact on state and local accountability.

2017-20 District LCAP and Site strategic plans are required to align to all of the new CA accountability requirements.

### **Reports:**

Development of the 2017-2020 Local Control Accountability Plan (LCAP) is well underway. To date, CUSD has:

- completed an internal review of all metrics used to measure CUSD's progress towards meeting the 8 State Priorities
- gathered feedback on 6 critical areas of need at the recent CUSD Annual District Strategic Planning meeting held on February 6, 2017, which was attended by approximately 50 parents, community and staff members, and secondary students. Critical areas discussed by meeting participants included:
  - o personalized learning practices
  - o communication systems
  - o student support systems
  - o academic achievement
  - o district office support to school sites
  - o professional development
- begun planning for further shareholder consultation opportunities through June 2017 prior to Governing Board approval of the LCAP
- calendared strategic planning annual meetings for each school site in which staff, parents, and community members will participate to review progress and provide feedback for future key actions:

o Tuesday, February 21, 2017	Silver Strand Elementary
o Wednesday, February 22, 2017	Village Elementary
o Thursday, February 23, 2017	Coronado Middle School
o Friday, February 24, 2017	Coronado High School

All site annual meetings are held from 8:15-noon at each school site. Shareholders who represent each

site and the District will be invited to attend as participants.

An important change to how CUSD and all public schools' performance is viewed is a shift from a single number – the previous Academic Performance Index, or API – to now looking at multiple measures of performance. As schools and students are more than test scores, new LCFF Evaluation Rubrics and the California School Dashboard, which will be released in March 2017, will give a more comprehensive look at District and school performance. CUSD and all of its schools will use this new information to help develop the next LCAP and related school site plans.

In the new CA School Dashboard, Evaluation Rubrics will look at 11 topics, or *indicators*, to determine a district or school's performance based on the current rate and whether there was improvement over several years. Those indicators are: chronic absenteeism, suspension rates, graduation rates, student performance in English language arts and math, parent engagement, school climate, progress of English learners, college and career readiness, implementation of state standards, and basics, such as teachers, materials, and facilities. For all of these measures, viewers will be able to see overall student performance and filter the results for particular groups of students, such as English learners.

The Dashboard will give a snapshot of opportunities, challenges, and successes within each of the indicators and for specific CUSD student subgroups. The Dashboard will use colored "pies" to indicate the performance level -- blue is best, followed by green, yellow, orange, and red -- making it easy for families and community members to get an overview and dig deeper for more information. This layered look at CUSD and all CA schools will help the school system and the entire community work together to continue improving. This year's results shown on the CA School Dashboard establish a baseline that will allow CUSD to monitor the progress expected over time. The information contained in the rubrics will allow educators and the community to look at multiple data carefully to make improvements that help CUSD's students.

Information gathered from the CA School Dashboard and all shareholder feedback will be used to help develop the LCAP for the next three school years. A calendar of shareholder opportunities and information on the launch of the CA School Dashboard will be forthcoming on the CUSD website.

**Financial Impact:**

None for this report

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This report is presented to the Board for information.

## AGENDA - February 16, 2017

### 7.0 DISTRICT ORGANIZATION AND BOARD OPERATIONS

7.1 Adopt Revisions to Board Policies, Board Bylaws, Administrative Regulations, and/or Exhibits (First Reading)

#### **Background Information:**

Periodically the Board is presented with recommended revisions to Board Policies (BP), Board Bylaws (BB), Administrative Regulations (AR), and/or Exhibits (E). The recommendations are based on changes in law, the Education Code, Government Code, and/or rewording for better understanding.

#### **Reports:**

Recent changes in the law require adoptions, and revisions of policies and regulations.

#### **Financial Impact:**

None

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This report is provided to the Board for information.

#### **ATTACHMENTS:**

	<u>Description</u>	<u>Upload Date</u>	<u>Type</u>	<u>File Name</u>
▣	December Updates with Track Changes	2/10/2017	Cover Memo	12-16_Packet_with_track_changes.pdf

# CSBA Sample

## Administrative Regulation

Community Relations

AR 1340(a)

### ACCESS TO DISTRICT RECORDS

Note: Article I, Section 3 of the California Constitution grants any person the right to access information concerning meetings and writings of state and local government bodies, officials, and agencies as long as the constitutional rights of privacy and due process are protected. Courts broadly interpret rules or laws granting access and narrowly interpret those denying access; thus, the burden is on the district to demonstrate the need for restricting access to public records.

The following **optional** administrative regulation lists those records defined as public and, **in contrast, those defined and** as confidential **to which there is no public access.** **and It** is not intended to provide an all-inclusive list of **all of the** records that may be **defined as either** public **and/or** confidential.

### Definitions

Note: Pursuant to Government Code 6252, a "public record" includes any writing that relates to district business as defined below.

Emails discussing district business are considered public records. However, the law is unclear as to whether emails discussing district business sent from an employee's or Governing Board member's home computer or personal digital assistant would be considered a public record that is "retained in the normal course of business" and thus subject to disclosure. **Although an appellate court ruled that the California Public Records Act does not require public access to communications by public officials using exclusively private cell phones or email accounts, the case has been appealed to the California Supreme Court.** If a district receives a request for such records, legal counsel should be consulted, as appropriate. See BB 9012 - Board Member Electronic Communications.

*Public records* include any writing containing information relating to the conduct of the district's business prepared, owned, used, or retained by the district regardless of physical form or characteristics. (Government Code 6252)

(cf. 3580 - District Records)

(cf. 9012 - Board Member Electronic Communications)

*Writing* means any handwriting, typewriting, printing, photostating, photographing, **photocopying**, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored. (Government Code 6252)

*Member of the public* means any person, except a member, agent, officer, or employee of the district or a federal, state, or other local agency acting within the scope of his/her membership, agency, office, or employment. **(Government Code 6252)**

## ACCESS TO DISTRICT RECORDS (continued)

### Public Records

Note: While not specifically enumerated in Government Code 6252, items #1-**1415** below are items which fall within the definition of "public records."

Public records to which members of the public shall have access include, but are not limited to:

1. Proposed and approved district budgets and annual audits (Education Code 41020, 42103)

*(cf. 3100 - Budget)*

*(cf. 3460 - Financial Reports and Accountability)*

2. Statistical compilations

3. Reports and memoranda

4. Notices and bulletins

5. Minutes of public meetings (Education Code 35145)

*(cf. 9324 - Minutes and Recordings)*

6. Meeting agendas (Government Code 54957.5)

*(cf. 9322 - Agenda/Meeting Materials)*

7. Official communications between the district and other government agencies

8. School-based program plans (Education Code 52850)

*(cf. 0420 - School Plans/Site Councils)*

9. Information and data relevant to the evaluation and modification of district plans

*(cf. 0440 - District Technology Plan)*

***(cf. 0460 - Local Control and Accountability Plan)***

*(cf. 0520.2 - Title I Program Improvement Schools)*

*(cf. 0520.3 - Title I Program Improvement Districts)*

10. Initial proposals of exclusive employee representatives and of the district (Government Code 3547)

*(cf. 4143.1/4243.1 - Public Notice - Personnel Negotiations)*



**ACCESS TO DISTRICT RECORDS** (continued)

Note: Although Government Code 6254 exempts from disclosure those records pertaining to pending litigation, the Attorney General opined in 71 Ops.Cal.Atty.Gen. 235 (1988) that records predating the filing of **the lawsuit are subject to the documents initiating the lawsuit are not exempt from** disclosure. In Fairley v. Superior Court, a California Court of Appeal concurred and further held that documents were exempted only if **they were** prepared for use in litigation. **(See item #2 in the section "Confidential Records" below.)** The following item reflects the opinion of the court and the Attorney General. The Board should consult legal counsel if it believes that **any tort claim or other** document related to litigation should not be disclosed.

11. **Records pertaining to claims and litigation against the district which have been adjudicated or settled** ~~Claims filed against the district and records pertaining to pending litigation~~ (Government Code **6254**, 6254.25; Fairley v. Superior Court; 71 Ops.Cal.Atty.Gen. 235 (1988))

(cf. 3320 - *Claims and Actions Against the District*)

12. Statements of economic interests required by the Conflict of Interest Code (Government Code 81008)

(cf. 9270 - *Conflict of Interest*)

Note: Generally, the names and salaries of public employees are subject to disclosure **under the Public Records Act. However, in** International Federation of Professional and Technical Engineers v. The Superior Court of Alameda County, ~~the California Supreme Court held that the salaries of public employees, linked to individual employee names (including peace officers), must be disclosed.~~, **the California Supreme Court** ~~The court~~ recognized that, in some circumstances **instances**, the salaries of certain employees might be exempt from disclosure, depending on the facts and circumstances. ~~of the particular individual (e.g., anonymity of an undercover police officer); however, the presumption is that salary records are open and the burden is on the district maintaining the record to demonstrate why the particular record would be exempt from disclosure.~~ **Additionally, in** Sacramento County Employees Retirement System v. Superior Court, a California Court of Appeal held that the names and corresponding pension benefits of members of a county retirement system are subject to disclosure and are not considered **"individual records of members" protected by Government Code 31532.**

13. **Documents containing names, salaries, and pension benefits of district employees**

- 1314.** Employment contracts and settlement agreements (Government Code 53262)

(cf. 2121 - *Superintendent's Contract*)

(cf. 4117.5/4217.5/4317.5 - *Termination Agreements*)

(cf. 4141/4241 - *Collective Bargaining Agreement*)

Note: The following item reflects an Attorney General Opinion (64 Ops.Cal.Atty.Gen. 186 (1981)) which opined that, a person must, upon request, be provided a copy of a textbook or other written instructional material unless the provision would result in a copyright infringement or unreasonable burden to the district. **In addition, pursuant to Education Code 49091.10, parents/guardians must be allowed to inspect all instructional materials. See BP/AR 5020 Parent Rights and Responsibilities.**

**ACCESS TO DISTRICT RECORDS** (continued)

**1415.** Instructional materials including, but not limited to, textbooks (**Education Code 49091.10** 64 Ops.Cal.Atty.Gen. 186 (1981))

(cf. 5020 - *Parent Rights and Responsibilities*)

(cf. 6161.1 - *Selection and Evaluation of Instructional Materials*)

Note: In accordance with Government Code 6252.5, Board members have the same access to public records of the district as do members of the public. When Board members are authorized to access public records, Government Code 6252.7 prohibits the district from discriminating between Board members as to when and which record, or portion of the record, will be made available. See BB 9322 – Agenda/Meeting Materials.

**Governing Board members shall have the ability to access public records permitted by law in the administration of their duties or open to inspection by members of the public. Access to public records of the district shall be granted to Governing Board members on the same basis as any other member of the public. When Board members are authorized to access public records in the administration of their duties, the Superintendent or designee shall not discriminate among any of the Board members as to which record, or portion of the record, will be made available, or when it will be made available. (Government Code 6252.5, 6252.7)**

Note: Government Code 6254.29 specifies that the Public Records Act does not require a district to disclose an employee's social security number and states the Legislature's intent that districts redact social security numbers from any records being disclosed to the public. **In addition, Government Code 6254.3, as amended by AB 2843 (Ch. 830, Statutes of 2016), prohibits disclosure of an employee's personal cell phone number and birth date.**

**The Superintendent or designee shall ensure that any public record containing personal information is redacted to ensure that such information is not disclosed to a member of the public any record that contains personal information, including, but not limited to, an employee's home address, home telephone number, or social security number, personal cell phone number, or birth date, the Superintendent or designee shall ensure that such personal information is redacted from that record is not disclosed to the public. (Government Code 6254.29, 6254.3)**

**Confidential Public Records**

Records to which the members of the public shall not have access include, but are not limited to:

1. Preliminary drafts, notes, interagency or intradistrict memoranda that are not retained by the district in the ordinary course of business, provided that the public interest in withholding these records clearly outweighs the public interest in disclosure (Government Code 6254)

(cf. 4119.23/4219.23/4319.23 - *Unauthorized Release of Confidential/Privileged Information*)

**ACCESS TO DISTRICT RECORDS** (continued)

(cf. 9011 - Disclosure of Confidential/Privileged Information)

2. Records specifically generated in connection with or prepared for use in litigation to which the district is a party or to respond to claims made against the district pursuant to the Tort Claims Act, until the litigation or claim has been finally adjudicated or otherwise settled, or beyond, if the records are protected by some other provision of law (Government Code 6254, 6254.25; ~~Fairley v. Superior Court; 71 Ops. Cal. Atty. Gen. 235 (1988)~~)
3. Personnel records, medical records, ~~student records~~, or similar materials, the disclosure of which would constitute an unwarranted invasion of personal privacy (Government Code 6254)

(cf. 4112.5/4212.5/4312.5) - Criminal Record Check)

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

~~(cf. 5125 - Student Records)~~

~~(cf. 5125.1 - Release of Directory Information)~~

The home addresses, home telephone numbers, personal cell phone numbers, or birthdate of employees may only be disclosed as follows: (Government Code 6254.3)

- a. To an agent or a family member of the employee
- b. To an officer or employee of a state agency or another school district or county office of education when necessary for the performance of official duties
- c. To an employee organization pursuant to regulations and decisions of the Public Employment Relations Board, **except that the home address and any telephone number for an** ~~unless the~~ employee **who** performs law enforcement-related functions, **or the birth date of any employee, or** ~~requests in writing that the information shall~~ not be disclosed

**Upon written request of any employee, the district shall not disclose the employee's home address, home telephone number, personal cell phone number, or birth date, and the district shall remove this information from any mailing list of the district except a list used exclusively to contact the employee.**

(cf. 4140/4240/4340 - Bargaining Units)

**ACCESS TO DISTRICT RECORDS** (continued)

- d. To an agent or employee of a health benefit plan providing health services or administering claims for health services to district employees and their enrolled dependents, for the purpose of providing the health services or administering claims for employees and their enrolled dependents

(cf. 4154/4254/4354 - *Health and Welfare Benefits*)

**4. Student records, except directory information and other records to the extent permitted under the law, when disclosure is authorized by law**

(cf. 5125 - *Student Records*)

(cf. 5125.1 - *Release of Directory Information*)

(cf. 5125.3 - *Challenging Student Records*)

**4.5. Test questions, scoring keys, and other examination data except as provided by law (Government Code 6254)**

(cf. 6162.51 - *State Academic Achievement Tests*)

(cf. 6162.52 - *High School Exit Examination*)

**5.6. Without affecting the law of eminent domain, the contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the district relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained (Government Code 6254)**

**6.7. Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information (Government Code 6254)**

Note: SB 445 (Ch. 80, Statutes of 2011) added Government Code 6267 to make the written and electronic records of library patrons confidential, except with regard to any person who is acting within the scope of his/her duties in the administration of the library, authorized in writing by the patron, or responding to an order of a court.

**7.8. Library circulation and patron use records of a borrower or patron including, but not limited to, his/her name, address, telephone number, email address, borrowing information, or use of library information resources, except when disclosure is to a person acting within the scope of his/her duties in the administration of the library, to a person authorized in writing by the individual to whom the records pertain, or by court order (Government Code 6254, 6267)**

(cf. 6163.1 - *Library Media Centers*)

**ACCESS TO DISTRICT RECORDS** (continued)

Note: The following exemption protects attorney-client privileged communications and attorney work product, as well as other work product prepared for use in pending litigation or claims. Pursuant to the Rules of Professional Conduct of the State Bar of California, when an attorney has been hired to represent the district as a whole, this privilege may only be waived by the Board.

- 8.9.** Records for which the disclosure is exempted or prohibited pursuant to state or federal law, including, but not limited to, provisions of the Evidence Code relating to privilege (Government Code 6254)

*(cf. 9124 - Attorney)*

- 9.10.** Documents prepared by or for the district to assess its vulnerability to terrorist attack or other criminal acts intended to disrupt district operations and that are for distribution or consideration in closed session (Government Code 6254)

*(cf. 0450 - Comprehensive Safety Plan)*

- 10.11.** Recall petitions, petitions for special elections to fill Board vacancies, or petitions for the reorganization of the school district (Government Code 6253.5)

*(cf. 9223 - Filling Vacancies)*

- 11.12.** Minutes of Board meetings held in closed session (Government Code 54957.2)

*(cf. 9321 - Closed Session Purposes and Agendas)*

- 12.13.** Computer software developed by the district (Government Code 6254.9)

- 13.14.** Information security records, the disclosure of which would reveal vulnerabilities to, or otherwise increase potential for an attack on, the district's information technology system (Government Code 6254.19)

- 14.15.** Records that contain individually identifiable health information, including records that may be exempt pursuant to physician-patient privilege, the Confidentiality of Medical Information Act, and the Health Insurance Portability and Accountability Act (Government Code 6254, 6255)

*(cf. 5141.6 - School Health Services)*

- 15.16.** Any other records listed as exempt from public disclosure in the California Public Records Act or other statutes

**ACCESS TO DISTRICT RECORDS** (continued)

Note: Item #16 below reflects an exemption often referred to as the "catch-all" or "public interest" exemption pursuant to Government Code 6255. This exemption allows a district to withhold a record based on analysis of the specific facts of the situation and in light of the competing public interests. This exemption also includes the "deliberative process privilege" which is designed to protect a district's decision-making process in order to encourage candid discussions within the district. Legal counsel should be consulted to determine whether a request for a record falls under this exemption.

16. **Any other records** for which the district can demonstrate that, based on the particular facts of the case, the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record (Government Code 6255)

**Inspection of Records and Requests for Copies**

Note: Court decisions have held that a public record request may be made orally, by phone, or in writing, including by email, fax, or hand delivery. The district may ask, but not require, that the person put an oral request in writing.

Any person may request a copy or inspection of any district record that is open to the public and not exempt from disclosure. (Government Code 6253)

Within 10 days of receiving any request to inspect or copy a district record, the Superintendent or designee shall determine whether the request seeks release of a disclosable public record in the district's possession. The Superintendent or designee shall promptly inform the person making the request of his/her determination and the reasons for the decision. (Government Code 6253)

In unusual circumstances, the Superintendent or designee may extend the 10-day limit for up to 14 days by providing written notice to the requester and setting forth the reasons for the extension and the date on which a determination is expected to be made. Unusual circumstances include the following, but only to the extent reasonably necessary to properly process the request: (Government Code 6253)

1. The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request
2. The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request
3. The need for consultation, which shall be conducted with all practicable speed, with another agency (e.g., a state agency or city) having a substantial interest in the determination of the request or among two or more components of the district (e.g., two different school sites) with substantial interest in the request

**ACCESS TO DISTRICT RECORDS** (continued)

4. In the case of electronic records, the need to compile data, write programming language or a computer program, or construct a computer report to extract data

If the Superintendent or designee determines that the request seeks disclosable public records, the determination shall state the estimated date and time when the records will be made available. (Government Code 6253)

Public records shall be open to inspection at all times during district office hours. Any reasonably segregable portion of a record shall be made available for inspection by any person requesting the record after deletion of the portions that are exempted by law. (Government Code 6253)

Note: Government Code 6253 states that copies of records must be provided "promptly." The term "promptly" is not defined in law, but Government Code 6253 also states that a district may not delay or obstruct the copying of records. Thus, if the records are held in a manner that allows for prompt disclosure, the records generally should not be withheld because of the 10-day response period or the 14-day extension detailed above.

Upon request for a copy that reasonably describes an identifiable record, an exact copy shall be promptly provided unless it is impracticable to do so. (Government Code 6253)

Note: The following **optional** paragraph is for use by districts that charge for copies. See the accompanying Board policy.

The Superintendent or designee shall charge an amount for copies that reflects the direct costs of duplication. Written requests to waive the fee shall be submitted to the Superintendent or designee.

**Note: Pursuant to Government Code 6253, as amended by AB 2853 (Ch. 275, Statutes of 2016), in addition to having public records available for inspection during office hours, the district may, in response to a public records request, post public records on its web site and refer the requesting member of the public to the location on the web site where the public record is posted, as provided below.**

**In addition to maintaining public records for public inspection during district office hours, the district may comply with public records requests by posting any public record on the district's web site and, in response to a public records request, directing the member of the public to the location on the web site where the record can be found. However, if the member of the public is unable to access or reproduce the record from the web site, the district shall promptly provide an exact copy of the public record upon payment of duplication fees, if applicable, unless it is impracticable to provide an exact copy. (Government Code 6253)**

**ACCESS TO DISTRICT RECORDS** (continued)

If any person requests that a public record be provided in an electronic format, the district shall make that record available in any electronic format in which it holds the information. The district shall provide a copy of the electronic record in the format requested as long as the requested format is one that has been used by the district to create copies for its own use or for use by other agencies. (Government Code 6253.9)

The cost of duplicating an electronic record shall be limited to the direct cost of producing a copy of the record in electronic format. However, the requester shall bear the cost of producing the copy of the electronic record, including the cost to construct the record and the cost of programming and computer services necessary to produce the copy, under the following circumstances: (Government Code 6253.9)

1. The electronic record is one that is produced only at otherwise regularly scheduled intervals.
2. The request would require data compilation, extraction, or programming to produce the record.

**Assistance in Identifying Requested Records**

Note: Government Code 6253.1 requires the district to assist a person requesting to inspect or obtain a copy of a public record as specified below. This assistance is not required if the district grants the request and the records are made available or if the request is denied on the grounds that the records are confidential.

If the Superintendent or designee denies a request for disclosable records, he/she shall assist the requester in making a focused and effective request that reasonably describes an identifiable record. To the extent reasonable under the circumstances, the Superintendent or designee shall do all of the following: (Government Code 6253.1)

1. Assist in identifying records and information responsive to the request or the purpose of the request, if specified
 

If, after making a reasonable effort to elicit additional clarifying information from the requester to help identify the record, the Superintendent or designee is still unable to identify the information, this requirement shall be deemed satisfied.
2. Describe the information technology and physical location in which the records exist
3. Provide suggestions for overcoming any practical basis for denying access to the records or information sought



**ACCESS TO DISTRICT RECORDS** (continued)

Provisions of the Public Records Act shall not be construed so as to delay or obstruct the inspection or copying of public records. Any notification denying a request for public records shall state the name and title of each person responsible for the denial. (Government Code 6253)

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**Policy Reference UPDATE Service**

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# CSBA Sample

## Board Policy

### Business and Noninstructional Operations

BP 3311(a)

#### BIDS

Note: Pursuant to Public Contract Code 20111 and 22002, public contracts for the lease or purchase of equipment, materials, supplies, or services or for "public projects," as defined, are required to be competitively bid when they involve expenditure of specified amounts.

An alternative procedure for public works projects is provided pursuant to the Uniform Public Construction Cost Accounting Act (UPCCAA) (Public Contract Code 2203022000-22045), as described below; see BP/AR 3311.1 - Uniform Public Construction Cost Accounting Procedures. Also see AR 3311.2 - Lease-Leaseback Contracts, AR 3311.3 - Design-Build Contracts, and AR 3311.4 - Procurement of Technological Equipment for procedures applicable to those contracts.

The Governing Board is committed to promoting public accountability and ensuring prudent use of public funds. When leasing, purchasing, or contracting for equipment, materials, supplies, or services for the district, including when contracting for public projects involving district facilities, the Board shall explore lawful opportunities to obtain the greatest possible value for its expenditure of public funds. When required by law, or if the Board determines that it is in the best interest of the district, such contracts shall be made using competitive bidding.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 3000 - Concepts and Roles)

(cf. 3230 - Federal Grant Funds)

(cf. 3300 - Expenditures and Purchases)

(cf. 3311.1 - Uniform Public Construction Cost Accounting Procedures)

(cf. 3311.2 - Lease-Leaseback Contracts)

(cf. 3311.3 - Design-Build Contracts)

(cf. 3311.4 - Procurement of Technological Equipment)

No work, project, service, or purchase shall be split or separated into smaller work orders or projects for the purpose of evading legal requirements regarding contracting after for competitive bidding. (Public Contract Code 20116, 22033)

Note: Requirements for competitive bidding, including notice and advertising, are specified in Public Contract Code 20110-20118.4. See the accompanying administrative regulation.

The Superintendent or designee shall establish comprehensive bidding procedures for the district in accordance with law. The procedures shall include a process for advertising bids, instructions and timelines for submitting and opening bids, and other relevant requirements.

Note: Pursuant to Public Contract Code 20111.5, the district is permitted, but not required, to establish prequalification procedures for any contract for which bids are legally required; see the accompanying administrative regulation. However, pursuant to Public Contract Code 20111.6, a district with average daily attendance of 2,500 or greater is required to prequalify all general contractors and electrical, mechanical, and

**BIDS** (continued)

plumbing subcontractors for public projects of \$1 million or more awarded on or after January 1, 2014, if School Facilities Program funds (Education Code 17070.10-17079.30) or other future state school bonds are used. ~~In addition, the Governing Board is required to adopt a uniform system of rating bidders based on completed questionnaires and financial statements which must address, at a minimum, the issues covered by the standardized questionnaire and model guidelines developed by the Department of Industrial Relations for such purpose.~~

For award of contracts which, by law or Board policy, require prequalification, the procedures shall identify a uniform system for rating bidders ~~and shall address the issues covered by the standardized questionnaire and model guidelines developed by the Department of Industrial Relations pursuant to Public Contract Code 20101 on the basis of a completed questionnaire and financial statements.~~

(cf. 9270 - Conflict of Interest)

Note: Districts should be careful in crafting bid specifications, as a misleading specification that results in a lower bid than might have been made may make the district liable for the extra work done or expenses incurred by the contractor. In *Los Angeles Unified School District v. Great American Insurance Co.*, the California Supreme Court held in favor of a contractor who was misled by the district's nondisclosure of material information that would have affected the contractor's bid.

When calling for bids, the Superintendent or designee shall ensure that the bid specifications clearly describes in appropriate detail the quality, delivery, and service required, and includes all information which the district knows, or has in its possession, that is relevant to the work to be performed or that may impact the cost of performing the work.

Note: Pursuant to Public Contract Code 20111, a contract required to be put out to bid must be awarded to the lowest responsible bidder. ~~As defined in Public Contract Code 1103, a~~ "responsible bidder" is one who possesses the quality, fitness, ~~and capacity, and experience~~ to satisfactorily perform the proposed work. ~~(City of Inglewood Los Angeles County Civic Center Authority v. Superior Court)~~

However, a bid may be awarded to other than the lowest responsible bidder when conditions specified in law exist. ~~For example, a district is permitted to give preference to minorities, women, veterans, and small businesses in accordance with Public Contract Code 2000-2002. In addition, Education Code 17250.10-17250.55, as added by AB 1358 (Ch. 752, Statutes of 2015), authorize the district to award a design build contract for a public works project in excess of \$1 million on the basis of either low bid or "best value," as defined. See "Award of Contract" section in the accompanying administrative regulation.~~

Except as authorized by law ~~and specified in the administrative regulation~~, contracts shall be let to the lowest responsible bidder who shall give such security as the Board requires, or else all bids shall be rejected. (Public Contract Code 20111)

Note: Pursuant to Public Contract Code 20118, districts may be exempt from the bidding requirements and may "piggyback" onto the bid of any public corporation or agency for specific items when the Board determines it is in the best interest of the district. See the accompanying administrative regulation for a list of those items that may be leased or purchased using this procedure.

**BIDS** (continued)

When the Board has determined that it is in the best interest of the district, the district may piggyback onto the contract of another public agency or corporation to lease or purchase **equipment or supplies any personal property** to the extent authorized by law. (Public Contract Code 20118)

~~Note: The following optional paragraph is for use by districts that have elected to use the alternative contracting procedure for public works pursuant to the UPCCAA (Public Contract Code 22030-22045) and should be deleted by districts that have not elected to use such alternative procedure. Pursuant to Public Contract Code 22030, the district may participate in the UPCCAA only if the Board adopts a resolution requiring the use of the UPCCAA in district contracting and notifies the State Controller of that action. In the event of a conflict with any other provision of law relative to bidding procedures, the UPCCAA shall apply to any district that has adopted a resolution and so notified the Controller. According to the California Uniform Construction Cost Accounting Commission's "Frequently Asked Questions," available on its web site, withdrawal from the UPCCAA requires the Board to file a resolution of the election to withdraw with the State Controller.~~

~~In electing to be subject to the UPCCAA, a district thereby agrees to follow the cost accounting procedures set forth in the Cost Accounting Policies and Procedures Manual of the California Uniform Construction Cost Accounting Commission. According to the "Frequently Asked Questions" on the Commission's web site, school districts may use the statewide Standardized Account Code Structure to comply with tracking requirements.~~

~~Pursuant to Public Contract Code 22032, projects of \$45,000 or less may be performed by the district's own work force; projects of \$175,000 or less may use a more informal bidding procedure as specified; and projects over \$175,000 require formal bidding procedures. See the accompanying administrative regulation for related requirements.~~

~~In circumstances where the informal bidding procedure is authorized, Public Contract Code 22034 allows the Board to delegate the authority to award contracts to an appropriate district administrator. Public Contract Code 22039 allows the Board to delegate the adoption of plans, specifications, and working details for projects subject to formal bidding procedures. The following paragraph may be revised to reflect district practice.~~

**For use in contracting for public works projects, the Board has, by resolution, adopted the procedures set forth in the Uniform Public Construction Cost Accounting Act pursuant to Public Contract Code 22030-22045, including the required cost accounting procedures and the informal bidding procedures when allowed by law. The Board delegates to the Superintendent or designee the responsibilities to award any contract eligible for informal bidding procedures and to develop plans, specifications, and working details for all public projects requiring formal bidding procedures. [MOVED TO BP 3111.1 - UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING PROCEDURES]**

*Legal Reference: (see next page)*

**BIDS (continued)**

*Legal Reference:*

**EDUCATION CODE**

17070.10-17079.30 *Leroy F. Greene School Facilities Act*

17250.10-17250.55 *Design-build contracts*

17406 *Lease-leaseback contracts*

17595 *Purchase of supplies through Department of General Services*

17602 *Purchase of surplus property from federal agencies*

38083 *Purchase of perishable foodstuffs and seasonable commodities*

38110-38120 *Apparatus and supplies*

39802 *Transportation services*

**BUSINESS AND PROFESSIONS CODE**

**7056 General engineering contractor**

**7057 General building contractor**

**CODE OF CIVIL PROCEDURE**

446 *Verification of pleadings*

**GOVERNMENT CODE**

4217.10-4217.18 *Energy conservation contracts*

4330-4334 *Preference for California-made materials*

6252 *Definition of public record*

53060 *Special services and advice*

54201-54205 *Purchase of supplies and equipment by local agencies*

**PUBLIC CONTRACT CODE**

1102 *Emergencies*

**1103 Definition, responsible bidder**

2000-2002 *Responsive bidders*

3000-3010 *Roofing projects*

3400 *Bids, specifications by brand or trade name not permitted*

3410 *United States produce and processed foods*

**4113 Prime contractor; subcontractor**

6610 *Bid visits*

12200 *Definitions, recycled goods, materials and supplies*

20101-20103.7 *Public construction projects, requirements for bidding*

20103.8 *Award of contracts*

~~20107 Bidder's security~~

20110-20118.4 *Contracting by school districts* **Local Agency Public Construction Act; school districts**

20189 *Bidder's security, earthquake relief*

~~22002 Definition of public project~~

~~2203022000~~-22045 *Alternative procedures for public projects (UPCCAA)*

~~22050 Alternative emergency procedures~~

22152 *Recycled product procurement*

**COURT DECISIONS**

~~McGee v. Balfour Beatty Construction, LLC, et al. (4/12/16, No. B262850)~~

~~Davis v. Fresno Unified School District, (2015) 237 Cal.App.4th 261~~

*Los Angeles Unified School District v. Great American Insurance Co.*, (2010) 49 Cal.4th 739

*Great West Contractors Inc. v. Irvine Unified School District*, (2010) 187 Cal.App.4th 1425

*Marshall v. Pasadena Unified School District*, (2004) 119 Cal.App.4th 1241

*Konica Business Machines v. Regents of the University of California*, (1988) 206 Cal.App.3d 449

*City of Inglewood-Los Angeles County Civic Center Authority v. Superior Court*, (1972) 7 Cal.3d 861

**ATTORNEY GENERAL OPINIONS**

89 *Ops.Cal.Atty.Gen. 1* (2006)

**BIDS** (continued)

*Management Resources:*

**CALIFORNIA UNIFORM CONSTRUCTION COST ACCOUNTING COMMISSION PUBLICATIONS**

*Cost Accounting Policies and Procedures Manual*

*Frequently Asked Questions*

**WEB SITES**

CSBA: [http:// www.csba.org](http://www.csba.org)

California Association of School Business Officials: <http://www.casbo.org>

California Department of Education: <http://www.cde.ca.gov>

California Department of General Services: <https://www.dgs.ca.gov>

California Uniform Construction Cost Accounting Commission:

[http://www.seo.ca.gov/ard\\_euccac.html](http://www.seo.ca.gov/ard_euccac.html)

(8/13 5/16) 12/16

# CSBA Sample Administrative Regulation

## Business and Noninstructional Operations

AR 3311(a)

### BIDS

Note: Pursuant to Government Code 54202, districts are **mandated** to establish bidding procedures governing the purchase of equipment and supplies, ~~as specified in 41~~. The following administrative regulation reflects the competitive bidding procedures applicable to these purchases, as well as contracts for certain services, public works projects, and repairs and maintenance, when the contract exceeds the amount specified in law.

An alternative procedure for public works projects is provided pursuant to the Uniform Public Construction Cost Accounting Act (UPCCAA) (Public Contract Code 22000-22045), which allows public projects of \$45,000 or less to be performed by district employees and public projects of \$175,000 or less to be awarded through an informal bidding process. See BP/AR 3311.1 - Uniform Public Construction Cost Accounting Procedures. Districts that have adopted the UPCCAA procedures should modify the following regulation to delete or revise conflicting provisions related to contracts for public works. Also see AR 3311.2 - Lease-Leaseback Contracts, AR 3311.3 - Design-Build Contracts, and AR 3311.4 - Procurement of Technological Equipment for procedures applicable to those contracts.

### Advertised/Competitive Bids

The district shall advertise for ~~competitive bids~~ any of the following: (Public Contract Code 20111)

1. ~~when any A~~ public project contract ~~that~~ involves an expenditure of \$15,000 or more, including a contract for construction, reconstruction, erection, alteration, renovation, improvement, painting, repainting, demolition, or repair work involving a district owned, leased, or operated facility

~~Public project means construction, reconstruction, erection, alteration, renovation, improvement, painting, repainting, demolition, and repair work involving a district owned, leased, or operated facility. (Public Contract Code 20111, 22002)~~

(cf. 3311.1 - Uniform Public Construction Cost Accounting Procedures)

(cf. 3311.2 - Lease-Leaseback Contracts)

(cf. 3311.3 - Design-Build Contracts)

Note: For ~~items #1-3~~ the contracts specified in item #2a-c below, Public Contract Code 20111 requires the Superintendent of Public Instruction (SPI) to annually establish a bid limit that reflects U.S. Department of Commerce data. The following ~~optional~~ paragraph allows the amount to escalate automatically once the SPI has made the annual determination. For 2016, the bid limit is \$87,800.

2. ~~The district shall also advertise for competitive bids when a~~ A contract ~~that~~ exceeds the amount specified in law, as annually adjusted by the Superintendent of Public Instruction, for any of the following: (Public Contract Code 20111)

**BIDS** (continued)

- 1.a.** The purchase of equipment, materials, or supplies to be furnished, sold, or leased to the district

(cf. 3230 - Federal Grant Funds)

(cf. 3311.4 - Procurement of Technological Equipment)

- 2.b.** Services, not including construction services or special services and advice in accounting, financial, legal, or administrative matters

- 3.c.** Repairs that are not a public project, including maintenance

*Maintenance* means routine, recurring, and usual work for preserving, protecting, and keeping a district facility operating in a safe, efficient, and continually usable condition for the intended purpose for which it was designed, improved, constructed, altered, or repaired. *Maintenance* includes, but is not limited to, carpentry, electrical, plumbing, glazing, and other craft work designed to preserve the facility, as well as repairs, cleaning, and other operations on machinery and other permanently attached equipment. Maintenance does not include painting, repainting, or decorating other than touchup, or among other types of work, janitorial or custodial services and protection provided by security forces. (Public Contract Code 20115)

**Instructions and Procedures for Advertised Bids**

The Superintendent or designee shall call for bids by placing a notice at least once a week for two weeks in a local newspaper of general circulation published in the district, or if no such newspaper exists, then in some newspaper of general circulation that is circulated in the county. The Superintendent or designee also may post the notice on the district's web site or through an electronic portal. The notice shall state the work to be done or materials or supplies to be furnished and the time and place and web site where bids will be opened. **The district may accept a bid that has been submitted electronically or on paper.** (Public Contract Code 20112)

(cf. 1113 - District and School Web Sites)

The notice shall contain the time, date, and location of any mandatory prebid conference, site visit, or meeting and details regarding when and where project documents, including the final plan and specifications, are available. Any such mandatory visit or meeting shall occur not less than five calendar days after the publication of the initial notice. (Public Contract Code 6610)

Bid instructions and specifications shall include the following requirements and information:



**BIDS** (continued)

1. All bidders shall certify **in writing** the minimum, if not exact, percentage of post-consumer materials in products, materials, goods, or supplies offered or sold. (Public Contract Code 22152)

*(cf. 3510 - Green School Operations)*

2. All bids for construction work shall be presented under sealed cover. **The district may accept a bid that has been submitted electronically or on paper. (Public Contract Code 20111, 20112)**

**The bid and shall be accompanied by one of the following a forms of bidder's security, including either cash, a cashier's check payable to the district, a certified check made payable to the district, or a bidder's bond executed by an admitted surety insurer and made payable to the district. The security of unsuccessful bidders shall be returned in a reasonable period of time, but in no event later than 60 days after the bid is awarded.** (Public Contract Code ~~20107,~~ 20111, 20112)

a. ~~Cash~~

b. ~~A cashier's check made payable to the district~~

c. ~~A certified check made payable to the district~~

d. ~~A bidder's bond executed by an admitted surety insurer and made payable to the district~~

~~The security of unsuccessful bidders shall be returned in a reasonable period of time, but in no event later than 60 days after the bid is awarded. (Public Contract Code 20111)~~

3. When a standardized proposal form is provided by the district, bids not presented on the standard form shall be disregarded. (Public Contract Code 20111.5)
4. Bids shall not be accepted after the advertised bid opening time, regardless of whether the bids are actually opened at that time. (Public Contract Code 20112)
5. When two or more identical lowest or highest bids are received, the Governing Board may determine by lot which bid shall be accepted. (Public Contract Code 20117)

**BIDS** (continued)

Note: Public Contract Code 20103.8 specifies that, in those cases when the bid includes items that may be added to or deducted from the scope of the work in the contract, the bid solicitation must specify the method to be used to determine the lowest bid, as detailed below. Districts should consult with legal counsel, as appropriate, **if they have questions regarding as to the applicability of this law to school districts and other unclear provisions of this law.**

6. If the district requires that the bid include prices for items that may be added to or deducted from the scope of work in the contract, the bid solicitation shall specify which one of the following methods will be used to determine the lowest bid. In the absence of such a specification, only the method provided in item #6a below shall be used. (Public Contract Code 20103.8)
  - a. The lowest bid shall be the lowest total of the bid prices on the base contract without consideration of the prices on the additive or deductive items.
  - b. The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that were specifically identified in the bid solicitation as being used for the purpose of determining the lowest bid price.
  - c. The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that, when taken in order from a specifically identified list of those items in the solicitation, and added to or subtracted from the base contract, are less than or equal to a funding amount publicly disclosed by the district before the first bid is opened.

The lowest bid shall be determined in a manner that prevents any information that would identify any of the bidders or proposed subcontractors or suppliers from being revealed to the district before the ranking of all bidders from lowest to highest has been determined. (Public Contract Code 20103.8)

Note: For a bid to be successful, it must conform to specifications (i.e., it must be "responsive") and the bidder must be determined to be able to perform the work (i.e., he/she must be "responsible" **as defined in Public Contract Code 1103**). **There is no right to a due process hearing when the district has merely found the bid to be nonresponsive. However, A the** district must be careful in making a determination on the "nonresponsiveness" of a bid based on **anything other than the documents submitted.** ~~Investigation or information outside of the submitted bid. In addition, when relying on outside investigation or information to disqualify a bidder, the district must follow the hearing procedures applicable for a finding of "non-responsibility." (Great West Contractors Inc. v. Irvine Unified School District)~~ To avoid any confusion, the district should provide clear and comprehensive bid specifications to bidders.

**When rejecting the lowest responsive bid on the basis that the bidder is nonresponsive, the district must inform the bidder of the evidence used when making the determination and afford him/her a hearing with the right to present evidence that he/she is responsible. (City of Inglewood-Los Angeles County Civic Center Authority v. Superior Court and Great West Contractors Inc. v. Irvine Unified School District)**

**BIDS** (continued)

7. **In determining the lowest bid, the district shall consider only responsive bids that conform to bid specifications and are submitted by from responsible bidders who have demonstrated trustworthiness, quality, fitness, capacity, and experience to satisfactorily perform the public works contract.** ~~in determining the lowest bid.~~
- a.** ~~When a bid is disqualified as determined to be nonresponsive based on district investigation or other information not obtained from the submitted bid,~~ the Superintendent or designee shall notify the bidder and give him/her an opportunity to respond to the ~~information~~ **determination.**
- b.** **When the lowest bidder is determined to be nonresponsive, the Superintendent or designee shall notify the bidder of his/her right to present evidence of his/her responsibility at a hearing before the Board.**
- ~~8. Any subsequent change or alteration of a contract shall be governed by the provisions of Public Contract Code 20118.4.~~
- 9.8.** After being opened, all submitted bids become public records pursuant to Government Code 6252 and shall be made available for public review pursuant to law, Board policy, and administrative regulation.

*(cf. 1340 - Access to District Records)*

*(cf. 3580 - District Records)*

- ~~10. When a bid is disqualified as nonresponsive based on district investigation or other information not obtained from the submitted bid, the Superintendent or designee shall notify the bidder and give him/her an opportunity to respond to the information.~~

**Prequalification Procedure**

Note: The following section is **optional**. Pursuant to Public Contract Code 20111.6, ~~as amended by AB 566 (Ch. 214, Statutes of 2015),~~ a district with average daily attendance (ADA) of 2,500 or greater is required to prequalify all general contractors and electrical, mechanical, and plumbing subcontractors for any public project of \$1 million or more ~~awarded on or after January 1, 2015,~~ when the project uses or is reimbursed from School Facilities Program funds (Education Code 17070.10-17079.30) or other future state school bonds.

Additionally, pursuant to Public Contract Code 20111.5, districts are permitted, but not required, to establish prequalification procedures for other contracts which, by law, require competitive bidding.

When required by law or the Board, the Superintendent or designee shall establish a uniform system for rating bidders on the basis of completed questionnaires and financial statements in order to determine the size of contracts on which each bidder is qualified to bid. For this purpose, the Superintendent or designee shall furnish prospective bidders a standardized

**BIDS** (continued)

~~proposal form~~ **prequalification questionnaire and financial record** which, when completed, shall indicate a bidder's statement of financial ability and experience in performing public works. The bidder's information shall be verified under oath in the manner in which civil law pleadings are verified. The questionnaires and financial statements shall not be public records and shall not be open to public inspection. (Code of Civil Procedure 446; Public Contract Code 20111.5, 20111.6)

Note: Pursuant to Public Contract Code 20111.6, districts' authority to set timelines for bid submittal and opening as specified in the following paragraph apply to contracts awarded on or after January 1, 2015 and will be in effect only until January 1, 2019. In addition, Public Contract Code 20111.6, as amended by AB 566 (Ch. 214, Statutes of 2015), clarifies that the requirement for prequalification applies to projects that will be reimbursed from future state school bonds, not just those that use funds "received" from state construction bonds.

When any public project involves an expenditure of \$1,000,000 or more and is funded or reimbursed wholly or partly by the School Facilities Program funds or other future state school bond, the district shall prequalify prospective bidders either quarterly or annually. The prequalification shall be valid for one year and the following requirements shall apply: (~~Education Code 17406, 17407;~~ Public Contract Code 20111.6)

1. Prospective bidders, including, but not limited to, prime, general engineering, and general building contractors and electrical, mechanical, and plumbing subcontractors, as defined in **Public Contract Code 4113 or the** Business and Professions Code ~~4113,~~ 7056, or 7057, as applicable, shall submit a standardized questionnaire and financial statement 10 or more business days, as determined by the district, before the date fixed for the public opening of sealed bids.
2. Prospective bidders shall be prequalified by the district five or more business days, as determined by the district, before the date fixed for the public opening of sealed bids.

If the project includes electrical, mechanical, or plumbing components that will be performed by electrical, mechanical, or plumbing contractors, the Superintendent or designee shall make available to all bidders a list of prequalified general contractors and electrical, mechanical, and plumbing subcontractors five or more business days, as determined by the district, before the date fixed for the public opening of sealed bids.

For all other contracts requiring competitive bidding, the district may establish a procedure for prequalifying bidders on a quarterly basis and may authorize that prequalification be considered valid for up to one calendar year following the date of the initial prequalification. Prospective bidders for such contracts shall submit the questionnaire and financial statement at least five days before the date fixed for public opening of sealed bids and shall be prequalified by the district at least one day before the fixed bid-opening date. (Public Contract Code 20111.5)

**BIDS** (continued)**Award of Contract**

Note: The following ~~optional~~ section may be revised to reflect district practice. Pursuant to Public Contract Code 20111, the district is required to award a contract to the lowest responsible bidder except in the circumstances specified in items #1-3 below. In addition, Education Code 17250.15 and 17250.25, as added by AB 1358 (Ch. 752, Statutes of 2015), authorize the district to award a design-build contract for a public works project in excess of \$1 million to either the low bid or best value, as provided in item #4 below.

The district shall award each contract to the lowest responsible bidder, except in the following circumstances:

1. When the contract is for the procurement and/or maintenance of electronic data processing systems and supporting software, in which case the Board may contract with any one of the three lowest responsible bidders (Public Contract Code 20118.1)
2. When the contract is for any transportation service which involves an expenditure of more than \$10,000 and which will be made with any person or corporation other than a common carrier, municipally owned transit system, or a parent/guardian of **a** students who **are is** to be transported, in which case the Board may contract with other than the lowest bidder (Education Code 39802)

Note: Pursuant to Public Contract Code 2000-2002, a district is permitted to establish bidding requirements that facilitate the participation of minority, women, disabled veteran, and small business enterprises in contracts. Though minorities and women are included in Public Contract Code 2000, Article 1, Section 31(a) of the California Constitution prohibits the granting of preferences based on race, sex, color, ethnicity, etc., in state employment and contracting. The district should consult legal counsel if there is any question about the granting of preferences to any such business.

3. When the contract is one for which the Board has established goals and requirements relating to participation of disabled veteran or small business enterprises in accordance with Public Contract Code 2000-2002, in which case the Board may contract with the lowest responsible bidder who submits a responsive bid and complies or makes a good faith effort to comply with the goals and requirements (Public Contract Code 2000-2002)
- 4. When procuring a lease-leaseback contract, in which case the Board shall award the contract based on objective criteria for determining the best combination of price and qualifications in accordance with Education Code 17400 and 17406**

*(cf. 3311.2 - Lease-Leaseback Contracts)*

- 4.5.** When procuring a design-build contract for a public works project in excess of \$1,000,000 in accordance with ~~the section "Design-Build Contracts" below~~ **Education Code 17250.20**, in which case the Board may award the contract to either

**BIDS** (continued)

the low bid or the best value to the district, taking into consideration, at a minimum, price, technical design and construction expertise, and life-cycle costs (Education Code 17250.20, 17250.25)

**(cf. 3311.3 - Design-Build Contracts)**

**Protests by Bidders**

Note: The law does not specify a procedure for handling protests by bidders. The following **optional** section provides one such procedure and should be modified to reflect district practice.

A bidder may protest a bid award if he/she believes that the award is not in compliance with law, Board policy, or the bid specification. A protest must be filed in writing with the Superintendent or designee within five working days after receipt of notification of the contract award and shall include all documents supporting or justifying the protest. A bidder's failure to file the protest documents in a timely manner shall constitute a waiver of his/her right to protest the award of the contract.

The Superintendent or designee shall review the documents submitted with the bidder's claims and render a decision in writing within 30 working days. The Superintendent or designee may also convene a meeting with the bidder in order to attempt to resolve the problem.

Note: The following paragraph provides a process for appealing a bid award to the Board. Although the law does not specify the notice to be given in this circumstance, CSBA recommends at least three business days which may be modified to reflect district practice.

The bidder may appeal the Superintendent or designee's decision to the Board. The Superintendent or designee shall provide notice to the bidder of the date and time for Board consideration of the protest at least three business days before the Board meeting. The Board's decision shall be final.

**~~Alternative Bid Procedures for Technological Supplies and Equipment~~ [SECTION MOVED TO NEW AR 3311.4]**

**~~Design-Build Contracts~~ [SECTION MOVED TO NEW AR 3311.3]**

**Limitation on Use of Sole Sourcing**

Note: "Sole sourcing" is the practice by which one brand name product is specified, although comparable, competitive products are available. Public Contract Code 3400 allows sole sourcing in limited circumstances and requires that the specification of the designated product be followed by the words "or equal," so that bidders for such a contract are able to base their bids on the use of other products of equal functionality that may result in cost savings for the district. The following section is **optional**.

**BIDS** (continued)

In any contract for the construction, alteration, or repair of school facilities, the Superintendent or designee shall ensure that the bid specification: (Public Contract Code **3002**, 3400)

1. Does not directly or indirectly limit bidding to any one specific concern
2. Does not call for a designated material, product, thing, or service by a specific brand or trade name, unless the specification is followed by the words "or equal," so that bidders may furnish any equal material, product, thing, or service

In any such case, the bid specification shall provide a time period, before and/or after the award of the contract, for the contractor to submit data substantiating the request for substituting the designated material, product, thing, or service. If no such time period is specified, the contractor may submit the data within 35 days after the award of the contract.

Note: The following **optional** paragraph is for use by districts with ADA of more than 2,500. For the repair or replacement of the roof of a public facility, a material must meet the requirements specified below to be considered "equal" pursuant to Public Contract Code 3000-3010.

When the bid is for a roof project, a material, product, thing, or service is considered "equal" to that designated if it is equal in quality, durability, design, and appearance; will perform the intended function equally well; and conforms substantially to the detailed requirements in the bid specification. (**Public Contract Code 3002**)

However, the Superintendent or designee may designate a specific material, product, thing, or service by brand or trade name (sole sourcing) if the Board has made a finding, described in the invitation for bids or **request for proposal (RFP)**, that a particular material, product, thing, or service is designated for any of the following purposes: (Public Contract Code 3400)

1. To conduct a field test or experiment to determine its suitability for future use
2. To match others in use on a particular public improvement that has been completed or is in the course of completion
3. To obtain a necessary item that is only available from one source
4. To respond to the Board's declaration of an emergency, as long as the declaration has been approved by four-fifths of the Board when issuing the invitation for bid or RFP

(cf. 9323.2 - *Actions by the Board*)

**BIDS** (continued)**Bids Not Required**

Note: The following paragraph lists those items that may be purchased through a "piggybacked" bid; see the accompanying Board policy. Many districts have used the piggyback procedure to purchase portable and relocatable buildings. The Attorney General has opined (89 Ops.Cal.Atty.Gen. 1, 2006) that a district may not rely on the piggyback exception to contract for the acquisition and installation of factory-built modular building components (i.e., roofs and walls) for installation on a permanent foundation. However, this opinion does not apply to typical portable or relocatable single-classroom buildings, because they lack a permanent foundation and building mobility. Districts considering using the piggyback process for relocatables, portables, modulares, and the like should consult district legal counsel. While Attorney General opinions are not binding, they are often given deference by the court and may also be considered by the State Allocation Board when making funding decisions.

Without advertising for bids and upon a determination that it is in the best interest of the district, the Board may authorize another public corporation or agency, by contract, lease, requisition, or purchase order, to lease data-processing equipment or to purchase materials, supplies, equipment, automotive vehicles, tractors, and other personal property for the district in the manner that the other public corporation or agency is authorized to make the leases or purchases from a vendor ("piggyback"). Alternatively, if the public corporation or agency has an existing contract with a vendor for the lease or purchase of personal property, the district may authorize the lease or purchase of personal property directly from the vendor and make payments under the same terms that are available to the public corporation or agency under the contract. (Public Contract Code 20118)

(cf. 3300 - *Expenditures and Purchases*)

(cf. 3512 - *Equipment*)

Note: The following **optional** paragraph reflects the authority granted to public agencies pursuant to Government Code 4217.10-4217.18 to enter into energy service contracts without competitive bidding when the agency's governing body determines that the contract is in the best interest of the agency based on the "costs-benefits" analysis specified in Government Code 4217.12.

Without advertising for bids, the Board may enter into an energy service contract and any related facility ground lease, when it determines that the terms of the contract and lease are in the best interest of the district **and meet the cost effectiveness requirements specified in Government Code 4217.12**. The Board's determination shall be made at a regularly scheduled public hearing of which notice is given to the public at least two weeks in advance and shall be based on cost **and savings** comparison findings specified in Government Code 4217.12. (Government Code 4217.12)

(cf. 3511 - *Energy and Water Management*)

(cf. 9320 - *Meetings and Notices*)



**BIDS** (continued)

Supplementary textbooks, library books, educational films, audiovisual materials, test materials, workbooks, instructional computer software packages, or periodicals may be purchased in any amount without taking estimates or advertising for bids. (Public Contract Code 20118.3)

*(cf. 6161.1 - Selection and Evaluation of Instructional Materials)*

*(cf. 6161.11 - Supplementary Instructional Materials)*

*(cf. 6163.1 - Library Media Centers)*

Perishable foodstuffs and seasonal commodities needed in the operations of cafeterias may be purchased through bid or on the open market. (Education Code 38083)

*(cf. 3551 - Food Service Operations/Cafeteria Fund)*

Bids shall not be required for day labor under circumstances specified in Public Contract Code 20114. Day labor shall include the use of maintenance personnel employed on a permanent or temporary basis. (Public Contract Code 20114)

Note: Pursuant to Public Contract Code 20113, a district may award contracts without competitive bidding in emergency situations, as specified below. In <u>Marshall v. Pasadena Unified School District</u> , a court held that the definition of "emergency" in Public Contract Code 1102 is applicable. Public Contract Code 1102 defines "emergency" as a "sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services."
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In an emergency when any repairs, alterations, work, or improvement to any school facility is necessary to permit the continuance of existing school classes or to avoid danger to life or property, the Board may, by unanimous vote and with the approval of the County Superintendent of Schools, contract for labor and materials or supplies without advertising for or inviting bids or may authorize the use of day labor or force account for the emergency purpose. (Public Contract Code 1102, 20113)

*(cf. 3517 - Facilities Inspection)*

The district may purchase any surplus property from the federal government or any of its agencies in any quantity needed for the operation of its schools without taking estimates or advertising for bids. (Education Code 17602)

(10/15 5/16) 12/16

**Policy Reference UPDATE Service**

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# CSBA Sample

## Board Policy

### Business and Noninstructional Operations

BP 3311.1(a)

### UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING PROCEDURES

Note: The following **optional** policy is for use by districts that elect to use an alternative procedure for awarding contracts for public works projects pursuant to the Uniform Public Construction Cost Accounting Act (UPCCAA) (Public Contract Code 22000-22045), which establishes a higher bid limit and a more informal bidding process for certain projects. See BP/AR 3311 - Bids for traditional bidding procedures pursuant to Public Contract Code 20110-20118.4.

Pursuant to Public Contract Code 22032, projects of \$45,000 or less may be performed by the district's own work force, projects of \$175,000 or less may use a more informal bidding procedure as specified, and projects over \$175,000 require formal bidding procedures. See the accompanying administrative regulation for related requirements.

In order to participate in the UPCCAA, Public Contract Code 22030 requires the Governing Board to adopt a resolution electing to use the UPCCAA for district contracting and to notify the State Controller of that action. In the event of a conflict with any other provision of law relative to bidding procedures, the UPCCAA shall apply for any district that has adopted a resolution and so notified the Controller. According to the California Uniform Construction Cost Accounting Commission's "Frequently Asked Questions," available on its web site, once the Board has adopted such a resolution, it can only withdraw from the UPCCAA by adopting a resolution of the election to withdraw and filing that resolution with the State Controller.

**In awarding contracts for public works projects involving district facilities, the Governing Board desires to obtain the best value to the district and ensure the qualifications of contractors to complete the project in a satisfactory manner. For use in contracting for public works projects, †**The Board has, by resolution, adopted the procedures set forth in the Uniform Public Construction Cost Accounting Act pursuant to Public Contract Code 22030-22045, including **the required cost accounting procedures and** the informal bidding procedures when allowed by law.

(cf. 3311 - Bids)

(cf. 7110 - Facilities Master Plan)

Note: The following paragraph may be revised to reflect district practice. In circumstances where the informal bidding procedure is authorized, Public Contract Code 22034 allows the Board to delegate the authority to award contracts to an appropriate district administrator. Public Contract Code 22039 allows the Board to delegate the **adoption of authority to adopt** plans, specifications, and working details for projects subject to formal bidding procedures.

The Board delegates to the Superintendent or designee the responsibilities to award any contract eligible for informal bidding procedures and to develop plans, specifications, and working details for all public projects requiring formal bidding procedures.

## UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING PROCEDURES (continued)

**No work, project, service, or purchase shall be split or separated into smaller work orders or projects for the purpose of evading legal requirements for competitive bidding. (Public Contract Code 22033)**

Note: In electing to be subject to the UPCCAA, the district thereby agrees to follow the cost accounting procedures set forth in the Cost Accounting Policies and Procedures Manual of the California Uniform Construction Cost Accounting Commission, pursuant to Public Contract Code 22017 and ~~20019~~ **22019**. According to the "Frequently Asked Questions" on the Commission's web site, districts may use the statewide Standardized Account Code Structure to comply with tracking requirements.

**Projects awarded through the UPCCAA shall be subject to the cost accounting procedures established by the California Uniform Construction Cost Accounting Commission. (Public Contract Code 22030)**

### **Emergency Actions**

Note: Public Contract Code 22035 allows the district to replace or repair a school facility without going through the UPCCAA process in cases of emergency in accordance with Public Contract Code 22050. Public Contract Code 1102 defines "emergency" as a "sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services."

~~In cases of emergency w~~When **formal bids are required by law but an emergency necessitates immediate** repair or replacements ~~are necessary~~, the Board may, **upon a four-fifths vote of the Board**, proceed ~~at once~~ to replace or repair a facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts, ~~in accordance with the contracting procedures in Public Contract Code 22050~~. The work may be done by day labor under the direction of the Board and/or contractor. **The emergency action shall subsequently be reviewed by the Board in accordance with Public Contract Code 22050 and shall be terminated at the earliest possible date that conditions warrant, so that the remainder of the emergency action may be completed by giving notice for bids to let contracts. (Public Contract Code 1102, 22035, 22050)**

(cf. 9323.2 - Actions by the Board)

*Legal Reference: (see next page)*

## UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING PROCEDURES (continued)

*Legal Reference:*

PUBLIC CONTRACT CODE

1102 Definition of emergency

**20110-20118.4 Local Agency Public Construction Act; school districts**

22000-22020 California Uniform Construction Cost Accounting Commission

22030-22045 Alternative procedures for public projects (UPCCAA), especially:

22032 Applicability of procedures based on amount of project

22034 Informal bidding procedure

22035 Emergency need for repairs or replacement

22037-22038 Formal bidding procedures for projects exceeding \$175,000

22050 Alternative emergency procedures

*Management Resources:*

CALIFORNIA UNIFORM CONSTRUCTION COST ACCOUNTING COMMISSION PUBLICATIONS

Cost Accounting Policies and Procedures Manual

Frequently Asked Questions

WEB SITES

CSBA: [http:// www.csba.org](http://www.csba.org)

California Association of School Business Officials: <http://www.casbo.org>

California Uniform Construction Cost Accounting Commission:

[http://www.sco.ca.gov/ard\\_cuccac.html](http://www.sco.ca.gov/ard_cuccac.html)

# CSBA Sample

## Administrative Regulation

### Business and Noninstructional Operations

AR 3311.1(a)

### UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING PROCEDURES

Note: The following administrative regulation is for use when the Governing Board has adopted a resolution to use the alternative procedures of the Uniform Public Construction Cost Accounting Act (UPCCAA) (Public Contract Code 22000-22045) for awarding public works projects; see the accompanying Board policy.

According to the California Uniform Construction Cost Accounting Commission's "Frequently Asked Questions," available on its web site, a district participating in the UPCCAA is subject to other requirements of the Public Contract Code in areas where the UPCCAA is silent. See BP/AR 3311 - Bids for traditional bidding procedures pursuant to Public Contract Code 20110-20118.4.

Public Contract Code 22032 establishes the following requirements based on the amount of the public project. Pursuant to Public Contract Code 22020, the Commission reviews these monetary limits every five years and recommends to the State Controller whether they need to be adjusted. The State Controller is required to notify all public agencies of any adjustment to these limits.

Procedures for awarding contracts for public works projects shall be determined on the basis of the amount of the project, as follows:

1. Public projects of \$45,000 or less may be performed by district employees by force account, negotiated contract, or purchase order. (Public Contract Code 22032)

Note: Public Contract Code 22034 requires any public agency participating in UPCCAA to adopt an informal bidding ordinance, with specified components, to govern the selection of contractors to perform public projects of \$175,000 or less, as described in item #2 below. The Commission's "Frequently Asked Questions" clarify that, for school districts and other agencies that cannot legally adopt ordinances, a board policy, administrative regulation, or other legally applicable action of the board may be substituted.

2. Contracts for public projects of \$175,000 or less may be awarded through the following informal procedures: (Public Contract Code 22032, 22034, 22038)
  - a. The Superintendent or designee shall maintain a list of qualified contractors, identified according to categories of work.

Note: Public Contract Code 22034, as amended by SB 184 (Ch. 269, Statutes of 2015), authorizes distribution of the following bid notice by fax or email as well as by mail.

- b. The Superintendent or designee shall prepare a notice inviting informal bids which describes the project in general terms, explains how to obtain more information about the project, and states the time and place for submission of bids. The notice shall be disseminated by mail, fax, or email to one or both of the following: (1) to all contractors on the district's list for the category of

## UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING PROCEDURES (continued)

work being bid, unless the product or service is proprietary, at least 10 calendar days before bids are due. **In addition, the Superintendent or designee may mail, fax, or email a notice inviting informal bids (2) To all construction trade journals identified pursuant to Public Contract Code 22036.**

- c. The district shall review the informal bids and award the contract, except that:
  - (1) If all bids received through the informal process are in excess of \$175,000, the contract may be awarded to the lowest responsible bidder, provided that the **Governing** Board adopts a resolution with a four-fifths vote to award the contract at \$187,500 or less and the Board determines the district's cost estimate **was is** reasonable.
  - (2) If no bids are received through the informal bid procedure, the project may be performed by district employees by force account or negotiated contract.
- 3. Public projects of more than \$175,000 shall, except as otherwise provided by law, be subject to formal bidding procedures, as follows: (Public Contract Code 22032, 22037, 22038)

Note: Pursuant to Public Contract Code 22037, if there is no newspaper of general circulation published in the jurisdiction of the district, the district must post the bid notice in three locations as described below. Public Contract Code 22037 requires that these locations be identified in the agency's ordinance or regulation. Item #3a(1) may be revised to include such locations.

- a. Notice inviting formal bids shall state the time and place for receiving and opening sealed bids and distinctly describe the project. The notice shall be disseminated in both of the following ways:
  - (1) Through publication in a newspaper of general circulation in the district's jurisdiction or, if there is no such newspaper, then by posting the notice in at least three places designated by the district as places for posting its notices. Such notice shall be published at least 14 calendar days before the date that bids will be opened.
  - (2) By mail and electronically, if available, by either fax or email, to all construction trade journals identified pursuant to Public Contract Code 22036. Such notice shall be sent at least 15 calendar days before the date that bids will be opened.

In addition to the notice required above, the district may give such other notice as it deems proper.

**UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING PROCEDURES**  
(continued)

- b. The district shall award the contract as follows:
- (1) The contract shall be awarded to the lowest responsible bidder. If two or more bids are the same and the lowest, the district may accept the one it chooses.
  - (2) At its discretion, the district may reject all bids presented and declare that the project can be more economically performed by district employees, provided that the district notifies an apparent low bidder, in writing, of the district's intention to reject the bid. Such notice shall be mailed at least two business days prior to the hearing at which the district intends to reject the bid.
  - (3) If no bids are received through the formal bid procedure, the project may be performed by district employees by force account or negotiated contract.

*(cf. 3311 - Bids)*

# CSBA Sample

## Administrative Regulation

Business and Noninstructional Operations

AR 3311.2(a)

### LEASE-LEASEBACK CONTRACTS

Note: The following **optional section** administrative regulation addresses construction financing contracts that are commonly described as "lease-leaseback" contracts. **Education Code 17406, as amended by AB 2316 (Ch. 521, Statutes of 2016), no longer permits the selection of a lease-leaseback contractor without advertising, and instead requires districts to use a comprehensive "best value" selection process. Education Code 17406, as amended, mandates that any district choosing to award a lease-leaseback contract adopt and publish procedures and guidelines for evaluating the qualifications of proposers that ensure the fair and impartial selection of the "best value" for the district. In addition, for any project that will involve the use of preconstruction services, the request for sealed proposals must require proposers to include the fee to perform the preconstruction services as part of their sealed proposal to the district. Such procedures and guidelines must include, at a minimum, the provisions specified in Education Code 17406 as reflected in the following regulation.**

~~This construction~~ **The lease-leaseback** financing method should only be used in coordination with competent technical consultants and legal counsel to ensure all legal requirements are met. ~~Pursuant to Education Code 17407.5, as added by AB 566 (Ch. 214, Statutes of 2015), the contractor must provide an enforceable commitment to the district that it will use a certain percentage of skilled and trained workers to complete project related work that is within an "apprenticeable occupation" as defined in Labor Code 3075.~~

~~Upon a determination that it is in the best interest of the district and without advertising for bids, the Board~~ **The district** may lease currently owned district property to any person, firm, or corporation for a minimum of \$1 per year, as long as the lease requires the person, firm, or corporation to construct a building or buildings on the property for the district's use during the lease and the property and building(s) will vest in the district at the expiration of the lease ("lease-leaseback"). **(Education Code 17406)**

*(cf. 3280 - Sale or Lease of District-Owned Real Property)*

*(cf. 3312 - Contracts)*

**Any lease-leaseback contract shall be awarded through a competitive "best value" procurement process whereby a person, firm, or corporation is selected on the basis of objective criteria for evaluating the qualifications of proposers, with the resulting selection representing the best combination of price and qualifications. To make this determination, the district shall use the following procedures: (Education Code 17400, 17406)**

- 1. Request for Sealed Proposals: The Superintendent or designee shall prepare a request for sealed proposals which shall include:**
  - a. An estimate of the project's price**
  - b. A clear, precise description of any preconstruction services that may be required and the facilities to be constructed**



**LEASE-LEASEBACK CONTRACTS (continued)**

- c. The key elements of the contract to be awarded**
  - d. A description of the format that proposals shall follow and the elements they shall contain**
  - e. The standards the district will use in evaluating proposals**
  - f. The date on which proposals are due**
  - g. The timetable the district will follow in reviewing and evaluating proposals**
- 2. Notice: At least 10 days before the date for receipt of the proposals, the Superintendent or designee shall give notice of the request for sealed proposals using both of the following methods:**
- a. Providing notice at least once a week for two weeks in a local newspaper of general circulation pursuant to Public Contract Code 20112**
  - b. Providing notice in a trade paper of general circulation published in the county where the project is located**

**Note: The following paragraph is optional and may be revised to reflect district practice.**

**The Superintendent or designee also may post the notice on the district's web site or through an electronic portal.**

Note: Pursuant to Education Code 17406, the prequalification requirements for contracts that meet the criteria specified in Public Contract Code 20111.6 are also applicable to lease-leaseback contracts. ~~As amended by AB 566 (Ch. 214, Statutes of 2015), Education Code 17406 requires prequalification for such projects irrespective of whether or not they are funded locally or through state sources. and makes the provision applicable to all districts, not just those with ADA of 2,500 or more. See "Prequalification Procedure" section above.~~

- 3. Prequalification: A proposer shall be prequalified in accordance with Public Contract Code 20111.6(b)-(m) in order to submit a proposal. Any electrical, mechanical, and plumbing subcontractors shall be subject to the same prequalification requirements.**

*(cf. 3311 - Bids)*

- 4. Evaluation Criteria: The request for sealed proposals shall identify all criteria that the district will consider in evaluating the proposals and qualifications of**

**LEASE-LEASEBACK CONTRACTS (continued)**

the proposers, including relevant experience, safety record, price proposal, and other factors specified by the district. The price proposal shall include, at the district's discretion, either a lump-sum price for the contract to be awarded or the proposer's proposed fee to perform the services requested, including the proposer's proposed fee to perform preconstruction services or any other work related to the facilities to be constructed, as requested by the district.

The request for sealed proposals shall specify whether each criterion will be evaluated on a pass-fail basis or will be scored as part of the "best value" score, and whether proposers must achieve any minimum qualification score for award of the contract. For each scored criterion, the district shall identify the methodology and rating or weighting system that will be used by the district in evaluating the criterion, including the weight assigned to the criterion and any minimum acceptable score.

5. **Evaluation of Proposals:** All proposals received shall be reviewed to determine whether they meet the format requirements and the standards specified in the request for sealed proposals. The district shall evaluate the qualifications of the proposers based solely upon the criteria and evaluation methodology set forth in the request for sealed proposals, and shall assign a best value score to each proposal. Once the evaluation is complete, all responsive proposals shall be ranked from the highest best value to the lowest best value to the district.

6. **Award of Contract:** The award of the contract shall be made by the Governing Board to the responsive proposer whose proposal is determined, in writing by the Board, to be the best value to the district.

If the selected proposer refuses or fails to execute the tendered contract, the Board may award the contract to the proposer with the second highest best value score, if deemed in the best interest of the district. If that proposer then refuses or fails to execute the tendered contract, the Board may award the contract to the proposer with the third highest best value score.

Upon issuance of a contract award, the district shall publicly announce its award, identifying the entity to which the award is made, along with a statement regarding the basis of the award. The statement regarding the contract award and the contract file shall provide sufficient information to satisfy an external audit.

7. **Rejection of Proposals:** At its discretion, the Board may reject all proposals and request new proposals.

**LEASE-LEASEBACK CONTRACTS** (continued)

Prior to entering into a lease-leaseback agreement, the Superintendent or designee shall have on file the contractor's enforceable commitment that the contractor and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades. (Education Code **17406**, 17407.5)

Any lease-leaseback agreement shall be reviewed by the district's legal counsel to ensure that all required terms, including a lease term that provides for the district's occupancy of the building or improved property during the lease and an appropriate financing component, are included in the agreement.

(cf. 9124 - Attorney)

*Legal Reference:*EDUCATION CODE

17400 Definitions

17406 Lease-leaseback contract

17407.5 Use of a skilled and trained workforce

PUBLIC CONTRACT CODE

20111.6 Prequalification procedures

20112 Notices

COURT DECISIONS

McGee v. Balfour Beatty Construction, LLC, et al. (4/12/16, No. B262850)

Davis v. Fresno Unified School District, (2015) 237 Cal.App.4th 261

*Management Resources:*WEB SITES

CSBA: <http://www.csba.org>

California Association of School Business Officials: <http://www.casbo.org>

# CSBA Sample

## Administrative Regulation

### Business and Noninstructional Operations

AR 3311.3(a)

### DESIGN-BUILD CONTRACTS

Note: As an alternative to the more traditional design-bid-build process (see BP/AR 3311 - Bids) or a lease-leaseback process (see AR 3311.2 - Lease-Leaseback Contracts), the district may enter into a design-build contract for a public works project in excess of \$1 million pursuant to Education Code 17250.10-17250.55, as added by AB 1358 (Ch. 752, Statutes of 2015). As defined by Education Code 17250.15, "design-build" means a project delivery process in which both the design and construction of a project are procured from a single entity. Education Code 17250.15 and 17250.25 provide that such contracts may be awarded to either the low bid or best value, as defined. Pursuant to Education Code 17250.50 and 17250.55, this authority applies to bid requests issued on or after July 1, 2016 and will be repealed January 1, 2025 unless legislation is enacted to delete or extend that date.

~~When it is in the best interest of the district, the~~ The Governing Board may approve a contract with a single entity for both design and construction of any school facility in excess of \$1,000,000, awarding the contract to either the low bid or the best value as determined by evaluation of objective criteria. (Education Code 17250.20)

(cf. 3311 - Bids)

(cf. 3312 - Contracts)

(cf. 7110 - Facilities Master Plan)

(cf. 7140 - Architectural and Engineering Services)

**Design-build documents shall not include provisions for long-term project operations, but** ~~The documents may include operations during a training or transition period, but shall not include long term operations for a project.~~ (Education Code 17250.25)

The procurement process for design-build projects shall be as follows: (Education Code 17250.25, 17250.35)

1. The district shall prepare a set of documents setting forth the scope and estimated price of the project. The documents may include, but are not limited to:
  - a. ~~the~~ The size, type, and desired design character of the project;
  - b. ~~performance~~ Performance specifications **that** covering the quality of materials, equipment, **and** workmanship
  - c. Preliminary plans or building layouts
  - d. ~~any~~ Any other information deemed necessary to describe adequately the district's needs;

~~The documents may include operations during a training or transition period, but shall~~

**DESIGN-BUILD CONTRACTS** (continued)

~~not include long-term operations for a project.~~ The performance specifications and any plans shall be prepared by a design professional who is duly licensed and registered in California.

2. The district shall prepare and issue a request for qualifications in order to prequalify, or develop a short list of, the design-build entities whose proposals shall be evaluated for final selection. The request for qualifications shall include, but is not limited to, all of the following elements:
  - a. Identification of the basic scope and needs of the project or contract, the expected cost range, the methodology that will be used by the district to evaluate proposals, the procedure for final selection of the design-build entity, and any other information deemed necessary by the district to inform interested parties of the contracting opportunity
  - b. Significant factors that the district reasonably expects to consider in evaluating qualifications, including technical design and construction ~~experience-expertise~~, acceptable safety record, and all other non-price-related factors
  - c. A standard template request for statements of qualifications prepared by the district, which shall contain all of the information required pursuant to Education Code 17250.25

The district also may identify specific types of subcontractors that must be included in the statement of qualifications and proposal.

A design-build entity shall not be prequalified or short-listed unless the entity provides an enforceable commitment to the district that the entity and its subcontractors at every tier will use a skilled and trained workforce, as defined in Education Code 17250.25, to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades. The entity may demonstrate such commitment through a project labor agreement, by becoming a party to the district's project labor agreement, or through an agreement with the district to provide evidence of compliance on a monthly basis during the performance of the project or contract. ~~(Education Code 17250.25)~~

3. The district shall prepare a request for proposals **(RFP)** that invites prequalified or short-listed entities to submit competitive sealed proposals in a manner prescribed by the district. The ~~request for proposals RFP~~ shall include the information identified in items #2a and 2b above and the relative importance or weight assigned to each of the factors. If the district uses a best value selection method **for a project**, the district may reserve the right to request proposal revisions and hold discussions and

**DESIGN-BUILD CONTRACTS** (continued)

- negotiations with responsive proposers, in which case the district shall so specify in the request for proposals and shall publish separately or incorporate into the request for proposals applicable procedures to be observed by the district to ensure that any discussions or negotiations are conducted in good faith.
4. For those projects utilizing low bid as the final selection method, the bidding process shall result in lump-sum bids by the prequalified or short-listed design-build entities, and the contract shall be awarded to the lowest responsible bidder.
  5. For those projects utilizing best value as a selection method, the following procedures shall be used:
    - a. Competitive proposals shall be evaluated using only the criteria and selection procedures specifically identified in the request for proposals. Criteria shall be weighted as deemed appropriate by the district and shall, at a minimum, include price, unless a stipulated sum is specified; technical design and construction experience; and life-cycle costs over 15 or more years.
    - b. Following any discussions or negotiations with responsive proposers and completion of the evaluation process, the responsive proposers shall be ranked on a determination of value provided, provided that no more than three proposers are required to be ranked.
    - c. The contract shall be awarded to the responsible entity whose proposal is determined by the district to have offered the best value to the public.
    - d. The district shall publicly announce the contract award, identifying the entity to which the award is made and the basis of the award. This statement and the contract file shall provide sufficient information to satisfy an external audit.

*Legal Reference:***EDUCATION CODE***17250.10-17250.55 Design-build contracts**Management Resources:***WEB SITES***CSBA: [http:// www.csba.org](http://www.csba.org)**California Association of School Business Officials: <http://www.casbo.org>**California Department of Education, Facilities: <http://www.cde.ca.gov/ls/fa>*

# CSBA Sample

## Administrative Regulation

Business and Noninstructional Operations

AR 3311.4(a)

### PROCUREMENT OF TECHNOLOGICAL EQUIPMENT

**Note: The following administrative regulation is optional. As an alternative to competitive bidding procedures (see BP/AR 3311 - Bids), Public Contract Code 20118.2 authorizes the issuance of a request for proposals for district procurement of electronic equipment and apparatus, with the contract being awarded to the proposal that is most beneficial to the district considering price and all other factors.**

Rather than seek competitive bids, the district may use competitive negotiation when it makes a finding that a district procurement is for computers, software, telecommunications equipment, microwave equipment, or other related electronic equipment and apparatus. Competitive negotiation shall not be used to contract for ~~construction or for the procurement of~~ any product that is available in substantial quantities to the general public. (Public Contract Code 20118.2)

*(cf. 0440 - District Technology Plan)*

***(cf. 3230 - Federal Grant Funds)***

*(cf. 3311 - Bids)*

*(cf. 3312 - Contracts)*

~~The competitive negotiation process shall include, but not be limited to, the following requirements:~~ **Whenever the competitive negotiation process is determined to be appropriate for such procurements, the district shall use the following procedures:** (Public Contract Code 20118.2)

1. The Superintendent or designee shall prepare a request for proposals (RFP) that shall be submitted to an adequate number of qualified sources, as determined by the district, to permit reasonable competition consistent with the nature and requirement of the procurement.
2. Notice of the RFP shall be published at least twice in a newspaper of general circulation, at least 10 days before the date for receipt of the proposals.
3. The Superintendent or designee shall make every effort to generate the maximum feasible number of proposals from qualified sources, and shall make a finding to that effect before proceeding to negotiate if only a single response to the RFP is received.
4. The RFP shall identify all significant evaluation factors, including price, and their relative importance.
5. The Superintendent or designee shall provide reasonable procedures for the technical evaluation of the RFPs received, the identification of qualified sources, and the selection for the award of the contract.

## PROCUREMENT OF TECHNOLOGICAL EQUIPMENT

6. The **Governing** Board shall award the contract to the qualified bidder whose proposal meets the evaluation standards and will be most advantageous to the district, **with considering** price and all other factors **considered**.
7. If the Board does not award the contract to the bidder whose proposal contains the lowest price, then the Board shall make a finding setting forth the basis for the award to another bidder.
8. The Board, at its discretion, may reject all proposals and request new RFPs.
- ~~9.~~ Provisions in any contract concerning utilization of small business enterprises that are in accordance with the RFP shall not be subject to negotiation with the successful proposer. (Public Contract Code 20118.2)

*Legal Reference:*

PUBLIC CONTRACT CODE

20118.2 Contracting by school districts; technological equipment



# CSBA Sample

## Administrative Regulation

### Business and Noninstructional Operations

AR 3543(a)

### TRANSPORTATION SAFETY AND EMERGENCIES

**Cautionary Notice:** Government Code 17581.5 relieves districts from the obligation to perform specified mandated activities when the Budget Act does not provide reimbursement during that fiscal year. The Budget Act of ~~2015 (AB 93, Ch. 10, Statutes of 2015)~~ **2016 (SB 826, Ch. 23, Statutes of 2016)** extends the suspension of these requirements through the ~~2015-16~~**2016-17** fiscal year. As a result, certain provisions of the following administrative regulation related to transportation safety plans and safety instruction for students may be suspended.

Note: The following regulation is for use by districts that provide school bus transportation services and employ their own school bus drivers. Districts that contract out for all transportation services may revise this regulation as appropriate to ensure that the contracting firm meets all legal requirements regarding transportation safety.

Each day, prior to driving a school bus, each school bus driver shall inspect the bus to ensure that it is in safe operating condition and equipped as required by law and that all equipment is in good working order. At the completion of each day's work, the driver shall prepare and sign a written report of the condition of the equipment ~~listed~~ **specified** in 13 CCR 1215., ~~including~~ **The report shall indicate** any defect or deficiency discovered by or reported to ~~him/her the driver~~ which would affect safe operation or result in mechanical breakdown of the bus, or, ~~indicating that if~~ no defect or deficiency was discovered or reported, **shall so indicate**. Any defect or deficiency that would affect safe operation shall be repaired prior to operating the bus. (13 CCR 1215)

(cf. 3540 - Transportation)

(cf. 3541.1 - Transportation for School-Related Trips)

(cf. 3542 - School Bus Drivers)

~~In the event of a school bus accident, the driver shall immediately notify the California Highway Patrol, the Superintendent or designee, and, if the bus is operated under contract, the driver's employer. The driver shall not leave the immediate vicinity of the bus to seek aid unless necessary. (13 CCR 1219) [MOVED DOWN]~~

~~The Superintendent or designee shall review all investigations of bus incidents and accidents to develop preventative measures. [MOVED DOWN]~~

~~(cf. 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers)~~

### Passenger Restraint Systems

Note: Pursuant to Vehicle Code 27316 and 27316.5, any school bus or student activity bus purchased or leased for use in California must be equipped with a passenger restraint system if the bus was manufactured on or after the dates specified in law, as described below. Although it is the manufacturer's responsibility to

**TRANSPORTATION SAFETY AND EMERGENCIES** (continued)

ensure installation of appropriate passenger restraint systems, the district should be aware that buses manufactured or purchased from outside California may need to be modified to comply with the state's requirements. In addition, according to the California Department of Education's (CDE) Passenger Restraints Frequently Asked Questions, districts may, but are not required to, retrofit older school buses with passenger restraint systems ~~with the original equipment manufacturer's approval~~. In determining whether to retrofit buses, the CDE recommends that districts consider the age of the bus, the total cost of the retrofit, and the required reinspection of the bus by the California Highway Patrol.

The Superintendent or designee shall ensure that any school bus or student activity bus which is purchased or leased by the district is equipped with a combination pelvic and upper torso passenger restraint system at all designated seating positions if that bus: (Vehicle Code 27316, 27316.5; 13 CCR 1201)

1. Is a Type 1 school bus manufactured on or after July 1, 2005 which is designed for carrying more than 16 passengers and the driver
2. Is a Type 2 school bus or student activity bus manufactured on or after July 1, 2004 which meets one of the following criteria:
  - a. Is designed for carrying 16 or fewer passengers and the driver
  - b. Has a manufacturer's vehicle weight rating of 10,000 pounds or less and is designed for carrying not more than 20 passengers and the driver

Note: The following **optional** paragraph reflects legislative intent of Vehicle Code 27316.

The Superintendent or designee shall prioritize the allocation of school buses purchased, leased, or contracted to ensure that elementary students receive first priority for new school buses equipped with passenger restraint systems whenever feasible.

When a school bus or student activity bus is equipped with a passenger restraint system, all passengers shall use the passenger restraint system. (5 CCR 14105)

Note: Pursuant to Vehicle Code 27316, no person, district, or organization may be held criminally liable if a passenger improperly uses or fails to use the passenger restraint system. However, the CDE's Passenger Restraints Frequently Asked Questions encourages districts to develop procedures to enforce disciplinary actions for nonuse or improper use of the passenger restraint system.

The following **optional** paragraph may be expanded to specify the steps that should be taken by the driver to reasonably ensure that all passengers are properly restrained (e.g., verbal instructions to students, visual inspection), which may vary depending on the age/grade levels of the students. Such steps also may be incorporated in district regulations adopted pursuant to 5 CCR 14103 related to student conduct on buses, bus driver authority, and the suspension of riding privileges; see BP/AR 5131.1 - Bus Conduct.

**TRANSPORTATION SAFETY AND EMERGENCIES** (continued)

Bus drivers shall be instructed regarding procedures to enforce the proper use of the passenger restraint system. Students who fail to follow instructions of the bus driver may be subject to discipline, including suspension of riding privileges, in accordance with Board policy and administrative regulations.

(cf. 5131.1 - *Bus Conduct*)

(cf. 5144 - *Discipline*)

**Fire Extinguishers**

Each school bus shall be equipped with at least one fire extinguisher located in the driver's compartment which meets the standards specified in law. In addition, a wheelchair school bus shall have another fire extinguisher placed at the wheelchair loading door or emergency exit. All fire extinguishers shall be regularly inspected and serviced in accordance with regulations adopted by the State Fire Marshal. (Education Code 39838; 13 CCR 1242; 19 CCR 574-575.3)

**Electronic Communications Devices**

Note: Vehicle Code 23123 prohibits any person from driving a motor vehicle while using a wireless telephone, except under the conditions described below. Pursuant to the definitions in Vehicle Code 415 and 545, a "motor vehicle" would include a school bus or student activity bus. In addition, Vehicle Code 23125 prohibits a person from driving a school bus while using a wireless telephone except for work-related or emergency purposes. **Vehicle Code 23123.5, as amended by AB 1785 (Ch. 660, Statutes of 2016), prohibits the driver of a motor vehicle (including a school bus or school activity bus pursuant to Vehicle Code 415 and 545) from using an electronic wireless communications device for any purpose, including, but not limited to, text-based communication, but provides an exception for voice-operated and hands-free operation or for a function that requires only a single swipe or tap of the driver's finger as long as the device is mounted on the windshield, dashboard, or center console of the vehicle. The following paragraph limits the use of any electronic communications device to work-related or emergency purposes. The district should consult legal counsel if it is considering allowing broader use of such devices.**

A bus driver ~~shall not drive~~ **is prohibited from driving** a school bus or student activity bus while using a wireless telephone ~~except under the following conditions: (Vehicle Code 23123, 23125)~~ **or other electronic wireless communications device except for work-related or emergency purposes, including, but not limited to, contacting a law enforcement agency, health care provider, fire department, or other emergency service agency or entity. In any such permitted situation, the driver shall only use a wireless telephone or device that is specifically designed and configured to allow voice-operated and hands-free operation or a function that requires only a single swipe or tap of the driver's finger provided the device is mounted on the windshield, dashboard, or center console of the bus. (Vehicle Code 23123.5, 23125)**

## TRANSPORTATION SAFETY AND EMERGENCIES (continued)

1. When he/she uses a wireless telephone that is specifically designed and configured to allow hands free listening and talking, provided it is used in that manner while driving
2. For emergency purposes, including, but not limited to, a call to a law enforcement agency, health care provider, fire department, or other emergency service agency or entity
3. For work related purposes

*(cf. 3513.1 - Cellular Phone Reimbursement)*

Note: Vehicle Code 23123.5 generally prohibits any person from driving a motor vehicle while using an electronic wireless communications device for text based communication. AB 1536 (Ch. 92, Statutes of 2012) amended Vehicle Code 23123.5 to add an exception for the use of voice operated and hands free operation of an electronic wireless communications device. At its discretion, the district may establish conditions that are more restrictive than law and should revise the following paragraph accordingly.

A bus driver shall not drive while using an electronic wireless communications device to write, send, or read a text based communication, including, but not limited to, text messages, instant messages, and email, unless the device is specifically designed and configured to allow voice operated and hands free operation and is used in that manner. This prohibition does not include reading, selecting, or entering a telephone number or name in an electronic wireless communications device for the purpose of making or receiving a telephone call. (Vehicle Code 23123.5)

### Safe Bus Operations

Note: Pursuant to Education Code 39834, any Governing Board member, employee, or other person who knowingly operates or permits operation of a school bus in excess of its seating capacity is guilty of a misdemeanor. However, the Board is authorized to adopt policy that allows seating capacities to be exceeded in cases of emergency; see BP/AR 3516 - Emergencies and Disaster Preparedness Plan.

School buses and student activity buses shall not be operated whenever the number of passengers exceeds bus seating capacity, except when necessary in emergency situations which require that individuals be transported immediately to ensure their safety. (Education Code 39834)

*(cf. 3516 - Emergencies and Disaster Preparedness Plan)*

Note: Vehicle Code 34501.6 **mandates** any district that provides student transportation to adopt procedures that limit bus operation when atmospheric conditions reduce visibility, as described below, and that give drivers for school activity trips discretionary authority to discontinue operation when it is unsafe.

**TRANSPORTATION SAFETY AND EMERGENCIES** (continued)

School bus operations shall be limited when atmospheric conditions reduce visibility on the roadway to 200 feet or less during regular home-to-school transportation service. Bus drivers for school activity trips may discontinue bus operation whenever they determine that it is unsafe to continue operation because of reduced visibility. (Vehicle Code 34501.6)

**Unauthorized Entry**

The Superintendent or designee may place a notice at bus entrances that warns against unauthorized entry. The driver or another school official may order any person to disembark if that person enters a bus without prior authorization. (Education Code 39842; 13 CCR 1256.5)

(cf. 3515.2 - Disruptions)

**Transportation Safety Plan for Boarding and Exiting Buses**

Note: The district should modify items #1-2 below to reflect grade levels offered by the district. A district that does not maintain any of grades prekindergarten through 8 should delete items #1-2.

The Superintendent or designee shall develop a transportation safety plan containing procedures for school personnel to follow to ensure the safe transport of students. The plan shall **include address** all of the following: (Education Code 39831.3)

1. **Procedures for d** Determining if students in grades prekindergarten through 8 require an escort to cross a private road or highway at a bus stop pursuant to Vehicle Code 22112
2. Procedures for all students in grades prekindergarten through 8 to follow as they board and exit the bus at their bus stops
3. **Procedures for b** Boarding and exiting a school bus at a school or other trip destination

Note: SB 1072 (Ch. 721, Statutes of 2016) amended Education Code 39831.3 to require that the transportation plan include the procedures specified in items #4-5 below.

4. **Procedures to ensure that a student is not left unattended on a school bus, student activity bus, or youth bus**

Note: The procedures included in the transportation safety plan to ensure that a student is not left unattended on a bus may include the requirements of Vehicle Code 28160, as added by SB 1072 (Ch. 721, Statutes of 2016). Pursuant to Vehicle Code 28160, on or before the beginning of the 2018-19 school year, each school bus, school activity bus, youth bus, and child care motor vehicle (i.e., vehicle designed, used, or maintained for more than eight persons, including the driver, that is used by a child

**TRANSPORTATION SAFETY AND EMERGENCIES** (continued)

care provider to transport children) must be equipped with a "child safety alert system" (i.e., a device located at the interior rear of a vehicle that requires the driver to either manually contact or scan the device before exiting the vehicle). Student activity buses may be exempt from this requirement if certain procedures are followed, as specified in Vehicle Code 28160.

Such procedures shall include, on or before the beginning of the 2018-19 school year, the installation of a child safety alert system at the interior rear of each bus that requires the driver to either manually contact or scan the device, thereby prompting the driver to inspect the entirety of the interior of the vehicle before exiting. A student activity bus may be exempt from this requirement under the conditions specified in Vehicle Code 28160.

**5. Procedures and standards for designating an adult chaperone, other than the driver, to accompany students on a school activity bus**

A copy of the plan shall be kept at each school site and made available upon request to the California Highway Patrol (CHP). (Education Code 39831.3)

**Parental Notifications**

Note: The following section is for use by districts that offer any of grades prekindergarten through 6 and should be revised to reflect the grade levels offered by the district.

The Superintendent or designee shall provide written safety information to the parents/guardians of all students in grades prekindergarten through 6 who have not previously been transported in a district school bus or student activity bus. This information shall be provided upon registration and shall contain: (Education Code 39831.5)

1. A list of school bus stops near each student's home
2. General rules of conduct at school bus loading zones
3. Red light crossing instructions
4. A description of the school bus danger zone
5. Instructions for safety while safely walking to and from school bus stops

(cf. 5145.6 - Parental Notifications)

**TRANSPORTATION SAFETY AND EMERGENCIES** (continued)**Student Instruction**

Students who are transported in a school bus or student activity bus shall receive instruction in school bus emergency procedures and passenger safety as follows: (Education Code 39831.5; 5 CCR 14102)

1. Each year, all students who receive home-to-school transportation in a school bus shall be provided appropriate instruction in safe riding practices and emergency evacuation drills.

Note: Item #2 below is for use by districts that offer any of grades prekindergarten through 8 and should be revised to reflect the grade levels offered by the district.

2. At least once each school year, all students in grades prekindergarten through 8 who receive home-to-school transportation shall receive safety instruction which includes, but is not limited to:
  - a. Proper loading and unloading procedures, including escorting by the driver
  - b. How to safely cross the street, highway, or private road
  - c. In school buses with passenger restraint systems, instruction in the use of such systems as specified in 5 CCR 14105, including, but not limited to, the proper fastening and release of the passenger restraint system, acceptable placement of passenger restraint systems on students, times at which the passenger restraint systems should be fastened and released, and acceptable placement of the passenger restraint systems when not in use
  - d. Proper passenger conduct
  - e. Bus evacuation procedures
  - f. Location of emergency equipment

As part of this instruction, students shall evacuate the school bus through emergency exit doors. Instruction also may include responsibilities of passengers seated next to an emergency exit.

Each time the above instruction is given, the following information shall be documented:

- a. District name

**TRANSPORTATION SAFETY AND EMERGENCIES** (continued)

- b. School name and location
- c. Date of instruction
- d. Names of supervising adults
- e. Number of students participating
- f. Grade levels of students
- g. Subjects covered in instruction
- h. Amount of time taken for instruction
- i. Bus driver's name
- j. Bus number
- k. Additional remarks

This documentation shall be kept on file at the district office or the school for one year and shall be available for inspection by the **California Highway Patrol-CHP**.

**(cf. 3580 - District Records)**

Note: Item #3 below applies to all students in grades prekindergarten through 12 <b>and may be revised to reflect grade levels offered by the district.</b>
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- 3. Before departing on a school activity trip, all students riding on a school bus or student activity bus shall receive safety instruction which includes, but is not limited to, the location of emergency exits and the location and use of emergency equipment. This instruction also may include responsibilities of passengers seated next to an emergency exit.

**Bus Accidents**

**In the event of a school bus accident, the driver shall immediately notify the CHP; and the Superintendent or designee, and, if the bus is operated under contract, the driver's employer. The driver shall not leave the immediate vicinity of the bus to seek aid unless necessary. (13 CCR 1219)**



**TRANSPORTATION SAFETY AND EMERGENCIES** (continued)

The Superintendent or designee shall maintain a report of each accident that occurred on public or private property involving a school bus with students aboard. The report shall contain pertinent details of the accident and shall be retained for 12 months from the date of the accident. If the accident was not investigated by the CHP, the Superintendent or designee shall forward a copy of the report to the local CHP within five work days of the date of the accident. (13 CCR 1234)

The Superintendent or designee shall review all investigations of bus incidents and accidents to develop preventative measures.

(cf. 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers)

*Legal Reference:*EDUCATION CODE

39830-398423 Transportation, school buses

**39860 Contract for transportation; requirement that student not be left unattended**

51202 Instruction in personal and public health and safety

PENAL CODE

241.3 Assault against school bus driver

243.3 Battery against school bus driver

VEHICLE CODE

415 Definition of motor vehicle

545-546 Definition of school bus and student activity bus

22112 Loading and unloading passengers

~~23123 Use of wireless telephone prohibited while driving motor vehicle~~

~~23123.5 Text communications prohibited while driving motor vehicle~~ **Use of wireless telephone or communications device while driving; exceptions**

23125 Use of wireless telephone prohibited while driving school bus

27316-27316.5 Passenger restraint systems

**28160 Child safety alert system**

34500 California Highway Patrol responsibility to regulate safe operation of school buses

34501.5 California Highway Patrol responsibility to adopt rules re: safe operation of school buses

34501.6 School buses; reduced visibility

34508 California Highway Patrol responsibility to adopt rules re: equipment and bus operations ~~of school buses~~

CODE OF REGULATIONS, TITLE 5

14100-14105 School buses and student activity buses

CODE OF REGULATIONS, TITLE 13

1200-1293 Motor carrier safety

2480 Airborne toxic control measure; limitation on bus idling

CODE OF REGULATIONS, TITLE 19

574-575.3 Inspection and maintenance of fire extinguishers

CODE OF FEDERAL REGULATIONS, TITLE 49

571.1-571.500 Motor vehicle standards, including school buses

*Management Resources: (see next page)*

## TRANSPORTATION SAFETY AND EMERGENCIES (continued)

### *Management Resources:*

#### **CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS**

#### **Passenger Restraints Frequently Asked Questions**

#### **WEB SITES**

California Association of School Business Officials: <http://www.casbo.org>

**American School Bus Council: <http://www.americanschoolbuscouncil.org>**

California Association of School Transportation Officials: <http://www.castoways.org>

California Department of Education, Office of School Transportation: <http://www.cde.ca.gov/ls/tn>

California Highway Patrol: <http://www.chp.ca.gov>

**National Coalition for School Bus Safety: <http://www.ncsbs.org>**

National Transportation Safety Board: <http://www.nts.gov>

U.S. Department of Transportation, National Highway Traffic Safety Administration:  
<http://www.nhtsa.dot.gov>

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### **Policy Reference UPDATE Service**

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# CSBA Sample

## Board Policy

All Personnel

BP 4030(a)

### NONDISCRIMINATION IN EMPLOYMENT

Note: The following Board policy and accompanying administrative regulation are **mandated** pursuant to Government Code 11138 **and 2 CCR 11023, as added by Register 2015, No. 50**. The California Fair Employment and Housing Act (FEHA) (Government Code 12900-12996) prohibits employers from discriminating against employees and job applicants on the basis of actual or perceived race, color, ancestry, national origin, age, sex, sexual orientation, gender, gender identity, gender expression, religious creed, physical or mental disability, medical condition, marital status, or genetic information. **Pursuant to 2 CCR 11009, as amended by Register 2015, No. 50, these same protections apply to unpaid interns and volunteers. Consequently, the district is required to also notify unpaid interns and volunteers about these protections. For more information about volunteers, see BP/AR 1240 - Volunteer Assistance.**

The same or similar protections are available to employees and job applicants under various provisions of federal law, including Title VI of the Civil Rights Act of 1964 (42 USC 2000d-2000d-7), Title VII of the Civil Rights Act of 1964 (42 USC 2000e-2000e-17), Title IX of the Education Amendments of 1972 (20 USC 1681-1688), the Americans with Disabilities Act (42 USC 12101-12213), Section 504 of the Rehabilitation Act of 1973 (29 USC 794), and the Genetic Information Nondiscrimination Act (42 USC 2000ff-2000ff-11).

For policy addressing sexual harassment of and by employees, see BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment.

The Governing Board is determined to provide district employees, **interns, volunteers**, and job applicants a safe, positive environment where they are assured of full and equal employment access and opportunities, protection from harassment or intimidation, and freedom from any fear of reprisal or retribution for asserting their employment rights in accordance with law. **This policy shall apply to all district employees and, to the extent required by law, to interns, volunteers, and job applicants.**

*(cf. 1240 - Volunteer Assistance)*

*(cf. 4111/4211/4311 - Recruitment and Selection)*

~~The Board prohibits~~ **No** district employees ~~from discriminating~~ **shall be discriminated** against or ~~harassing~~ **harassed by** any **coworker, supervisor, manager, or other district employee or job applicant person with whom the employee comes in contact in the course of employment**, on the basis of the ~~person's~~ **employee's** actual or perceived race, religious creed, color, national origin, ancestry, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, military and veteran status, gender, gender identity, gender expression, sex, or sexual orientation; or **his/her** association with a person or group with one or more of these actual or perceived characteristics.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*

**NONDISCRIMINATION IN EMPLOYMENT** (continued)

Note: The following paragraph illustrates unlawful discriminatory practices as specified in Government Code 12940. Pursuant to Labor Code 1197.5, an employer is prohibited from paying an employee at wage rates less than the rates to employees of the opposite sex for work requiring equal skill, effort, and responsibility and performed under similar conditions, except when the payment is based on some other bona fide factor such as education, training, or experience. In addition, Labor Code 1197.5, as amended by SB 1063 (Ch. 866, Statutes of 2016), prohibits the payment of different wage rates to employees for similar work based on race or ethnicity and prohibits the use of prior salary history by itself to justify any disparity in compensation under the bona fide factor exception.

The Board also prohibits discrimination against any employee or job applicant. Discrimination in employment based on the characteristics listed above is prohibited in all areas of employment and in all employment-related practices, including the following:

1. **Discrimination** in hiring, compensation, terms, conditions, and other privileges of employment
2. ~~and the taking of any an~~ adverse employment action, ~~including, but not limited to, such as~~ termination or the denial of employment, promotion, job assignment, or training, ~~against an employee or job applicant based on any of the categories listed above.~~

(cf. 4151/4251/4351 - *Employee Compensation*)

(cf. 4154/4254/4354 - *Health and Welfare Benefits*)

3. ~~Harassment consists of a~~ Unwelcome **conduct, whether** verbal, physical, or visual, ~~conduct that is based on any of the prohibited categories of discrimination listed above and that is so severe or pervasive that it as to~~ adversely affects an individual's **employee's** employment opportunities, **or that** has the purpose or effect of unreasonably interfering with the individual's work performance, or **creating** an intimidating, hostile, or offensive work environment

Note: Item #4 below addresses the numerous specific practices prohibited under Government Code 12940 or 2 CCR 11006-11086 in relation to certain protected categories. For example, because "sex" as defined in Government Code 12926 includes pregnancy, childbirth, breastfeeding, or related medical conditions, any of these conditions may be the basis for an employee's sex discrimination claim. As the specific prohibitions are too numerous to list in policy, it is recommended that district legal counsel be consulted when questions arise as to any specific claim.

4. **Actions and practices identified as unlawful or discriminatory pursuant to Government Code 12940 or 2 CCR 11006-11086, such as:**

- a. ~~prohibited s~~ Sex discrimination ~~includes discrimination~~ based on an employee's or job applicant's pregnancy, childbirth, breastfeeding, or any related medical condition **or on an employee's gender, gender expression, or gender identity, including transgender status**

P

b.

BP 4030(c)

## NONDISCRIMINATION IN EMPLOYMENT (continued)

(cf. 4033 - Lactation Accommodation)

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

b. ~~Prohibited discrimination on the basis of religious creed includes~~ **Religious creed** discrimination based on an employee's ~~or job applicant's~~ religious belief or observance, including his/her religious dress or grooming practices, ~~—In accordance with Government Code 12940, prohibited discrimination on the basis of religious creed also includes~~ **or based on** the district's failure or refusal to use reasonable means to accommodate an employee's ~~or job applicant's~~ religious belief, observance, or practice which conflicts with an employment requirement. ~~However, the district shall not accommodate an employee's religious dress practice or religious grooming practice if it requires segregation of the individual from other employees or the public or if it would result in a violation of this policy or any law prohibiting discrimination.~~

c. **Disability discrimination based on a district requirement for a medical or psychological examination of a job applicant, or an inquiry into whether a job applicant has a mental or physical disability or a medical condition or as to the severity of any such disability or condition, without the showing of a job-related need or business necessity**

(cf. 4119.41/4219.41/4319.41 - Employees with Infectious Disease)

d. **Disability discrimination based on the district's failure to make reasonable accommodation for the known physical or mental disability of an employee or to engage in a timely, good faith, interactive process with an employee, to determine effective reasonable accommodations for the employee, when he/she has requested reasonable accommodation for a known physical or mental disability or medical condition**

(cf. 4032 - Reasonable Accommodation)

Note: Retaliation against complainants or other participants in the grievance procedures is prohibited by Government Code 12940 and 34 CFR 110.34. In addition to the general prohibition against retaliation, Government Code 12940, ~~as amended by AB 987 (Ch. 122, Statutes of 2015),~~ provides that an employee ~~or job applicant~~ who requests accommodation for his/her physical or mental disability or religious belief is protected from retaliation as specified below. CSBA recommends that this protection be extended to all protected characteristics and has modified the policy accordingly.

In Thompson v. North American Stainless LP, the U.S. Supreme Court held that a third party may file an anti-retaliation suit.

The Board also prohibits retaliation against any district employee ~~or job applicant~~ who opposes any discriminatory employment practice by the district or its employees, agents, or

**NONDISCRIMINATION IN EMPLOYMENT** (continued)

representatives or who complains, testifies, assists, or in any way participates in the district's complaint ~~procedures~~ **process** pursuant to this policy. No employee ~~or job applicant~~ who requests an accommodation for any protected characteristic listed in this policy shall be subjected to any punishment or sanction, regardless of whether the request was granted. (Government Code 12940)

Complaints concerning employment discrimination, harassment, or retaliation shall immediately be investigated in accordance with procedures specified in the accompanying administrative regulation.

Note: Pursuant to 2 CCR 11019, in certain instances, an employee's (especially a supervisor's) knowledge or notice of ~~harassment~~ **prohibited conduct** of another employee or individual may subject the district to liability. Therefore, it is recommended that the district require its employees with knowledge of harassment or discrimination to report the incident to the appropriate district authorities. In addition, Government Code 12940 provides that an employer may be responsible for the sexual harassment of employees by nonemployees where the employer knows or should have known of the conduct and failed to take immediate and corrective action. See BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment.

See the accompanying administrative regulation for requirements related to the identification of the employee who will be responsible for compliance with the nondiscrimination laws.

Any supervisory or management employee who observes or has knowledge of an incident of prohibited discrimination or harassment shall report the incident to the Superintendent or designated district coordinator as soon as practical after the incident. All other employees are encouraged to report such incidents to their supervisor immediately. The district shall protect any employee who ~~does~~ **reports** such incidents from retaliation.

Note: Government Code 12940 requires districts to take all reasonable steps, including training, to prevent prohibited discrimination and harassment. **In addition, 2 CCR 11023, as added by Register 2015, No. 15, imposes an affirmative duty on the district to create a workplace environment that is free from all prohibited practices.** ~~The U.S. Equal Employment Opportunity Commission, in its April 2006 New Compliance Manual Section 15: Race and Color Discrimination, suggests proactive preventive measures for employers, including the adoption of transparent recruitment, hiring, and promotion processes; provision of training to employees; and periodic review of employment practices.~~ For details of such measures, see the accompanying administrative regulation.

The Superintendent or designee shall use all appropriate means to reinforce the district's nondiscrimination policy. He/she shall provide training and information to employees about how to recognize harassment, ~~and discrimination,~~ **or other related conduct**, how to respond appropriately, and components of the district's policies and regulations regarding discrimination. The Superintendent or designee shall regularly review the district's employment practices and, as necessary, shall take action to ensure district compliance with the nondiscrimination laws.

**NONDISCRIMINATION IN EMPLOYMENT** (continued)

**In addition, the Superintendent or designee shall post in a conspicuous place on district premises, the California Department of Fair Employment and Housing publication on workplace discrimination and harassment issued pursuant to 2 CCR 11013.**

Any district employee who engages in prohibited discrimination, harassment, or retaliation or who aids, abets, incites, compels, or coerces another to engage or attempt to engage in such behavior in violation of this policy shall be subject to disciplinary action, up to and including dismissal.

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

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

*Legal Reference:*EDUCATION CODE

200-262.4 Prohibition of discrimination

CIVIL CODE

51.7 Freedom from violence or intimidation

GOVERNMENT CODE

11135 Unlawful discrimination

11138 Rules and regulations

12900-12996 Fair Employment and Housing Act

PENAL CODE

422.56 Definitions, hate crimes

CODE OF REGULATIONS, TITLE 2

**11006-11086 Discrimination in employment**

**11013 Recordkeeping**

11019 Terms, conditions and privileges of employment

**11023 Harassment and discrimination prevention and correction**

**11024 Sexual harassment training and education**

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

1681-1688 Title IX of the Education Amendments of 1972

UNITED STATES CODE, TITLE 29

621-634 Age Discrimination in Employment Act

794 Section 504 of the Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42

2000d-2000d-7 Title VI, Civil Rights Act of 1964, as amended

2000e-2000e-17 Title VII, Civil Rights Act of 1964, as amended

2000ff-2000ff-11 Genetic Information Nondiscrimination Act of 2008

2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964

6101-6107 Age discrimination in federally assisted programs

12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act

*Legal Reference continued: (see next page)*

## **NONDISCRIMINATION IN EMPLOYMENT (continued)**

### *Legal Reference: (continued)*

#### CODE OF FEDERAL REGULATIONS, TITLE 34

*100.6 Compliance information*

*104.7 Designation of responsible employee for Section 504*

*104.8 Notice*

*106.8 Designation of responsible employee and adoption of grievance procedures*

*106.9 Dissemination of policy*

*110.1-110.39 Nondiscrimination on the basis of age*

#### COURT DECISIONS

*Thompson v. North American Stainless LP, (2011) 131 S.Ct. 863*

*Shephard v. Loyola Marymount, (2002) 102 Cal.App.4th 837*

### *Management Resources:*

#### CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING PUBLICATIONS

*California Law Prohibits Workplace Discrimination and Harassment, December 2014*

#### U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

*Notice of Non-Discrimination, August 2010*

#### U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

*Questions and Answers: Religious Discrimination in the Workplace, 2008*

*New Compliance Manual Section 15: Race and Color Discrimination, April 2006*

*Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999*

#### WEB SITES

*California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>*

*U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>*

*U.S. Equal Employment Opportunity Commission: <http://www.eeoc.gov>*

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### **Policy Reference UPDATE Service**

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# CSBA Sample

## Administrative Regulation

All Personnel

AR 4030(a)

### NONDISCRIMINATION IN EMPLOYMENT

Note: Pursuant to Government Code 11138 and 2 CCR 11023, as added by Register 2015, No. 50, districts are **mandated** to adopt rules and regulations to ensure that district programs and activities are free from unlawful discriminatory practices. Pursuant to 2 CCR 11009, as amended by Register 2015, No. 50, it is unlawful to discriminate against any person who serves in an unpaid internship or other limited-duration program to gain unpaid work experience, on any basis protected by Government Code 12940.

**All allegations of discrimination in employment, including those involving an intern, volunteer, or job applicant, shall be investigated and resolved in accordance with procedures specified in this administrative regulation.**

Note: Many nondiscrimination laws and regulations require identification of an employee who will be responsible for compliance with the nondiscrimination laws, as provided in the following paragraph. For example, pursuant to 34 CFR 104.7, 106.8, and 110.25, the district is required to designate the person(s) responsible for the overall implementation of the requirements of federal laws which prohibit discrimination on the basis of disability, sex, and age, i.e., Section 504 of the Rehabilitation Act of 1973 (29 USC 794), Title IX of the Education Amendments of 1972 (20 USC 1681-1688), and the Age Discrimination in Employment Act (29 USC 621-634). The district should fill in the blanks below to designate the responsible employee and his/her contact information.

The district designates the position identified below as its coordinator for nondiscrimination in employment (coordinator) to coordinate the district's efforts to comply with state and federal nondiscrimination laws and to answer inquiries regarding the district's nondiscrimination policies. The coordinator may be contacted at:

Director of Human Resources

(position title)

201 Sixth Street, Coronado, CA 92118

(address)

619-522-8900

(telephone number)

rbeyers@coronadousd.net

(email)

### Measures to Prevent Discrimination

Note: Pursuant to Government Code 12940 and 2 CCR 11023, as added by Register 2015, No. 50, the district is required to take all reasonable steps to prevent unlawful discrimination and harassment. 2 CCR 11023, as added, specifies certain requirements to be included in the district's policy. The following section reflects the requirements of 2 CCR 11023 and other applicable laws or regulations, as indicated. The following section reflects "best practices" for preventing unlawful harassment or discrimination, as identified in the California Department of Fair Employment and Housing

**NONDISCRIMINATION IN EMPLOYMENT** (continued)

(DFEH) and the U.S. Equal Employment Opportunity Commission (EEOC) informational publications. Examples of such publications are the DFEH's California Law Prohibits Workplace Discrimination and Harassment and the EEOC's New Compliance Manual Section 15: Race and Color Discrimination. Districts should investigate these and other relevant publications and determine which practices to adopt.

To prevent unlawful discrimination, harassment, and retaliation **against district employees, volunteers, interns, and job applicants in district employment**, the Superintendent or designee shall implement the following measures:

1. Publicize the district's nondiscrimination policy and regulation, including the complaint procedures and the coordinator's contact information, **to employees, volunteers, interns, job applicants, and the general public** by: (5 CCR 4960; 34 CFR 100.6, 106.9)
  - a. Including them in each announcement, bulletin, or application form that is used in employee recruitment
  - b. Posting them in all district schools and offices, including staff lounges and other prominent locations
  - c. Posting them on the district's web site and providing easy access to them through district-supported social media, when available

(cf. 1113 - District and School Web Sites)

(cf. 1114 - District-Sponsored Social Media)

2. **Disseminate the district's nondiscrimination policy to all employees by one or more of the following methods: (2 CCR 11023)**
  - a. **Printing and providing a copy of the policy to all employees with an acknowledgment form for each employee to sign and return**
  - b. **Sending the policy via email with an acknowledgment return form**
  - c. **Posting the policy on the district intranet with a tracking system ensuring all employees have read and acknowledged receipt of the policies**
  - d. **Discussing district policy with employees upon hire and/or during a new hire orientation session**
  - e. **Any other way that ensures employees receive and understand the policy**

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

**NONDISCRIMINATION IN EMPLOYMENT** (continued)

- 23.** Provide to employees a handbook that contains information that clearly describes the district's nondiscrimination policy, procedures for filing a complaint, and resources available to anyone who feels that he/she has been the victim of any discriminatory or harassing behavior
- 34.** Provide training to employees, volunteers, and interns regarding the district's nondiscrimination policy, including what constitutes unlawful discrimination, harassment, and retaliation and how and to whom a report of an incident should be made

**Note:** Pursuant to 2 CCR 11023, as added by Register 2015, No. 50, if the district has 50 or more employees, its sexual harassment prevention training must include instruction for its supervisors as specified in the following paragraph.

**Training for supervisors shall include the requirement to report any complaint of misconduct to a designated representative, such as the coordinator, human resources manager, or Superintendent or designee as a topic in the sexual harassment prevention training required pursuant to 2 CCR 11024 (2 CCR 11023)**

(cf. 1240 - Volunteer Assistance)

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

- 45.** Periodically review the district's recruitment, hiring, and promotion processes and regularly monitor the terms, conditions, and privileges of employment to ensure district compliance with law
- 6.** For any district facility where 10 percent of employees have a language other than English as their spoken language, translate the policy into every language spoken by at least 10 percent of the workforce

**Complaint Procedure**

**Note:** 34 CFR 106.8 and 110.25 ~~mandate~~ any district that receives federal financial assistance to adopt and publish grievance procedures providing for prompt and equitable resolution of employee complaints ~~alleging discrimination on the basis of sex or age~~ **2 CCR 11023, as added by Register 2015, No. 50, mandates that a district's policy include a complaint process with specified requirements. Some of the requirements of 2 CCR 11023 are similar to those required under existing case law.**

Courts have held that an employer may mitigate liability for hostile environment employment discrimination when (1) the employer took reasonable care to prevent and promptly correct the discriminatory or harassing conduct (i.e., provided a complaint procedure) and (2) the aggrieved employee unreasonably failed to take

**NONDISCRIMINATION IN EMPLOYMENT** (continued)

advantage of corrective opportunities offered by the employer (i.e., failure to file a complaint). In its June 1999 Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, EEOC outlines the elements of an effective complaint procedure to include (1) a clear explanation of the process; (2) protection against retaliation; (3) designation of multiple individuals authorized to receive complaints; (4) a mechanism for prompt, thorough, and impartial investigation; (5) assurance of immediate and appropriate corrective action; and (6) information about time frames for filing charges with the EEOC or the DFEH.

While the EEOC's guidance recommends a "prompt" investigation, neither the law nor the EEOC delineates a specific time frame for resolution. The EEOC's guidance acknowledges that whether an investigation is considered "prompt" may vary depending on the seriousness and complexity of the circumstances and that intermediate measures may be necessary to prevent further harassment during the investigation.

The following section, including the listed timelines, is consistent with the EEOC's guidance and should be modified to reflect district practice.

Any complaint ~~by an employee or job applicant~~ alleging **unlawful** discrimination or harassment shall be addressed in accordance with the following procedures:

1. **Notice and Receipt of Complaint:** A complainant ~~who is an employee shall~~ **may** inform his/her **direct** supervisor. ~~However, if the supervisor is the person against whom the employee is complaining, the employee shall inform, another supervisor, the coordinator, or the Superintendent; or, if available, a complaint hotline or an ombudsman. A job applicant shall inform the coordinator or the Superintendent or designee.~~

The complainant may file a written complaint in accordance with this procedure, or if he/she is an employee, may first attempt to resolve the situation informally with his/her supervisor.

A supervisor or manager who has received information about an incident of discrimination or harassment, or has observed such an incident, shall report it to the coordinator, whether or not the complainant files a written complaint.

The written complaint should contain the complainant's name, the name of the individual who allegedly committed the act, a description of the incident, the date and location where the incident occurred, any witnesses who may have relevant information, other evidence of the discrimination or harassment, and any other pertinent information which may assist in investigating and resolving the complaint.

(cf. 0410 - Nondiscrimination in District Programs and Activities)  
(cf. 4032 - Reasonable Accommodation)

2. **Investigation Process:** The coordinator shall initiate an impartial investigation of an allegation of discrimination or harassment within five business days of receiving notice of the **alleged discriminatory or harassing** behavior, regardless of whether a written complaint has been filed or whether the written complaint is complete.

**NONDISCRIMINATION IN EMPLOYMENT** (continued)

The coordinator shall meet with the complainant to describe the district's complaint procedure and discuss the actions being sought by the complainant in response to the allegation. The coordinator shall inform the complainant that the **allegations investigation of the allegations will be fair, timely, and thorough and will be conducted in a manner that provides all parties due process and reaches reasonable conclusions based on the evidence collected. He/she shall also inform the parties that the investigation** will be kept confidential to the extent possible, but that some information may be revealed as necessary to conduct an effective investigation.

(cf. 3580 - District Records)

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

If the coordinator determines that a detailed fact-finding investigation is necessary, he/she shall begin the investigation immediately. As part of this investigation, the coordinator should interview the complainant, the person accused, and other persons who could be expected to have relevant information.

**The coordinator shall track and document the progress of the investigation to ensure reasonable progress and shall inform the parties as necessary.**

When necessary to carry out his/her investigation or to protect employee safety, the coordinator may discuss the complaint with the Superintendent or designee, district legal counsel, or the district's risk manager.

The coordinator also shall determine whether interim measures, such as scheduling changes, transfers, or leaves, need to be taken before the investigation is completed to ensure that further incidents **do not occur are prevented**. The coordinator shall ensure that such interim measures do not constitute retaliation.

3. **Written Report on Findings and Remedial/Corrective Action:** No more than 20 business days after receiving the complaint, the coordinator shall conclude the investigation and prepare a written report of his/her findings. This timeline may be extended for good cause. If an extension is needed, the coordinator shall notify the **complainant parties** and explain the reasons for the extension.

The report shall include the decision and the reasons for the decision and shall summarize the steps taken during the investigation. If a determination has been made that discrimination or harassment occurred, the report also shall include any corrective action(s) that have been or will be taken to address the behavior, **correct the effect on provide appropriate options for remedial actions and resolutions for the complainant, and ensure that retaliation or further discrimination or harassment does not occur is prevented.**

**NONDISCRIMINATION IN EMPLOYMENT** (continued)

The report shall be presented to the complainant, the person accused, and the Superintendent or designee.

4. **Appeal to the Governing Board:** The complainant or the person accused may appeal any findings to the Board within 10 business days of receiving the written report of the coordinator's findings. The Superintendent or designee shall provide the Board with all information presented during the investigation. Upon receiving an appeal, the Board shall schedule a hearing as soon as practicable. Any complaint against a district employee shall be addressed in closed session in accordance with law. The Board shall render its decision within 10 business days.

*(cf. 1312.1 - Complaints Concerning District Employees)*

*(cf. 9321 - Closed Session Purposes and Agendas)*

**Other Remedies**

Note: Items #1-3 below state the time limits within which employees must file their complaints. The EEOC's guidance states that it is important for employers' nondiscrimination policies to contain information about time frames for filing charges of unlawful discrimination or harassment with the EEOC or DFEH. Employees should be informed that the deadline for filing charges starts to run from the last date of the unlawful act, not from the conclusion of the employer's complaint investigation. Pursuant to DFEH procedures, DFEH will automatically forward any complaint it has accepted for investigation to the EEOC when the matter falls within the EEOC's jurisdiction.

In addition to filing a discrimination or harassment complaint with the district, a person may file a complaint with either the California Department of Fair Employment and Housing (DFEH) or the Equal Employment Opportunity Commission (EEOC). The time limits for filing such complaints are as follows:

Note: Pursuant to Government Code 12960, an employee has one year to file a complaint with DFEH, although that period may be extended under certain circumstances, such as when a person obtains knowledge of the unlawful practice after the expiration of the one-year period.

1. To file a valid complaint with DFEH, within one year of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code 12960

Note: 42 USC 2000e-5 specifies that a person must file a discrimination complaint with the EEOC within 180 days of the alleged discriminatory act. Pursuant to 42 USC 2000e-5, the 180-day timeline for compensation discrimination starts when the discriminatory paycheck is received and that each discriminatory paycheck restarts the timeline for the filing of a complaint.

2. To file a valid complaint directly with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC 2000e-5)

**NONDISCRIMINATION IN EMPLOYMENT** (continued)

3. To file a valid complaint with EEOC after first filing a complaint with DFEH, within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by DFEH, whichever is earlier (42 USC 2000e-5)

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# CSBA Sample Board Policy

All Personnel

BP 4119.11(a)

4219.11

**SEXUAL HARASSMENT**

4319.11

Note: Education Code 231.5 **mandates** the district to have a written policy on sexual harassment. As part of this mandate, the district also should adopt a sexual harassment policy related to students; see BP/AR 5145.7 - Sexual Harassment.

Generally, courts recognize two types of conduct as constituting sexual harassment. "Quid Pro Quo" ("this for that") sexual harassment is considered to have occurred when a person in a position of authority makes another individual's educational or employment benefits conditional upon that other person's willingness to engage in unwanted sexual behavior (e.g., promising a promotion for sex). "Hostile environment" sexual harassment, on the other hand, is conduct by the perpetrator that is so severe, persistent, or pervasive that it creates a hostile, intimidating, or abusive educational or professional environment for another. Sexual harassment also covers retaliatory behavior against a complainant, witness, or other participant in the complaint process. **Pursuant to Government Code 12940 and 2 CCR 11009, as amended by Register 2015, No. 50, interns, volunteers, and job applicants are entitled to the same protection against sexual harassment as applicable to employees.**

Sexual harassment ~~may be a violation of~~ **is prohibited pursuant to** Title VII of the Civil Rights Act of 1964 (42 USC 2000e-2000e-17) and/or Title IX of the Education Amendments of 1972 (42 USC 2000h-2-2000h-6), as well as the California Fair Employment and Housing Act, Government Code 12900-12996.

~~Government Code 12940 and 34 CFR 106.9 extend protection against sexual harassment to job applicants. In addition, p~~**Pursuant to Government Code 12940, employers may be held liable for sexual harassment committed against their workers by clients, customers, or other third parties if they knew or should have known of the harassment and failed to take immediate and appropriate corrective action to stop the harassment.**

The Governing Board prohibits sexual harassment of district employees ~~and job applicants~~. The Board also prohibits retaliatory behavior or action against district employees or other persons who complain, testify, or otherwise participate in the complaint process established pursuant to this policy and **accompanying** administrative regulation. **This policy shall apply to all district employees and, when applicable, to interns, volunteers, and job applicants.**

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 4030 - Nondiscrimination in Employment)

Note: Federal and state courts have provided guidance that may help employers avoid liability or mitigate damages in sexual harassment cases. In Department of Health Services v. Superior Court (McGinnis), the California Supreme Court outlined **ways in which measures that may enable** employers **may be able** to reduce damages, including establishing anti-harassment policies, communicating those policies to employees, consistently enforcing their policies, preserving the confidentiality of employees who report harassment, and preventing retaliation against reporting employees. The ~~United States~~ **U.S.** Supreme Court has held, in Burlington Industries v. Ellerth, that, for certain claims under federal law, an employer may defend against sexual harassment claims by proving that: (1) reasonable care was exercised to prevent and promptly correct any sexually harassing behavior, and (2) the employee (victim) failed to take advantage of the preventive and corrective opportunities provided by the employer.



## SEXUAL HARASSMENT (continued)

Pursuant to Government Code 12950.1, employers with 50 or more employees are required to provide two hours of sexual harassment training to supervisory employees. See the accompanying administrative regulation for timelines and training requirements.

Items #1-4 below reflect the courts' guidance and Government Code 12950.1, and should be modified to reflect district practice.

The Superintendent or designee shall take all actions necessary to ensure the prevention, investigation, and correction of sexual harassment, including but not limited to:

1. Providing training to employees in accordance with law and administrative regulation
2. Publicizing and disseminating the district's sexual harassment policy to staff

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

3. Ensuring prompt, thorough, and fair investigation of complaints
4. Taking timely and appropriate corrective/remedial action(s), which may require interim separation of the complainant and the alleged harasser and subsequent monitoring of developments

All complaints and allegations of sexual harassment shall be kept confidential to the extent necessary to carry out the investigation or to take other subsequent necessary actions. (5 CCR 4964.2 CCR 11023)

Note: Because an employee's (especially a supervisor's) knowledge or notice of sexual harassment may subject the district to liability, it is recommended that the district require its employees with knowledge or notice of sexual harassment to report the harassment to the appropriate authorities. Pursuant to 2 CCR 11034, as amended by Register 2015, No. 50, the district may be liable for sexual harassment committed by a supervisor, coworker, or a third party. In addition, as part of its affirmative duty to prevent sexual harassment, the district is required pursuant to 2 CCR 11023, as amended by Register 2015, No. 50, to instruct supervisors to report complaints.

Any district employee or job applicant who feels that he/she has been sexually harassed or who has knowledge of any incident of sexual harassment by or against another employee, a job applicant or a student, shall immediately report the incident to his/her supervisor, the principal, district administrator, or Superintendent.

A supervisor, principal, or other district administrator who receives a harassment complaint shall promptly notify the Superintendent or designee.

## **SEXUAL HARASSMENT** (continued)

Note: In Faragher v. City of Boca Raton, one of the factors relied on by the U.S. Supreme Court in finding liability for harassment by a supervisor was the failure of the policy to provide an assurance to its employees that harassing supervisors may be bypassed in registering complaints.

Complaints of sexual harassment shall be filed in accordance with AR 4030 - Nondiscrimination in Employment. An employee may bypass his/her supervisor in filing a complaint where the supervisor is the subject of the complaint.

Any district employee who engages or participates in sexual harassment or who aids, abets, incites, compels, or coerces another to commit sexual harassment **against a district employee, job applicant, or student is** in violation of this policy **and** is subject to disciplinary action, up to and including dismissal.

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

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

Note: In addition to district sanction against employees who engage in sexual harassment, Government Code 12940 provides that such employees may be held personally liable in a court of law for any damage to the victim(s).

*Legal Reference: (see next page)*

## SEXUAL HARASSMENT (continued)

### Legal Reference:

#### EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

#### GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act, especially:

12940 Prohibited discrimination

12950.1 Sexual harassment training

#### LABOR CODE

1101 Political activities of employees

1102.1 Discrimination: sexual orientation

#### CODE OF REGULATIONS, TITLE 2

**7287.8 Retaliation**

**7288.0 Sexual harassment training and education**

**11009 Employment discrimination**

**11021 Retaliation**

**11023 Harassment and discrimination prevention and correction**

**11024 Sexual harassment training and education**

**11034 Terms, conditions, and privileges of employment**

#### CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance

#### UNITED STATES CODE, TITLE 42

2000d-2000d-7 Title VI, Civil Rights Act of 1964

2000e-2000e-17 Title VII, Civil Rights Act of 1964, as amended

2000h-2-2000h-6 Title IX, 1972 Education Act Amendments

#### CODE OF FEDERAL REGULATIONS, TITLE 34

106.9 Dissemination of policy

#### COURT DECISIONS

Department of Health Services v. Superior Court of California, (2003) 31 Cal.4<sup>th</sup> 1026

Faragher v. City of Boca Raton, (1998) 118 S.Ct. 2275

Burlington Industries v. Ellreth, (1998) 118 S.Ct. 2257

Gebser v. Lago Vista Independent School District, (1998) 118 S.Ct. 1989

Oncale v. Sundowner Offshore Serv. Inc., (1998) 118 S.Ct. 998

Meritor Savings Bank, FSB v. Vinson et al., (1986) 447 U.S. 57

### Management Resources:

#### OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

Protecting Students from Harassment and Hate Crime, January, 1999

#### WEB SITES

California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>

Equal Employment Opportunity Commission: <http://www.eeoc.gov>

U.S. Department of Education, Office for Civil Rights:

<http://www.ed.gov/about/offices/list/ocr/index.html>

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### Policy Reference UPDATE Service

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# CSBA Sample

## Administrative Regulation

All Personnel

AR 4119.11(a)

4219.11

**SEXUAL HARASSMENT**

4319.11

Note: The following administrative regulation is **mandated** pursuant to Education Code 231.5 and includes reasonable steps for preventing the occurrence of discrimination and harassment as required pursuant to Government Code 12940 (California Fair Employment and Housing Act). **The focus of this administrative regulation is on sexual harassment by and of employees. Pursuant to Government Code 12940 and 2 CCR 11009, as amended by Register 2015, No. 50, interns, volunteers, and job applicants are entitled to the same protection against sexual harassment as applicable to employees.**

~~The focus of this administrative regulation is on sexual harassment of employees.~~ For information related to the sexual harassment **of involving** students, see BP/AR 5145.7 - Sexual Harassment.

**This administrative regulation shall apply to all allegations of sexual harassment involving employees, interns, volunteers, and job applicants, but shall not be used to resolve any complaint by or against a student.**

### Definitions

Note: In Oncale v. Sundowner Offshore Services, Inc., the U.S. Supreme Court held that same-sex sexual harassment could be actionable under Title VII of the Civil Rights Act of 1964 (42 USC 2000e-2000e-17).

*Prohibited sexual harassment* includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature made against another person of the same or opposite sex in the work or educational setting when: (Education Code 212.5; Government Code 12940; **5 CCR 4916 2 CCR 11034**)

1. Submission to the conduct is made explicitly or implicitly a term or condition of the individual's employment.
2. Submission to or rejection of **such the** conduct **by the individual** is used as the basis for an employment decision affecting **him/her the individual**.
- 4.3.** Submission to or rejection of the conduct **by the other individual** is used as the basis for any decision affecting **him/her the individual** regarding benefits, services, honors, programs, or activities available at or through the district.

Note: Pursuant to Government Code 12940, conduct **may meet the definition of sexual harassment specified in item #3 below** constitutes sexual harassment if it is sufficiently severe, pervasive, or offensive to **create a hostile or abusive work environment for the victim**, regardless of whether or not the alleged harasser is motivated by sexual desire for the victim.

## SEXUAL HARASSMENT (continued)

3. ~~The conduct has the purpose or effect of having a negative impact upon the individual's work or has the purpose or effect of creating an intimidating, hostile, or offensive work environment. Regardless of whether or not the alleged harasser was motivated by sexual desire, the conduct is sufficiently severe, persistent, pervasive, or objectively offensive as to create a hostile or abusive working environment or to limit the individual's ability to participate in or benefit from an education program or activity. *Prohibited sexual harassment also includes conduct which, regardless of whether or not it is motivated by sexual desire, is so severe or pervasive as to unreasonably interfere with the victim's work performance or create an intimidating, hostile, or offensive work environment.*~~

Note: Pursuant to Government Code 12940, the district may be held liable for sexual harassment committed against employees by clients, customers, or other third parties if the district knew, or should have known, of the harassment and failed to take immediate and appropriate corrective action to stop the harassment. The following paragraph clarifies that sexual harassment may include acts by supervisors, co-workers, or other parties and should be modified to reflect district practice.

~~Other e~~Examples of actions that might constitute sexual harassment **in the work or educational setting**, whether committed by a supervisor, a co-worker, or a non-employee, ~~in the work or educational setting~~ include, but are not limited to:

1. Unwelcome verbal conduct such as sexual flirtations or propositions; graphic comments about an individual's body; overly personal conversations or pressure for sexual activity; sexual jokes or stories; unwelcome sexual slurs, epithets, threats, innuendoes, derogatory comments, sexually degrading descriptions, or the spreading of sexual rumors
2. Unwelcome visual conduct such as drawings, pictures, graffiti, or gestures; sexually explicit emails; displaying sexually suggestive objects
3. Unwelcome physical conduct such as massaging, grabbing, fondling, stroking, or brushing the body; touching an individual's body or clothes in a sexual way; cornering, blocking, leaning over, or impeding normal movements

## Training

Note: The following ~~optional~~ paragraph is consistent with a district's **obligation-affirmative duty** to protect its employees from **sex discrimination, including** sexual harassment, **pursuant to 2 CCR 11023, as added by Register 2015, No. 50**, and may be modified to reflect district practice. Although training is not legally required for all employees, Government Code 12940 requires districts to take reasonable steps to prevent harassment. ~~In addition, since the language of~~ BP/AR 5145.7 - Sexual Harassment requires employees to

## SEXUAL HARASSMENT (continued)

report sexual harassment against students, training such employees to recognize **and address** sexual harassment **and address reports of** incidents furthers the district's interest in protecting both employees and students against prohibited conduct. Thus, it is strongly recommended that districts periodically provide sexual harassment training or information to all their employees, especially those who work at school sites.

Provision of periodic training to all district employees could also help foster a positive work environment and mitigate damages against a district in the event of sexual harassment litigation. In Department of Health Services v. Superior Court (McGinnis), the California Supreme Court held that employers that have taken reasonable steps to prevent and correct workplace sexual harassment may be able to reduce damages in the event of a lawsuit. Such steps may include establishing anti-harassment policies and communicating those policies to employees.

The Superintendent or designee shall ensure that all employees receive training regarding the district's sexual harassment policies when hired and periodically thereafter. **Such—The** training shall include the procedures for reporting and/or filing complaints involving an employee, employees' duty to use the district's complaint procedures, and employee obligations when a sexual harassment report involving a student is made to the employee.

(cf. 1312.3 - Uniform Complaint Procedures)  
(cf. 4030 - Nondiscrimination in Employment)  
(cf. 5145.7 - Sexual Harassment)

**Note: The remainder of this section is for use by districts with 50 or more employees. Although the law does not require districts with fewer than 50 employees to provide sexual harassment training to supervisors, court decisions have held that providing training may help mitigate damages in sexual harassment suits. Additionally, provision of supervisor training may be a factor in determining whether a district has taken reasonable steps to prevent discrimination and harassment pursuant to Government Code 12940.**

Government Code 12950.1 requires such districts to provide two hours of sexual harassment training and education once every two years to every supervisory employee, defined as any employee with the authority to take employment action, including hiring, transferring, suspending, and disciplining other employees, or recommend such action if the exercise of that authority is not merely routine or clerical in nature. All newly hired supervisors or employees promoted to a supervisory position must receive the training within six months of their hire or assumption of the supervisory position. Compliance with this law does not insulate the district from any liability for harassment.

Governing Board members, as elected officials, are not usually considered "supervisors"; however, since Board members have the authority to hire, reward, or discipline the Superintendent and other employees, Board members may also be required to receive sexual harassment training. Districts should consult with legal counsel to ensure that the appropriate individuals receive training.

~~Although the law does not require districts with fewer than 50 employees to provide sexual harassment training to supervisors, court decisions have held that providing training may help mitigate damages in sexual harassment suits. Districts with fewer than 50 employees may delete or modify the remainder of this section to reflect district practice.~~

## SEXUAL HARASSMENT (continued)

Every two years, the Superintendent or designee shall ensure that supervisory employees receive at least two hours of classroom or other effective interactive training and education regarding sexual harassment. All such newly hired or promoted employees shall receive training within six months of their assumption of the new position. (Government Code 12950.1)

A *supervisory employee* is any employee ~~with~~ **having** the authority, **in the interest of the district**, to hire, transfer, suspend, lay off, promote, discharge, assign, reward, or discipline other employees, **or the responsibility to direct them, adjust their grievances, or to effectively recommend such action, when the exercise of the authority is not of a merely routine or clerical nature, but requires the use of independent judgment.** (Government Code 12926)

*(cf. 4300 - Administrative and Supervisory Personnel)*

Note: Government Code 12950.1 and 2 CCR ~~11023~~ **11024**, as amended and renumbered by Register **2015, No. 50**, require that the training for supervisory employees contain specified components and be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation.

The district's sexual harassment training and education program for supervisory employees shall ~~include the provision of~~ **be aimed at assisting them in preventing and effectively responding to incidents of sexual harassment, as well as implementing mechanisms to promptly address and correct wrongful behavior. The training shall include, but is not limited to, the following:** (Government Code 12950.1; 2 CCR ~~11023~~ **11024**)

1. Information and practical guidance regarding federal and state laws on the prohibition, ~~against and the prevention,~~ and correction of sexual harassment, ~~and the remedies available to the victims of sexual harassment~~ **victims in employment civil actions, and potential district and/or individual exposure or liability**
2. ~~Practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation~~ **The types of conduct that constitute sexual harassment and practical examples which illustrate sexual harassment, discrimination, and retaliation using training modalities such as role plays, case studies, and group discussions, based on factual scenarios taken from case law, news and media accounts, and hypotheticals based on workplace situations and other sources**

Note: Pursuant to Government Code 12950.1, the prevention of abusive conduct must be included as a component of the sexual harassment training for supervisors.

**SEXUAL HARASSMENT (continued)**

- ~~3. A component on the prevention of abusive conduct that addresses the use of derogatory remarks, insults, or epithets, other verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, and the gratuitous sabotage or undermining of a person's work performance~~
- 3. A supervisor's obligation to report sexual harassment, discrimination, and retaliation of which he/she becomes aware and what to do if the supervisor himself/herself is personally accused of harassment**
- 4. Strategies for preventing harassment, discrimination, and retaliation and appropriate steps to ensure that remedial measures are taken to correct harassing behavior, including an effective process for investigation of a complaint**
- 5. The essential elements of the district's anti-harassment policy, including the limited confidentiality of the complaint process and resources for victims of unlawful sexual harassment, such as to whom they should report any alleged sexual harassment, and how to use the policy if a harassment complaint is filed**
- 4.6.** A copy of the district's sexual harassment policy and administrative regulation, which each participant shall acknowledge in writing that he/she has received
- 3.7.** ~~A component on t~~The **definition and** prevention of abusive conduct that addresses the use of derogatory remarks, insults, or epithets, other verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, and the gratuitous sabotage or undermining of a person's work performance
- ~~5. All other contents of mandated training specified in 2 CCR 11023~~

The Superintendent or designee shall retain for at least two years the records of any training provided to supervisory employees. Such records shall include the names of trained employees, date of the training, the type of training, and the name of the training provider. (2 CCR ~~11023~~ **11024**)

**Notifications**

Note: Education Code 231.5 requires that the district provide copies of its policy on sexual harassment to staff, as specified below. In addition, 2 CCR 1102~~34~~ requires that supervisory employees undergoing mandatory training receive a copy of the district's policy and acknowledge receipt of the policy; see item #**6** in the section "Training" above.

A copy of the Board policy and this administrative regulation shall: (Education Code 231.5)



**SEXUAL HARASSMENT** (continued)

1. Be displayed in a prominent location in the main administrative building, district office, or other area of the school where notices of district rules, regulations, procedures, and standards of conduct are posted
2. Be provided to every district employee at the beginning of the first quarter or semester of the school year or whenever a new employee is hired

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

3. Appear in any school or district publication that sets forth the school's or district's comprehensive rules, regulations, procedures, and standards of conduct

Note: Government Code 12950 requires the Department of Fair Employment and Housing (DFEH) to develop posters and information sheets on employment discrimination and the illegality of sexual harassment. These documents are available on DFEH's web site.

All employees shall receive either a copy of information sheets prepared by the California Department of Fair Employment and Housing (DFEH) or a copy of district information sheets that contain, at a minimum, components on: (Government Code 12950)

1. The illegality of sexual harassment
2. The definition of sexual harassment under applicable state and federal law
3. A description of sexual harassment, with examples
4. The district's complaint process available to the employee
5. The legal remedies and complaint process available through DFEH and the Equal Employment Opportunity Commission (EEOC)
6. Directions on how to contact DFEH and the EEOC
7. The protection against retaliation provided by 2 CCR 11021 for opposing harassment prohibited by law or for filing a complaint with or otherwise participating in an investigation, proceeding, or hearing conducted by DFEH and the EEOC

AR 4119.11(g)  
4219.11  
4319.11

**SEXUAL HARASSMENT** (continued)

In addition, the district shall post, in a prominent and accessible location, DFEH's poster on discrimination in employment and the illegality of sexual harassment. (Government Code 12950)

(3/08 10/15) 12/16

**Policy Reference UPDATE Service**

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# CSBA Sample

## Board Policy

Students

BP 5030(a)

### STUDENT WELLNESS

Note: The Healthy, Hunger-Free Kids Act of 2010 (42 USC 1758b) **mandates** each district participating in the National School Lunch Program (42 USC 1751-1769j) or any program in the Child Nutrition Act of 1966 (42 USC 1771-17943), including the School Breakfast Program, to adopt a districtwide school wellness policy. The following policy fulfills this mandate and should be revised to reflect district practice. Other policies in the district's policy manual will likely contain additional provisions supporting this wellness policy, such as BP 3312 - Contracts, BP/AR 3550 - Food Service/Child Nutrition Program, BP/AR 3552 - Summer Meal Program, BP/AR 3553 - Free and Reduced Price Meals, BP/AR 3554 - Other Food Sales, BP/AR 6142.7 - Physical Education and Activity, and BP/AR 6142.8 - Comprehensive Health Education.

Although the Governing Board has discretion under 42 USC 1758b to determine specific policies appropriate for its schools, **the U.S. Department of Agriculture (USDA) is required to develop regulations 7 CFR 210.30, as added by 81 Fed. Reg. 50151, that provides a framework and guidelines to assist districts in establishing their student wellness policies, including minimum content requirements, assurance of stakeholder participation in the development and updates, and periodic assessment and disclosure of compliance with the district's wellness policy.** ~~and to provide technical assistance through the Centers for Disease Control and Prevention (CDC).~~ Currently, **The U.S. Department of Agriculture (USDA) and Centers for Disease Control and Prevention (CDC)** provide resources and implementation tools on their web sites. In addition, CSBA's Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide summarizes research on the relationship between nutrition and physical activity and student achievement, provides worksheets for policy development, and contains other resources that may be useful in the development of the wellness policy.

The following paragraph links student wellness with the components of a coordinated school health approach recommended in the California Department of Education's (CDE) Health Framework for California Public Schools and may be revised to reflect district practice.

The Governing Board recognizes the link between student health and learning and desires to provide a comprehensive program promoting healthy eating and physical activity for district students. The Superintendent or designee shall coordinate and align district efforts to support student wellness through health education, physical education and activity, health services, nutrition services, psychological and counseling services, and a safe and healthy school environment. In addition, the Superintendent or designee shall develop strategies for promoting staff wellness and for involving parents/guardians and the community in reinforcing students' understanding and appreciation of the importance of a healthy lifestyle.

(cf. 1020 - Youth Services)  
(cf. 3513.3 - Tobacco-Free Schools)  
(cf. 3514 - Environmental Safety)  
(cf. 5131.6 - Alcohol and Other Drugs)  
(cf. 5131.61 - Drug Testing)  
(cf. 5131.62 - Tobacco)  
(cf. 5131.63 - Steroids)  
(cf. 5141 - Health Care and Emergencies)  
(cf. 5141.22 - Infectious Diseases)

**STUDENT WELLNESS (continued)***(cf. 5141.3 - Health Examinations)**(cf. 5141.31 - Immunizations)**(cf. 5141.32 - Health Screening for School Entry)**(cf. 5141.6 - School Health Services)**(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Education)**(cf. 6164.2 - Guidance/Counseling Services)***School Health Wellness Council/Committee**

Note: 42 USC 1758b and 7 CFR 210.30, as added by 81 Fed. Reg. 50151, requires that districts permit specified stakeholders ~~be permitted~~ to participate in the development, implementation, and periodic review and update of the district's wellness policy. One method to achieve continuing involvement of those groups and other key stakeholders ~~is could be~~ through the creation of a school wellness health council, as recommended in the CDE's Health Framework for California Public Schools. Pursuant to Government Code 54952, committees created by formal action of the Board are subject to open meeting laws (the Brown Act); see AR 1220 - Citizen Advisory Committees.

The Superintendent or designee shall encourage parents/guardians, students, food service employees, physical education teachers, school health professionals, Board members, school administrators, and members of the public to participate in the development, implementation, and periodic review and update of the district's student wellness policy. (42 USC 1758b; 7 CFR 210.30)

Note: The remainder of this section is **optional** and may be revised to reflect district practice.

To fulfill this requirement, the Superintendent or designee may appoint a school wellness health council or other district committee, ~~whose membership shall include representatives of these groups and a wellness council coordinator. The council may include representatives of the groups listed above, as well as He/she also may invite participation of other groups or individuals, such as~~ health educators, curriculum directors, counselors, before- and after-school program staff, health practitioners, and/or others interested in school health issues.

*(cf. 1220 - Citizen Advisory Committees)**(cf. 9140 - Board Representatives)*

**The Superintendent or designee may make available to the public and school community a list of the names, position titles, and contact information of the wellness council members.**

The ~~school health wellness~~ council/~~committee~~ shall advise the district on health-related issues, activities, policies, and programs. At the discretion of the Superintendent or designee, the duties of the council/~~committee~~ may also include the planning, implementation, and evaluation of activities to promote health within the school or community.

**STUDENT WELLNESS (continued)****Goals for Nutrition, Physical Activity, and Other Wellness Activities**

Note: 42 USC 1758b and 7 CFR 210.30, as added by 81 Fed. Reg. 50151, mandates that the district's wellness policy include goals for the activities specified below.

The Board shall adopt **specific** goals for nutrition promotion and education, physical activity, and other school-based activities that promote student wellness. **In developing such goals, the Board shall review and consider evidence-based strategies and techniques.** (42 USC 1758b; 7 CFR 210.30)

*(cf. 0000 - Vision)*

*(cf. 0200 - Goals for the School District)*

Note: The remainder of this section provides policy language to address this mandated topic and should be revised to reflect district practice.

The district's nutrition education and physical education programs shall be based on research, shall be consistent with the expectations established in the state's curriculum frameworks and content standards, and shall be designed to build the skills and knowledge that all students need to maintain a healthy lifestyle.

*(cf. 6011 - Academic Standards)*

*(cf. 6142.7 - Physical Education and Activity)*

*(cf. 6142.8 - Comprehensive Health Education)*

*(cf. 6143 - Courses of Study)*

The nutrition education program shall include, but is not limited to, information about the benefits of healthy eating for learning, disease prevention, weight management, and oral health. Nutrition education shall be provided as part of the health education program and, as appropriate, shall be integrated into other academic subjects in the regular educational program, before- and after-school programs, summer learning programs, and school garden programs.

*(cf. 5148.2 - Before/After School Programs)*

*(cf. 6177 - Summer Learning Programs)*

**To reinforce the district's nutrition education program, the Board prohibits the marketing and advertising of non-nutritious foods and beverages through signage, vending machine fronts, logos, scoreboards, school supplies, advertisements in school publications, coupon or incentive programs, free give-aways, or other means.**

*(cf. 1325 - Advertising and Promotion)*

All students shall be provided opportunities to be physically active on a regular basis. Opportunities for moderate to vigorous physical activity shall be provided through physical

**STUDENT WELLNESS** (continued)

education and recess and may also be provided through school athletic programs, extracurricular programs, before- and after-school programs, summer learning programs, programs encouraging students to walk or bicycle to and from school, in-class physical activity breaks, and other structured and unstructured activities.

*(cf. 5142.2 - Safe Routes to School Program)*

*(cf. 6145 - Extracurricular and Cocurricular Activities)*

*(cf. 6145.2 - Athletic Competition)*

The Board may enter into a joint use agreement or memorandum of understanding to make district facilities or grounds available for recreational or sports activities outside the school day and/or to use community facilities to expand students' access to opportunity for physical activity.

*(cf. 1330.1 - Joint Use Agreements)*

Professional development ~~shall~~ **may** be regularly offered to **the nutrition program director, managers, and staff, as well as** health education **teachers, and** physical education teachers, coaches, activity supervisors, ~~food services staff,~~ and other staff as appropriate to enhance their ~~health~~ knowledge and skills **related to student health and wellness.**

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

~~The Superintendent or designee may disseminate health information and/or the district's student wellness policy to parents/guardians through district or school newsletters, handouts, parent/guardian meetings, district and school web sites, and other communications. Outreach to parents/guardians shall emphasize the relationship between student health and academic performance.~~

~~*(cf. 1100 - Communication with the Public)*~~

~~*(cf. 1112 - Media Relations)*~~

~~*(cf. 1113 - District and School Web Sites)*~~

~~*(cf. 1114 - District Sponsored Social Media)*~~

~~*(cf. 6020 - Parent Involvement)*~~

In order to ensure that students have access to comprehensive health services, the district may provide access to health services at or near district schools and/or may provide referrals to community resources.

The Board recognizes that a safe, positive school environment is also conducive to students' physical and mental health and thus prohibits bullying and harassment of all students, including bullying on the basis of weight or health condition.

**STUDENT WELLNESS (continued)**

(cf. 5131.2 - Bullying)

(cf. 5145.3 - Nondiscrimination/Harassment)

The Superintendent or designee shall encourage staff to serve as positive role models for healthy eating and physical fitness. He/she shall promote work-site wellness programs and may provide opportunities for regular physical activity among employees.

**Nutritional Guidelines for All Foods Available at School**

Note: 42 USC 1758b **mandates** that the district's wellness policy include nutritional guidelines that are consistent with federal nutrition standards, as specified below. Also see AR 3550 - Food Service/Child Nutrition Program.

For all foods **and beverages** available on each campus during the school day, the district shall adopt nutritional guidelines which are consistent with 42 USC **1758, 1766, 1773,** and 1779 and federal regulations and which support the objectives of promoting student health and reducing childhood obesity. (42 USC 1758b)

Note: The remainder of this section provides policy language to address this mandated topic and should be revised to reflect district practice.

In order to maximize the district's ability to provide nutritious meals and snacks, all district schools shall participate in available federal school nutrition programs, including the National School Lunch and School Breakfast Programs and after-school snack programs, to the extent possible. When approved by the California Department of Education, the district may sponsor a summer meal program.

(cf. 3550 - Food Service/Child Nutrition Program)

(cf. 3552 - Summer Meal Program)

(cf. 3553 - Free and Reduced Price Meals)

(cf. 5141.27 - Food Allergies/Special Dietary Needs)

(cf. 5148 - Child Care and Development)

(cf. 5148.3 - Preschool/Early Childhood Education)

Note: Pursuant to 42 USC 1758, schools participating in the National School Lunch Program are required to make free drinking water available for consumption at locations where meals are served during meal service. In addition, Education Code 38086 requires all California schools to make free drinking water available during school meal times, unless the Board adopts a resolution demonstrating that the district is unable to comply due to fiscal constraints or health or safety concerns. See AR 3550 - Food Service/Child Nutrition Program for policy language related to these requirements. Also see CSBA's policy brief [Increasing Access to Drinking Water in Schools](#) for further information and sample strategies for providing water and encouraging consumption. **Information on potential funding sources to comply with the potable water requirement is available on the CDE web site.**

The Superintendent or designee shall provide access to free, potable water **during meal times** in the food service area **during meal times** in accordance with Education Code 38086 and 42

**STUDENT WELLNESS (continued)**

USC 1758, and shall encourage students' consumption of water by educating them about the health benefits of water and **by** serving water in an appealing manner.

Note: Pursuant to 7 CFR 210.30, as added by 81 Fed. Reg. 50151, districts are mandated to include, within the wellness policy, standards for all foods and beverages which are made available to students outside the district's food services program (e.g., sales through vending machines, student stores, and fundraisers). Nutrition standards and other requirements pertaining to such food sales outside the food services program (e.g., sales through vending machines, student stores, and fundraisers) are addressed in AR 3554 - Other Food Sales. Pursuant to 42 USC 1758b, the USDA is required to establish nutrition standards for all foods sold and served in school at any time during the school day, although exemptions may be allowed for school sponsored fundraisers if the fundraisers are approved by the school and are infrequent. Districts will be required to implement the standards beginning one school year following the approval of the federal rule.

The Board believes that all foods and beverages sold to students at district schools, including those available outside the district's **reimbursable** food services program, should support the health curriculum and promote optimal health. Nutritional standards adopted by the district for foods and beverages provided through student stores, vending machines, or other venues shall meet or exceed state and federal nutritional standards.

(cf. 3312 - Contracts)

(cf. 3554 - Other Food Sales)

The Superintendent or designee shall encourage school organizations to use healthy food items or non-food items for fundraising purposes.

He/she also shall encourage school staff to avoid the use of non-nutritious foods as a reward for students' academic performance, accomplishments, or classroom behavior.

School staff shall encourage parents/guardians or other volunteers to support the district's nutrition education program by considering nutritional quality when selecting any snacks which they may donate for occasional class parties. Class parties or celebrations shall be held after the lunch period when possible.

Note: Pursuant to 7 CFR 210.30, as added by 81 Fed. Reg. 50151, only those foods and beverages that are allowed for sale on campus during the school day may be marketed within the district. The Analysis of Comments to the federal regulations, 81 Fed. Reg. 50151 pg. 50159-50160, clarifies that this includes, but is not limited to, marketing by way of signage, vending machine exteriors, menu boards, coolers, trash cans, cups and scoreboards, but does not apply to materials for educational purposes. It also states that existing items do not need to be immediately replaced, but as new contracts are signed and/or durable equipment replaced, these guidelines should be followed.

To reinforce the district's nutrition education program, the Board prohibits the marketing and advertising of foods and beverages that do not meet nutrition standards for the sale of foods and beverages on campus during the school day. (7 CFR 210.30)



**STUDENT WELLNESS (continued)**

(cf. 1325 - Advertising and Promotion)

**Program Implementation and Evaluation**

**Note: 42 USC 1758b and 7 CFR 210.30 require the district to identify an individual with the authority and responsibility to ensure that each district school complies with the wellness policy. The Analysis of Comments to the federal regulations, 81 Fed. Reg. 50151 pg. 50155, recommends that districts provide a means of contacting the designated individual by providing a district or school phone number and/or email address.**

The Superintendent ~~shall~~ designates **the individual(s) identified below as the individual(s) responsible for ensuring one or more district or school employees, as appropriate, to ensure that each school site complies with this the district's wellness policy.** (42 USC 1758b; 7 CFR 210.30)

**Director of Student Services**  
(Title or Position)

**619-522-8900**  
(Phone Number)

**[nfoley@coronadousd.net](mailto:nfoley@coronadousd.net)**  
(Email Address)

(cf. 0500 - Accountability)  
(cf. 3555 - Nutrition Program Compliance)

**Note: 42 USC 1758b requires assessment of the implementation of the wellness policy but does not define any specific timeline. CSBA's publication Monitoring for Success: A Guide for Assessing and Strengthening Student Wellness Policies recommends that a report on the implementation of the wellness policy be provided to the Board at least once every two years. The following ~~optional~~ paragraph may be revised to reflect district practice. 42 USC 1758b and 7 CFR 210.30, as added by 81 Fed. Reg. 50151, require an assessment of the implementation and compliance of the wellness policy as specified in the paragraph below. At its discretion, the district may revise the following paragraph to reflect a more frequent schedule.**

The Superintendent or designee shall assess the implementation and effectiveness of this policy at least once every ~~two~~ **three** years. **(42 USC 1758b; 7 CFR 210.30)**

**Note: 42 USC 1758b requires that the district assessment include a comparison of the district's policy with model wellness policies. See the USDA's web site for model policies and best practices recommended by federal and state agencies and nongovernmental organizations.**

The assessment shall include the extent to which district schools are in compliance with this policy, the extent to which this policy compares to model wellness policies available from the U.S. Department of Agriculture, and a description of the progress made in attaining the goals of the wellness policy. (42 USC 1758b)

**STUDENT WELLNESS** (continued)

The Superintendent or designee shall invite feedback on district and school wellness activities from food service personnel, school administrators, the ~~school health~~ **wellness** council, parents/guardians, students, teachers, before- and after-school program staff, and/or other appropriate persons.

Note: Items #1-~~89~~ below are **optional** and may be revised to reflect district practice. For further information about the following indicators and a list of other possible indicators, see CSBA's Monitoring for Success: A Guide for Assessing and Strengthening Student Wellness Policies. The guide also describes possible data sources that may be used for each indicator and includes a sample report format. Indicators selected by the district may include a mix of process measures (e.g., level of student participation, number of classes, staffing, and costs) as well as outcome measures that assess the policy's impact on students (e.g., physical fitness test results, Body Mass Index, and food choices).

The Board and the Superintendent or designee shall establish indicators that will be used to measure the implementation and effectiveness of the district activities related to student wellness. Such indicators may include, but are not limited to:

1. Descriptions of the district's nutrition education, physical education, and health education curricula and the extent to which they align with state academic content standards and legal requirements
2. An analysis of the nutritional content of school meals and snacks served in all district programs, based on a sample of menus and production records
3. Student participation rates in all school meal and/or snack programs, including the number of students enrolled in the free and reduced-price meals program compared to the number of students eligible for that program
4. Extent to which foods **and beverages** sold on campus outside the food services program, such as through vending machines, student stores, or fundraisers, comply with nutritional standards
5. **Extent to which other foods and beverages that are available on campus during the school day, such as foods and beverages for classroom parties, school celebrations, and rewards/incentives, comply with nutrition standards**
- ~~5.6.~~ Results of the state's physical fitness test at applicable grade levels
- ~~6.7.~~ Number of minutes of physical education offered at each grade span, and the estimated percentage of class time spent in moderate to vigorous physical activity
- ~~7.8.~~ A description of district efforts to provide additional opportunities for physical activity outside of the physical education program

**STUDENT WELLNESS (continued)**

- 8.9.** A description of other districtwide or school-based wellness activities offered, including the number of sites and/or students participating, as appropriate

~~The Superintendent or designee shall invite feedback on district and school wellness activities from food service personnel, school administrators, the school health council, parents/guardians, students, teachers, before and after school program staff, and/or other appropriate persons.~~[MOVED UP]

As feasible, the assessment report may include a comparison of results across multiple years, a comparison of district data with county, statewide, or national data, and/or a comparison of wellness data with other student outcomes such as academic indicators or student discipline rates.

~~The Superintendent or designee shall inform and update the public, including parents/guardians, students, and others in the community, about the content and implementation of this policy and assessment results. (42 USC 1758b)[MOVED TO "NOTIFICATIONS" SECTION]~~

**Note:** In addition to the district self-assessment described above, 7 CFR 210. 18, as amended by 81 Fed. Reg. 50151, requires that the CDE conduct administrative reviews of all districts at least once every three years to ensure that districts are complying with their wellness policy. See section "Records" below for information about records that may be required for this assessment. The USDA's Food and Nutrition Service may grant a one-year extension to the CDE's three-year review cycle if needed for efficient state management of the program.

**In addition, the Superintendent or designee shall prepare and maintain the proper documentation and records needed for the administrative review of the district's wellness policy conducted by the California Department of Education (CDE) every three years.**

~~In addition,~~ **The assessment results of both the district and state evaluations** shall be submitted to the Board for the purposes of evaluating policy and practice, recognizing accomplishments, and making policy adjustments as needed to focus district resources and efforts on actions that are most likely to make a positive impact on student health and achievement.

**Posting Requirements**

~~Each school shall post the district's policies and regulations on nutrition and physical activity in public view within all school cafeterias or in other central eating areas. (Education Code 49432)~~

**STUDENT WELLNESS** (continued)**Notifications**

**Note:** Pursuant to Education Code 49432, as amended by SB 1169 (Ch. 280, Statutes of 2016), 42 USC 1758b, and 7 CFR 210.30, as added by 81 Fed. Reg. 50151, the district is required to inform the public of the content and implementation of the wellness policy and the district's progress towards meeting the goals of the policy, as described below.

The Superintendent or designee shall inform the public about the content and implementation of the district's wellness policy and shall make the policy, and any updates to the policy, available the public on an annual basis. He/she shall also inform the public of the district's progress towards meeting the goals of the wellness policy, including the availability of the triennial district assessment. (Education Code 49432; 42 USC 1758b; 7 CFR 210.30)

*(cf. 5145.6 - Parental Notifications)*

**Note:** The following optional paragraph may be revised to reflect district practice.

The Superintendent or designee ~~may disseminate health information and/or the district's student wellness policy to parents/guardians through~~ **shall distribute this information through the most effective methods of communication, including** district or school newsletters, handouts, parent/guardian meetings, district and school web sites, and other communications. Outreach to parents/guardians shall emphasize the relationship between student health **and wellness** and academic performance.

*(cf. 1100 - Communication with the Public)*

*(cf. 1112 - Media Relations)*

*(cf. 1113 - District and School Web Sites)*

*(cf. 1114 - District-Sponsored Social Media)*

*(cf. 6020 - Parent Involvement)*

**Note:** As amended by SB 1169 (Ch. 280, Statutes of 2016), Education Code 49432 no longer requires schools to post the district's policies and regulations on nutrition and physical activity in public view within all school cafeterias or other central eating areas. Education Code 49432 continues to authorize, but does not require, schools to post a summary of nutrition and physical activity laws and regulations. The following paragraph is optional.

Each school ~~shall also may~~ post a summary of nutrition and physical activity laws and regulations prepared by the ~~California Department of Education~~ **CDE**.

**Records**

**Note:** 7 CFR 210.30, as added by 81 Fed. Reg. 50151, requires the district to retain records to document compliance with the federal regulation. The following paragraph outlines the records that, at a minimum, must be retained by the district.

**STUDENT WELLNESS** (continued)

**The Superintendent or designee shall retain records that document compliance with 7 CFR 210.30, including, but not limited to, the written student wellness policy, documentation of the triennial assessment of the wellness policy for each school site, and documentation demonstrating compliance with the community involvement requirements, including requirements to make the policy and assessment results available to the public. (7 CFR 210.30)**

*Legal Reference: (see next page)*

**STUDENT WELLNESS (continued)***Legal Reference:*EDUCATION CODE

33350-33354 CDE responsibilities re: physical education

**38086 Free fresh drinking water**

49430-49434 Pupil Nutrition, Health, and Achievement Act of 2001

49490-49494 School breakfast and lunch programs

49500-49505 School meals

49510-49520 Nutrition

49530-49536 Child Nutrition Act

49540-49546 Child care food program

49547-49548.3 Comprehensive nutrition services

49550-49564.2 Meals for needy students

49565-49565.8 California Fresh Start pilot program

49570 National School Lunch Act

51210 Course of study, grades 1-6

**51210.1-51210.2 Physical education, grades 1-6****51210.4 Nutrition education**

51220 Course of study, grades 7-12

51222 Physical education

51223 Physical education, elementary schools

51795-51796.58 School instructional gardens

51880-51921 Comprehensive health education

CODE OF REGULATIONS, TITLE 5

15500-15501 Food sales by student organizations

15510 Mandatory meals for needy students

15530-15535 Nutrition education

15550-15565 School lunch and breakfast programs

UNITED STATES CODE, TITLE 42

1751-1769j National School Lunch Program, especially:

1758b Local wellness policy

1771-1794.3 Child Nutrition Act, especially:

1773 School Breakfast Program

1779 Rules and regulations, Child Nutrition Act

CODE OF FEDERAL REGULATIONS, TITLE 7210.1-210.34.3 National School Lunch Program, **especially:****210.30 Wellness policy**

220.1-220.22 National School Breakfast Program

COURT DECISIONSFrazer v. Dixon Unified School District, (1993) 18 Cal.App.4th 781*Management Resources:*CSBA PUBLICATIONS**Integrating Physical Activity into the School Day, Governance Brief, April 2016**Increasing Access to Drinking Water in Schools, Policy Brief, ~~March~~ April 2013Monitoring for Success: A Guide for Assessing and Strengthening Student Wellness Policies, rev. 2012Nutrition Standards for Schools: Implications for Student Wellness, Policy Brief, rev. April 2012Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide, rev. 2012**Physical Activity and Physical Education in California Schools, Research Brief, April 2010**Building Healthy Communities: A School Leader's Guide to Collaboration and Community Engagement, 2009*Management Resources continued: (see next page)*

**STUDENT WELLNESS (continued)***Management Resources: (continued)***CSBA PUBLICATIONS (continued)***Safe Routes to School: Program and Policy Strategies for School Districts*, Policy Brief, 2009*Physical Education and California Schools*, Policy Brief, rev. October 2007*School-Based Marketing of Foods and Beverages: Policy Implications for School Boards*, Policy Brief, March 2006**CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS***Physical Education Framework for California Public Schools, Kindergarten Through Grade Twelve*, 2009*Health Framework for California Public Schools, Kindergarten Through Grade Twelve*, 2003**CALIFORNIA PROJECT LEAN PUBLICATIONS***Policy in Action: A Guide to Implementing Your Local School Wellness Policy*, October 2006**CENTER FOR COLLABORATIVE SOLUTIONS***Changing Lives, Saving Lives: A Step-by-Step Guide to Developing Exemplary Practices in Healthy Eating, Physical Activity and Food Security in Afterschool Programs*, ~~March 2010~~ **January 2015****CENTERS FOR DISEASE CONTROL AND PREVENTION PUBLICATIONS***School Health Index for Physical Activity and Healthy Eating: A Self-Assessment and Planning Guide*, ~~2005~~ **rev. 2012****FEDERAL REGISTER***Rules and Regulations*, ~~January 26, 2012, Vol. 77, Number 17, pages 4088-4167~~ **July 29, 2016, Vol. 81, Number 146, pages 50151-50170****NATIONAL ASSOCIATION OF STATE BOARDS OF EDUCATION PUBLICATIONS***Fit, Healthy and Ready to Learn*, ~~2000~~ **rev. 2012****U.S. DEPARTMENT OF AGRICULTURE PUBLICATIONS***Dietary Guidelines for Americans*, ~~2005~~ **2016***Changing the Scene, Improving the School Nutrition Environment: A Guide to Local Action*, 2000**WEB SITES**CSBA: <http://www.csba.org>Action for Healthy Kids: <http://www.actionforhealthykids.org>**Alliance for a Healthier Generation: <http://www.healthiergeneration.org>**California Department of Education, Nutrition Services Division: <http://www.cde.ca.gov/ls/nu>California Department of Public Health: <http://www.cdph.ca.gov>California Healthy Kids Resource Center: <http://www.californiahealthykids.org>

California Project LEAN (Leaders Encouraging Activity and Nutrition):

<http://www.californiaprojectlean.org>California School Nutrition Association: <http://www.calsna.org>Center for Collaborative Solutions: <http://www.ccscenter.org>Centers for Disease Control and Prevention: <http://www.cdc.gov>Dairy Council of California: <http://www.dairycouncilofca.org>National Alliance for Nutrition and Activity: <http://www.cspinet.org/nutritionpolicy/nana.html>National Association of State Boards of Education: <http://www.nasbe.org>School Nutrition Association: <http://www.schoolnutrition.org>Society for Nutrition Education: <http://www.sne.org>

U.S. Department of Agriculture, Food Nutrition Service, wellness policy:

<http://www.fns.usda.gov/tn/Healthy/wellnesspolicy.html>**U.S. Department of Agriculture, Healthy Meals Resource System: <http://healthymeals.fns.usda.gov>**

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# CSBA Sample

## Board Policy

Students

BP 5116.2(a)

### INVOLUNTARY STUDENT TRANSFERS

The Governing Board desires to enroll students in the school of their choice, but recognizes that circumstances sometimes necessitate the involuntary transfer of some students to another school or program in the district. The Superintendent or designee shall develop procedures to facilitate the transition of such students into their new school of enrollment.

*(cf. 5113.1 - Chronic Absence and Truancy)*

*(cf. 5116.1 - Intradistrict Open Enrollment)*

*(cf. 5144.1 - Suspension and Expulsion/Due Process)*

*(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))*

*(cf. 6173.3 - Education for Juvenile Court School Students)*

As applicable, when determining the best placement for a student who is subject to involuntary transfer, the Superintendent or designee shall review all educational options for which the student is eligible, the student's academic progress and needs, the enrollment capacity at district schools, and the availability of support services and other resources.

Whenever a student is involuntarily transferred, the Superintendent or designee shall provide timely written notification to the student and his/her parent/guardian and an opportunity for the student and parent/guardian to meet with the Superintendent or designee to discuss the transfer.

### Students Convicted of Violent Felony or Misdemeanor

Note: Education Code 48929, as added by SB 1343 (Ch. 154, Statutes of 2016), authorizes a district to involuntarily transfer a student who has been convicted of a violent felony as defined in Penal Code 667.5(c) (including, but not limited to, attempted murder, rape, assault, kidnapping, and robbery) or a misdemeanor associated with possession of a firearm as specified in Penal Code 29805, whenever the student is enrolled at the same school as a student who was a victim of the crime.

In order to exercise this authority, Education Code 48929 **mandates** the Governing Board to adopt, at a regularly scheduled meeting, policy that contains the following provisions: (1) a requirement that the student and his/her parent/guardian be notified of the right to request a meeting with the principal or designee; (2) a requirement that the school first attempt to resolve the conflict using restorative justice, counseling, or other services; (3) whether the decision to transfer a student is subject to periodic review and the procedure for conducting the review; and (4) the process to be used by the Board to consider and approve or disapprove the recommendation of the principal or designee to transfer the student. Education Code 48929 also requires the district to provide notice of the policy to parents/guardians as part of the annual parental notification required by Education Code 48980.

A student may be transferred to another district school if he/she is convicted of a violent felony, as defined in Penal Code 667.5(c), or a misdemeanor listed in Penal Code 29805 and is enrolled at the same school as the victim of the crime for which he/she was convicted. (Education Code 48929)



## INVOLUNTARY STUDENT TRANSFERS (continued)

Before transferring such a student, the Superintendent or designee shall attempt to resolve the conflict using restorative justice, counseling, or other such services. He/she shall also notify the student and his/her parents/guardians of the right to request a meeting with the principal or designee. (Education Code 48929)

*(cf. 5138 - Conflict Resolution/Peer Mediation)*

*(cf. 5144 - Discipline)*

*(cf. 6164.2 - Guidance and Counseling Services)*

Participation of the victim in any conflict resolution program shall be voluntary, and he/she shall not be subjected to any disciplinary action for his/her refusal to participate in conflict resolution.

Note: The following paragraph may be revised to reflect district practice. Education Code 48929 **mandates** that the Board adopt policy describing the process to be used by the Board to consider and take action on the recommendation to transfer a student under this law, but does not prescribe any such process.

Education Code 35146 provides that the Board must meet in closed session to address any student matter that may involve disclosure of confidential student information, or to consider a suspension, disciplinary action, or any other action against a student except expulsion. If a written request for open session is received from the parent/guardian or adult student, it will be honored to the extent that it does not violate the privacy rights of any other student. See BB 9321 - Closed Session Purposes and Agendas.

The principal or designee shall submit to the Superintendent or designee a recommendation as to whether or not the student should be transferred. If the Superintendent or designee determines that a transfer would be in the best interest of the students involved, he/she shall submit such recommendation to the Board for approval.

The Board shall deliberate in closed session to maintain the confidentiality of student information, unless the parent/guardian or adult student submits a written request that the matter be addressed in open session and doing so would not violate the privacy rights of any other student. The Board's decision shall be final.

*(cf. 9321 - Closed Session Purposes and Agendas)*

The decision to transfer a student shall be subject to periodic review by the Superintendent or designee.

The Superintendent or designee shall annually notify parents/guardians of the district's policy authorizing the transfer of a student pursuant to Education Code 48929. (Education Code 48980)

*(cf. 5145.6 - Parental Notifications)*

## INVOLUNTARY STUDENT TRANSFERS (continued)

### Other Involuntary Transfers

Students may be involuntarily transferred under either of the following circumstances:

Note: Item #1 below is for use by districts that maintain high schools. Education Code 48432 requires such districts to establish and maintain continuation education schools or classes whenever there are any students residing in the district who are subject to compulsory continuation education. Pursuant to Education Code 48432.5, districts that assign students to continuation schools are mandated to adopt rules and regulations governing procedures for involuntary transfer of students to continuation schools. See BP/AR 6184 - Continuation Education for language fulfilling this mandate.

1. If a high school student commits an act enumerated in Education Code 48900 or is habitually truant or irregular in school attendance, he/she may be transferred to a continuation school. (Education Code 48432.5)

*(cf. 6184 - Continuation Education)*

Note: Education Code 48660-48666 authorize districts to establish community day schools for expelled students, certain probation-referred students pursuant to Welfare and Institutions Code 300 or 602, and students referred by a school attendance review board or through another formal district process. Pursuant to Education Code 48662, districts establishing a community day school are mandated to adopt policy that provides procedures for the involuntary transfer of students to the school. See BP/AR 6185 - Community Day Schools for language fulfilling this mandate.

2. If a student is expelled from school for any reason, is probation-referred pursuant to Welfare and Institutions Code 300 or 602, or is referred by a school attendance review board or another formal district process, he/she may be transferred to a community day school. (Education Code 48662)

*(cf. 6173 - Education for Homeless Children)*

*(cf. 6173.1 - Education for Foster Youth)*

*(cf. 6185 - Community Day School)*

*Legal Reference: (see next page)*

## INVOLUNTARY STUDENT TRANSFERS (continued)

*Legal Reference:*

EDUCATION CODE

35146 Closed sessions; student matters

48430-48438 Continuation classes, especially:

48432.5 Involuntary transfer to continuation school

48660-48666 Community day schools, especially:

48662 Involuntary transfer to community day school

48900 Grounds for suspension and expulsion

48929 Transfer of student convicted of violent felony or misdemeanor

48980 Notice at beginning of term

PENAL CODE

667.5 Violent felony, definition

29805 Misdemeanors involving firearms

WELFARE AND INSTITUTIONS CODE

300 Minors subject to jurisdiction

602 Minors violating laws defining crime; ward of court

*Management Resources:*

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

# CSBA Sample

## Board Policy

Students

BP 5141.21(a)

### ADMINISTERING MEDICATION AND MONITORING HEALTH CONDITIONS

Note: The following **optional** policy and accompanying administrative regulation apply to the administration of medication to students pursuant to Education Code 49414, **49414.3**, 49414.5, 49414.7, 49423, and 49423.1; **and the** permissive guidelines in 5 CCR 600-611; ~~and guidelines related to the training and supervision of nonmedical employees providing emergency medical assistance to students who suffer epileptic seizures (5 CCR 620-627).~~ Education Code 49414.3, as added by AB 1748 (Ch. 557, Statutes of 2016), authorizes districts to make emergency naloxone hydrochloride or another opioid antagonist available to school nurses or trained personnel who have volunteered to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an opioid overdose.

Education Code 49414.7, which authorized trained, unlicensed school personnel to administer medication to students with epilepsy suffering from seizures, is repealed on its own terms effective January 1, 2017. Although the procedures in Education Code 49414.7 are no longer required, health providers may train unlicensed school personnel to administer medication, including emergency anti-seizure medication, pursuant to the general authority in Education Code 49423 and 5 CCR 600-611, as interpreted by the California Supreme Court in American Nurses Association v. Torlakson.

~~For students identified as qualified for services under the Individuals with Disabilities Education Act (20 USC 1400-1482) or Section 504 of the federal Rehabilitation Act of 1973 (29 USC 794), prescribed medication must be administered in accordance with the student's individualized education program or Section 504 services plan. See also BP/AR 5141.24 - Specialized Health Care Services, BP/AR 6159 - Individualized Education Program, and BP/AR 6164.6 - Identification and Education Under Section 504.~~

This policy and regulation do not address situations in which a district might be engaged in a collaborative arrangement with another entity for the provision of school health services to students; see BP/AR 5141.6 - School Health Services.

The Governing Board believes that regular school attendance is critical to student learning and that students who need to take medication prescribed or ordered for them by their authorized health care providers should have an opportunity to participate in the educational program.

*(cf. 5113 - Absences and Excuses)*

*(cf. 5113.1 - Chronic Absence and Truancy)*

Any medication prescribed for a student with a disability who is qualified to receive services under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973 shall be administered in accordance with the student's individualized education program or Section 504 services plan, as applicable.

***(cf. 5141.24 - Specialized Health Care Services)***

*(cf. 6159 - Individualized Education Program)*

*(cf. 6164.6 - Identification and Education Under Section 504)*

## ADMINISTERING MEDICATION AND MONITORING HEALTH CONDITIONS (continued)

Note: 5 CCR 604 authorizes a parent/guardian to administer medication to his/her child or designate an individual to administer the medication, as specified below. In addition, California law allows students to carry and self-administer medication needed for the treatment or management of certain medical conditions, when the district has received a written request from the student's parent/guardian and written authorization from the student's authorized health care provider, as specified in the accompanying administrative regulation. Students have legal authorization to self-administer diabetes medication pursuant to Education Code 49414.5, auto-injectable epinephrine for anaphylactic reactions pursuant to Education Code 49423, and inhaled asthma medication pursuant to Education Code 49423.1. Pursuant to 5 CCR 605, districts may choose to allow students to carry and self-administer other types of medication beyond those specifically authorized by the Education Code.

For the administration of medication to other students during school or school-related activities, the Superintendent or designee shall develop protocols which shall include options for allowing a parent/guardian to administer medication to his/her child at school, designate other individuals to do so on his/her behalf, and, with the child's authorized health care provider's approval, request the district's permission for his/her child to self-administer a medication or self-monitor and/or self-test for a medical condition. Such processes shall be implemented in a manner that preserves campus security, minimizes instructional interruptions, and promotes student safety and privacy.

(cf. 1250 - Visitors/Outsiders)

(cf. 5141 - Health Care and Emergencies)

(cf. 5141.22 - Infectious Diseases)

(cf. 5141.23 - Asthma Management)

(cf. 5141.27 - Food Allergies/Special Dietary Needs)

(cf. 6116 - Classroom Interruptions)

**The Superintendent or designee shall make available epinephrine auto-injectors at each school for providing emergency medical aid to any person suffering, or reasonably believed to be suffering, from an anaphylactic reaction. (Education Code 49414)**

**Note: The following optional paragraph is for use by any district that, at its discretion, chooses to make emergency naloxone hydrochloride or other opioid antagonist available at its schools for the purpose of providing emergency medical aid, pursuant to Education Code 49414.3, as added by AB 1748 (Ch. 557, Statutes of 2016). In choosing to make such medications available, the district should be aware of the possibility of increased liability and should consult legal counsel accordingly.**

**The Board authorizes the Superintendent or designee to make available naloxone hydrochloride or another opioid antagonist for emergency medical aid to any person suffering, or reasonably believed to be suffering, from an opioid overdose. (Education Code 49414.3)**

Note: The following **optional** paragraph may be revised to reflect district practice. The U.S. Department of Health and Human Services and the Centers for Disease Control and Prevention recommend that a district's emergency and disaster preparedness plan include procedures for dealing with medical emergencies, such as a pandemic flu outbreak or public disaster. See CSBA's fact sheet [Pandemic Influenza](#).

## ADMINISTERING MEDICATION AND MONITORING HEALTH CONDITIONS (continued)

~~In addition, t~~The Superintendent or designee shall collaborate with city and county emergency responders, including local public health administrators, to design procedures or measures for addressing an emergency such as a public disaster or epidemic.

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

### Administration of Medication by School Personnel

Note: Various provisions of state law allow districts to train nonmedical district employees (i.e., those who do not possess a medical license) to provide medical assistance to students at school when a credentialed school nurse or other licensed individual is unavailable. For example, Education Code 49414, **49414.3, 49414.5, 49423, and 49423.1, and 49414.7 specifically** authorize the use of trained, unlicensed school employees to administer ~~emergency~~ medications to students suffering from allergic reactions, **opioid overdose, severe hypoglycemia, or asthma, and epileptic seizures.** Moreover, in American Nurses Association v. Torlakson, the California Supreme Court held that, as with other prescription medications, state law permits trained, unlicensed school personnel to administer insulin to students ~~in school in accordance with a written health care provider statement and parental consent~~ **where a physician has determined that unlicensed school personnel may safely and appropriately administer the medication. The medication must be administered in accordance with a written health care provider statement and parental consent.**

~~Any medication prescribed by an authorized health care provider, including, but not limited to, emergency antiseizure medication for a student who suffers epileptic seizures, auto-injectable epinephrine, insulin, or glucagon, may be administered by the school nurse or other designated school personnel only when the Superintendent or designee has received written statements from both the student's parent/guardian and authorized health care provider. (Education Code 49414.7, 49423; 5 CCR 600)~~

**When allowed by law, medication prescribed to a student by an authorized health care provider may be administered by a school nurse or, when a school nurse or other medically licensed person is unavailable and the physician has authorized administration of medication by unlicensed personnel for a particular student, by other designated school personnel with appropriate training. School nurses and other designated school personnel shall administer medications to students in accordance with law, Board policy, and administrative regulation, and, as applicable, the written statement provided by the student's parent/guardian and authorized health care provider. and Such personnel shall be afforded appropriate liability protection.**

(cf. 3530 - Risk Management/Insurance)

(cf. 4119.42/4219.42/4319.42 - Exposure Control Plan for Bloodborne Pathogens)

(cf. 4119.43/4219.43/4319.43 - Universal Precautions)

## ADMINISTERING MEDICATION AND MONITORING HEALTH CONDITIONS (continued)

~~Note: Certain medication specific statutes that authorize unlicensed district employees to administer medication to students require that such employees be trained. For example, Education Code 49414.7 requires training by qualified medical personnel for unlicensed district employees who volunteer to administer emergency antiseizure medications to students who suffer epileptic seizures. Guidelines for the training and supervision of such unlicensed school employees have been adopted as 5 CCR 620 627 and are specified in the accompanying administrative regulation.~~

~~When medically unlicensed school personnel are authorized by law to administer any medication to students, such as emergency antiseizure medication, auto-injectable epinephrine, insulin, or glucagon, t~~The Superintendent or designee shall ensure that school personnel designated to administer any medication receive appropriate training and, as necessary, retraining from qualified medical personnel before any medication is administered. At a minimum, the training shall cover how and when such medication should be administered, the recognition of symptoms and treatment, emergency follow-up procedures, and the proper documentation and storage of medication. Such trained, unlicensed designated school personnel shall be supervised by, and provided with immediate communication access to, a school nurse, physician, or other appropriate individual. (Education Code 49414, **49414.3**, 49414.5, **49414.7**, 49423, 49423.1)

The Superintendent or designee shall maintain documentation of the training and ongoing supervision, as well as annual written verification of competency of other designated school personnel.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

### Legal Reference:

#### EDUCATION CODE

48980 Notification at beginning of term

49407 Liability for treatment

49408 Emergency information

49414 Emergency epinephrine auto-injectors

**49414.3 Emergency medical assistance; administration of medication for opioid overdose**

49414.5 Providing school personnel with voluntary emergency training

**49414.7 Emergency medical assistance; administration of epilepsy medication**

49422-49427 Employment of medical personnel, especially:

49423 Administration of prescribed medication for student

49423.1 Inhaled asthma medication

49480 Continuing medication regimen; notice

Legal Reference continued: (see next page)

## **ADMINISTERING MEDICATION AND MONITORING HEALTH CONDITIONS** (continued)

### *Legal Reference: (continued)*

#### BUSINESS AND PROFESSIONS CODE

2700-2837 Nursing, especially:

2726 Authority not conferred

2727 Exceptions in general

3501 Definitions

4119.2 Acquisition of epinephrine auto-injectors

**4119.8 Acquisition of naloxone hydrochloride or another opioid antagonist**

#### CODE OF REGULATIONS, TITLE 5

600-611 Administering medication to students

~~620-627 Administration of emergency antiseizure medication by trained volunteer nonmedical school personnel~~

#### UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act of 1974

1400-1482 Individuals with Disabilities Education Act

#### UNITED STATES CODE, TITLE 29

794 Rehabilitation Act of 1973, Section 504

#### COURT DECISIONS

American Nurses Association v. Torlakson, (2013) 57 Cal. App. 4th 570

### *Management Resources:*

#### CSBA PUBLICATIONS

Pandemic Influenza, Fact Sheet, September 2007

#### AMERICAN DIABETES ASSOCIATION PUBLICATIONS

Glucagon Training Standards for School Personnel: Providing Emergency Medical Assistance to Pupils with Diabetes, May 2006

Training Standards for the Administration of Epinephrine Auto-Injectors, ~~December 2004~~ **rev. 2015**

Legal Advisory on Rights of Students with Diabetes in California's K-12 Public Schools, August 2007

**Program Advisory on Medication Administration, 2005**

#### NATIONAL DIABETES EDUCATION PROGRAM PUBLICATIONS

Helping the Student with Diabetes Succeed: A Guide for School Personnel, June 2003

#### WEB SITES

CSBA: <http://www.csba.org>

American Diabetes Association: <http://www.diabetes.org>

California Department of Education, Health Services and School Nursing:  
<http://www.cde.ca.gov/ls/he/hn>

National Diabetes Education Program: <http://www.ndep.nih.gov>

U.S. Department of Health and Human Services, National Institutes of Health, Blood Institute, asthma information: <http://www.nhlbi.nih.gov/health/public/lung/index.htm#asthma>

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# CSBA Sample

## Administrative Regulation

Students

AR 5141.21(a)

### ADMINISTERING MEDICATION AND MONITORING HEALTH CONDITIONS

Note: The following administrative regulation reflects requirements for the administration of medication to students on a continuing medication regimen or in emergency medical situations at school or a school-related activity. The district should consult legal counsel as necessary to ensure that all legal requirements are met.

Education Code 49414.7, which authorized trained, unlicensed school personnel to administer anti-seizure medication to students with epilepsy, repealed on its own terms effective January 1, 2017. However, districts may choose to continue to train unlicensed school personnel to administer anti-seizure medication under the general authority in Education Code 49423 and 5 CCR 600-611, as interpreted by the California Supreme Court in American Nurses Association v. Torlakson. Such administration must be contingent upon a physician's written authorization for unlicensed personnel to administer the medication to the particular student. The district may revise the following regulation to reflect any district requirements related to the administration of such medication.

#### Definitions

*Authorized health care provider* means an individual who is licensed by the State of California to prescribe or order medication, including, but not limited to, a physician or physician assistant. (Education Code 49423; 5 CCR 601)

*Other designated school personnel* means any individual employed by the district, including a nonmedical school employee, who has volunteered or consented to administer medication or otherwise assist the student and who may legally administer the medication to the student or assist the student in the administration of the medication. (5 CCR 601, 621)

*Medication* may include not only a substance dispensed in the United States by prescription, but also a substance that does not require a prescription, such as over-the-counter remedies, nutritional supplements, and herbal remedies. (5 CCR 601)

~~*Emergency medical assistance for a student suffering an epileptic seizure* means the administration of an emergency antiseizure medication such as diazepam rectal gel and other emergency medications approved by the federal Food and Drug Administration for patients suffering from epileptic seizures. (Education Code 49414.7; 5 CCR 621)~~

Note: Education Code 49414, as amended by AB 1386 (Ch. 374, Statutes of 2016), defines "epinephrine auto-injector" as follows.

~~*Epinephrine auto-injector* means a disposable drug-delivery system with a spring-activated needle that is designed for emergency administration of epinephrine to provide rapid, convenient first aid for persons suffering a potentially fatal reaction to anaphylaxis device~~

## ADMINISTERING MEDICATION AND MONITORING HEALTH CONDITIONS (continued)

**designed for the automatic injection of a premeasured dose of epinephrine into the human body to prevent or treat a life-threatening allergic reaction.** (Education Code 49414)

*Anaphylaxis* means a potentially life-threatening hypersensitivity to a substance, which may result from an insect sting, food allergy, drug reaction, exercise, or other cause. Symptoms may include shortness of breath, wheezing, difficulty breathing, difficulty talking or swallowing, hives, itching, swelling, shock, or asthma. (Education Code 49414)

(cf. 5141.23 - *Asthma Management*)

(cf. 5141.27 - *Food Allergies/Special Dietary Needs*)

**Note: Education Code 49414.3, as added by AB 1748 (Ch. 557, Statutes of 2016), provides the following definition of "opioid antagonist." See section "Emergency Medication for Opioid Overdose" below for requirements for districts that choose to provide opioid antagonists to school nurses or other designated school personnel to administer to persons suffering, or reasonably believed to be suffering, from an opioid overdose.**

***Opioid antagonist* means naloxone hydrochloride or another drug approved by the federal Food and Drug Administration that, when administered, negates or neutralizes in whole or in part the pharmacological effects of an opioid in the body and that has been approved for the treatment of an opioid overdose. (Education Code 49414.3)**

### Notifications to Parents/Guardians

**Note: Pursuant to Education Code 48980, districts must notify parents/guardians, at the beginning of each school year, of their rights and responsibilities (see section "Parent/Guardian Responsibilities" below) under Education Code 49423 pertaining to the administration of medication by school employees and self-administration of epinephrine by students. Though notification is not required for self-administration of any medication other than epinephrine, it is recommended that the annual notification include other medications to facilitate implementation by school personnel.**

At the beginning of each school year, the Superintendent or designee shall notify parents/guardians of the options available to students who need to take prescribed medication during the school day and the rights and responsibilities of parents/guardians regarding those options. (Education Code 49480)

(cf. 5145.6 - *Parental Notifications*)

In addition, the Superintendent or designee shall inform the parents/guardians of any student on a continuing medication regimen for a nonepisodic condition of the following requirements: (Education Code 49480)

## ADMINISTERING MEDICATION AND MONITORING HEALTH CONDITIONS (continued)

1. The parent/guardian is required to inform the school nurse or other designated employee of the medication being taken, the current dosage, and the name of the supervising physician.
2. With the parent/guardian's consent, the school nurse or other designated employee may communicate with the student's physician regarding the medication and its effects and may counsel school personnel regarding the possible effects of the medication on the student's physical, intellectual, and social behavior, as well as possible behavioral signs and symptoms of adverse side effects, omission, or overdose.

**Note: The following paragraph is optional.**

**When a student requires medication during the school day in order to participate in the educational program, the Superintendent or designee shall, as appropriate, inform the student's parents/guardians that the student may qualify for services or accommodations pursuant to the Individuals with Disabilities Education Act (20 USC 1400-1482) or Section 504 of the federal Rehabilitation Act of 1973 (29 USC 794).**

*(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)*  
*(cf. 6164.6 - Identification and Education Under Section 504)*

### Parent/Guardian Responsibilities

The responsibilities of the parent/guardian of any student who may need medication during the school day shall include, but are not limited to:

Note: Education Code 49423 and 5 CCR 600 authorize districts to administer prescribed medication only upon receipt of written statements from the student's authorized health care provider and parent/guardian. ~~Education Code 49414.7 and 5 CCR 626 require similar statements before school personnel may administer emergency antiseizure medication to students. In addition, a~~ Appropriate statements must be received before students are allowed to carry and self-administer diabetes medication pursuant to Education Code 49414.5, auto-injectable epinephrine pursuant to Education Code 49423, or asthma medication pursuant to Education Code 49423.1. Districts may choose to allow students to carry and self-administer other types of medication beyond those authorized by the Education Code. If so, the district should modify the following section accordingly. See the accompanying Board policy.

1. Providing parent/guardian and authorized health care provider written statements each school year as described in the sections "Parent/Guardian Statement" and "Health Care Provider Statement" below. The parent/guardian shall provide a new authorized health care provider's statement if the medication, dosage, frequency of administration, or reason for administration changes. (Education Code 49414.5, 49414.7, 49423, 49423.1; 5 CCR 600, 626)

## **ADMINISTERING MEDICATION AND MONITORING HEALTH CONDITIONS** (continued)

2. If the student is on a continuing medication regimen for a nonepisodic condition, informing the school nurse or other designated certificated employee of the medication being taken, the current dosage, and the name of the supervising physician and updating the information when needed. (Education Code 49480)

Note: Pursuant to Education Code 49414.7, if the district chooses to participate in a program to train nonmedical school employees who volunteer to provide emergency medical assistance to students suffering from epileptic seizures when licensed health care professionals are not available onsite, it must establish a district plan that includes item #3 below.

3. If the student suffers from epilepsy, notifying the principal or designee whenever the student has had an emergency antiseizure medication administered to him/her within the past four hours on a school day. (Education Code 49414.7)

Note: Pursuant to 5 CCR 606, the district is authorized to establish rules for the delivery and storage of medication on a school site.

- 4.3. Providing medications in properly labeled, original containers along with the authorized health care provider's instructions. For prescribed or ordered medication, the container also shall bear the name and telephone number of the pharmacy, the student's identification, and the name and phone number of the authorized health care provider. (5 CCR 606)

### **Parent/Guardian Statement**

Note: 5 CCR 603 authorizes the district to establish specific requirements regarding the parent/guardian's written statement. The following list should be modified to reflect the district's requirements.

When district employees are to administer medication to a student, the parent/guardian's written statement shall:

1. Identify the student
2. Grant permission for an authorized district representative to communicate directly with the student's authorized health care provider and pharmacist, as may be necessary, regarding the health care provider's written statement or any other questions that may arise with regard to the medication
3. Contain an acknowledgment that the parent/guardian understands how district employees will administer the medication or otherwise assist the student in its administration

## **ADMINISTERING MEDICATION AND MONITORING HEALTH CONDITIONS**

(continued)

4. Contain an acknowledgment that the parent/guardian understands his/her responsibilities to enable district employees to administer or otherwise assist the student in the administration of medication, including, but not limited to, the parent/guardian's responsibility to provide a written statement from the authorized health care provider, to ensure that the medication is delivered to the school in a proper container by an individual legally authorized to be in possession of the medication, and to provide all necessary supplies and equipment
5. Contain an acknowledgment that the parent/guardian understands that he/she may terminate the consent for the administration of the medication or for otherwise assisting the student in the administration of medication at any time

In addition to the requirements in items #1-5 above, if a parent/guardian has requested that his/her child be allowed to carry and self-administer prescription auto-injectable epinephrine or prescription inhaled asthma medication, the parent/guardian's written statement shall: (Education Code 49423, 49423.1)

1. Consent to the self-administration
2. Release the district and school personnel from civil liability if the student suffers an adverse reaction as a result of self-administering the medication

In addition to the requirements in items #1-5 above, if a parent/guardian wishes to designate an individual who is not an employee of the district to administer medication to his/her child, the parent/guardian's written statement shall clearly identify the individual and shall state:

1. The individual's willingness to accept the designation
2. That the individual is permitted to be on the school site
3. Any limitations on the individual's authority

### **Health Care Provider Statement**

Note: Education Code 49423 and 49423.1 and 5 CCR 602 list items that the authorized health care provider's written statement must contain, as specified in items #1-45 below. ~~Education Code 49414.7 and 5 CCR 626 contain requirements similar to items #1-3 for the administration of emergency epilepsy medication.~~ Districts that request additional information in the statement should modify the following list accordingly.

## ADMINISTERING MEDICATION AND MONITORING HEALTH CONDITIONS (continued)

When any district employee is to administer prescribed medication to a student, or when a student is to be allowed to carry and self-administer ~~auto-injectable epinephrine or~~ prescribed ~~diabetes or asthma~~ medication during school hours, the authorized health care provider's written statement shall include:

1. Clear identification of the student (Education Code ~~49414.7~~, 49423, 49423.1; 5 CCR 602, ~~626~~)
2. The name of the medication (Education Code ~~49414.7~~, 49423, 49423.1; 5 CCR 602, ~~626~~)
3. The method, amount, and time schedules by which the medication is to be taken (Education Code ~~49414.7~~, 49423, 49423.1; 5 CCR 602, ~~626~~)
4. If a parent/guardian has requested that his/her child be allowed to self-administer medication, confirmation that the student is able to self-administer the medication (Education Code ~~49414.5~~, 49423, 49423.1; 5 CCR 602)
- 5. For medication that is to be administered by unlicensed personnel, confirmation by the student's health care provider that the medication may safely and appropriately be administered by unlicensed personnel (Education Code 49423, 49423.1; 5 CCR 602)**

Note: Items <del>#5-7</del> <b>6-8</b> below may be revised to reflect district practice.
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- 5.6.** For medication that is to be administered on an as-needed basis, the specific symptoms that would necessitate administration of the medication, allowable frequency for administration, and indications for referral for medical evaluation
- 6.7.** Possible side effects of the medication
- 7.8.** Name, address, telephone number, and signature of the student's authorized health care provider

~~When authorizing a district employee to administer emergency antiseizure medication to a student, the authorized health care provider's written statement shall also include the following: (Education Code 49414.7; 5 CCR 626)~~

- ~~1. Detailed seizure symptoms, including frequency, type, or length of seizures that identify when the administration of the medication becomes necessary~~

## **ADMINISTERING MEDICATION AND MONITORING HEALTH CONDITIONS** (continued)

2. ~~Any potential adverse responses by the student and recommended mitigation actions, including when to call emergency services~~
3. ~~A protocol for observing the student after a seizure, including, but not limited to, whether he/she should rest in the school office or return to his/her class and the length of time he/she should be under direct observation~~
4. ~~A statement that, following a seizure, a school administrator or other staff member shall contact the school nurse and the student's parent/guardian to continue the observation plan~~

### **District Responsibilities**

Note: The following section should be modified to reflect district practice.

**The Superintendent or designee shall ensure that any unlicensed school personnel authorized to administer medication to a student receives appropriate training from the school nurse or other qualified medical personnel.**

The school nurse or other designated school personnel shall:

1. Administer or assist in administering medication in accordance with the authorized health care provider's written statement
2. Accept delivery of medications from parents/guardians and count and record them upon receipt
3. Maintain a list of students needing medication during the school day, including those authorized to self-administer medication, and note on the list the type of medication and the times and dosage to be administered

Note: 5 CCR 601 specifies items that districts may, but are not required to, include in the medication log, as provided in item #4 below.

4. Maintain for each student a medication log which may:
  - a. Specify the student's name, medication, dose, method of administration, time of administration during the regular school day, date(s) on which the student is required to take the medication, and the authorized health care provider's name and contact information

**ADMINISTERING MEDICATION AND MONITORING HEALTH CONDITIONS**  
(continued)

- b. Contain space for daily recording of the date, time, and amount of medication administered, and the signature of the individual administering the medication

Note: 5 CCR 601 specifies items that may be included in the medication record, as detailed below. In addition, 5 CCR 607 authorizes the district to establish policies regarding documentation of medication, including the maintenance of the medication record.
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5. Maintain for each student a medication record which may include the authorized health care provider's written statement, the parent/guardian's written statement, the medication log, and any other written documentation related to the administration of medication to the student
6. Ensure that student confidentiality is appropriately maintained

*(cf. 5125 - Student Records)*

7. Coordinate and, as appropriate, ensure the administration of medication during field trips and other school-related activities

*(cf. 5148.2 - Before/After School Programs)*

*(cf. 6145.2 - Athletic Competition)*

*(cf. 6153 - School-Sponsored Trips)*

8. Report to a student's parent/guardian and the site administrator any refusal by the student to take his/her medication
9. Keep all medication to be administered by the district in a locked drawer or cabinet
10. As needed, communicate with a student's authorized health care provider and/or pharmacist regarding the medication and its effects
11. Counsel other designated school personnel regarding the possible effects of a medication on a student's physical, intellectual, and social behavior, as well as possible behavioral signs and symptoms of adverse side effects, omission, or overdose

Note: 5 CCR 609 authorizes the district to establish policies regarding unused, discontinued, or outdated medication.
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12. Ensure that any unused, discontinued, or outdated medication is returned to the student's parent/guardian at the end of the school year or, if the medication cannot be returned, dispose of it in accordance with state laws and local ordinances



## ADMINISTERING MEDICATION AND MONITORING HEALTH CONDITIONS (continued)

13. In the event of a medical emergency requiring administration of medication, provide immediate medical assistance, directly observe the student following the administration of medication, contact the student's parent/guardian, and determine whether the student should return to class, rest in the school office, or receive further medical assistance
14. Provide immediate medical assistance if needed, ~~Report~~ Report to the site administrator, the student's parent/guardian, and, if necessary, the student's authorized health care provider any instance when a medication is not administered properly, including administration of the wrong medication or failure to administer the medication in accordance with authorized health care provider's written statement

### **Additional Requirements for Management of Epileptic Seizures [SECTION DELETED]**

#### **Emergency Epinephrine Auto-Injectors**

Note: ~~As amended by SB 1266 (Ch. 321, Statutes of 2014),~~ Education Code 49414 requires districts to provide epinephrine auto-injectors to school nurses or other employees who volunteer and receive training, which they may use to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an anaphylactic reaction. ~~SB 1266 deleted the requirement to develop a district plan related to the use of epinephrine auto injectors.~~

The Superintendent or designee shall provide epinephrine auto-injectors to school nurses or other employees who have volunteered to administer them in an emergency and have received training. The school nurse, or a volunteer employee when a school nurse or physician is unavailable, may administer an epinephrine auto-injector to provide emergency medical aid to any person suffering, or reasonably believed to be suffering, from potentially life-threatening symptoms of anaphylaxis at school or a school activity. (Education Code 49414)

At least once per school year, the Superintendent or designee shall distribute to all staff a notice requesting volunteers to be trained to administer an epinephrine auto-injector and describing the training that the volunteer will receive. (Education Code 49414)

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

Note: Education Code 49414 specifies topics to be included in training for employees who volunteer to be trained in the use of epinephrine auto-injectors. ~~As amended by SB 1266 (Ch. 321, Statutes of 2014),~~ Education Code 49414 requires the Superintendent of Public Instruction (**SPI**), in consultation with specified agencies and organizations, to review the minimum standards for the training at least every five years. These standards are available on the California Department of Education's web site.

## **ADMINISTERING MEDICATION AND MONITORING HEALTH CONDITIONS** (continued)

The principal or designee at each school may designate one or more volunteers to receive initial and annual refresher training, which shall be provided by a school nurse or other qualified person designated by a physician and surgeon authorized pursuant to Education Code 49414, and shall be based on the standards developed by the Superintendent of Public Instruction (SPI). Written materials covering the required topics for training shall be retained by the school for reference. (Education Code 49414)

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

Note: Education Code 49414, ~~as amended by SB 1266 (Ch. 321, Statutes of 2014),~~ specifies the type of epinephrine auto-injectors that must be provided to each school and the district personnel authorized to obtain the prescriptions. The following paragraphs may be revised to reflect the position(s) assigned to fulfill this responsibility and the grade levels maintained by the district.

A school nurse or other qualified supervisor of health, or a district administrator if the district does not have a qualified supervisor of health, shall obtain a prescription for epinephrine auto-injectors for each school from an authorized physician and surgeon. Such prescription may be filled by local or mail order pharmacies or epinephrine auto-injector manufacturers. Elementary schools shall, at a minimum, be provided one adult (regular) and one junior epinephrine auto-injector. Secondary schools shall be provided at least one adult (regular) epinephrine auto-injector, unless there are any students at the school who require a junior epinephrine auto-injector. (Education Code 49414)

If an epinephrine auto-injector is used, the school nurse or other qualified supervisor of health shall restock the epinephrine auto-injector as soon as reasonably possible, but no later than two weeks after it is used. In addition, epinephrine auto-injectors shall be restocked before their expiration date. (Education Code 49414)

Information regarding defense and indemnification provided by the district for any and all civil liability for volunteers administering epinephrine auto-injectors shall be provided to each volunteer and retained in his/her personnel file. (Education Code 49414)

*(cf. 4112.6/4212.6/4312.6 - Personnel Files)*

A school may accept gifts, grants, and donations from any source for the support of the school in carrying out the requirements of Education Code 49414, including, but not limited to, the acceptance of epinephrine auto-injectors from a manufacturer or wholesaler. (Education Code 49414)

*(cf. 3290 - Gifts, Grants and Bequests)*

## **ADMINISTERING MEDICATION AND MONITORING HEALTH CONDITIONS** (continued)

The Superintendent or designee shall maintain records regarding the acquisition and disposition of epinephrine auto-injectors for a period of three years from the date the records were created. (Business and Professions Code 4119.2)

(cf. 3580 - District Records)

### **Emergency Medication for Opioid Overdose**

**Note:** The following section is optional. Education Code 49414.3, as added by AB 1748 (Ch. 557, Statutes of 2016), authorizes, but does not require, districts to make emergency naloxone hydrochloride or another opioid antagonist available to school nurses or trained personnel who have volunteered to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an opioid overdose. Districts that choose to provide the medication must meet specified requirements as provided below. Such districts may revise the following section to indicate the grade levels at which such medication will be available (e.g., at secondary schools only).

The district may elect to make emergency naloxone hydrochloride or another opioid antagonist available at schools for the purpose of providing emergency medical aid to persons suffering, or reasonably believed to be suffering, from an opioid overdose. In determining whether to make this medication available, the Superintendent or designee shall evaluate the emergency medical response time to the school and determine whether initiating emergency medical services is an acceptable alternative to providing an opioid antagonist and training personnel to administer the medication. (Education Code 49414.3)

When available at the school site, the school nurse shall provide emergency naloxone hydrochloride or another opioid antagonist for emergency medical aid to any person exhibiting potentially life-threatening symptoms of an opioid overdose at school or a school activity. Other designated personnel who have volunteered and have received training may administer such medication when a school nurse or physician is unavailable, and shall only administer the medication by nasal spray or auto-injector. (Education Code 49414.3)

At least once per school year, the Superintendent or designee shall distribute to all staff a notice requesting volunteers to be trained to administer naloxone hydrochloride or another opioid antagonist, describing the training that the volunteer will receive, and explaining the right of the volunteer to rescind his/her offer to volunteer at any time, including after receiving training. The notice shall also include a statement that no benefit will be granted to or withheld from any employee based on his/her offer to volunteer and that there will be no retaliation against any employee for rescinding his/her offer to volunteer. (Education Code 49414.3)

## **ADMINISTERING MEDICATION AND MONITORING HEALTH CONDITIONS**

(continued)

**Note:** Pursuant to Education Code 49414.3, the training provided to designated school personnel must be based on standards adopted by the SPI in consultation with specified agencies and organizations. The SPI is required to review those standards at least once every five years. Required topics of the training include (1) techniques for recognizing symptoms of an opioid overdose; (2) standards and procedures for the storage, restocking, and emergency use of the medication; (3) basic emergency follow-up procedures; and (4) recommendations on the necessity of instruction and certification in cardiopulmonary resuscitation. In addition, the CDE is required to include on its web site a clearinghouse for best practices in training nonmedical personnel to administer an opioid antagonist to students.

The principal or designee may designate one or more volunteer employees to receive initial and annual refresher training, based on standards adopted by the SPI, regarding the storage and emergency use of naloxone hydrochloride or another opioid antagonist. The training shall be provided at no cost to the employee, conducted during his/her regular working hours, and be provided by a school nurse or other qualified person designated by an authorizing physician and surgeon. Written materials provided during the training shall be retained at the school for reference. (Education Code 49414.3)

A school nurse, other qualified supervisor of health, or, if the district does not have a qualified supervisor of health, a district administrator shall obtain a prescription for naloxone hydrochloride or another opioid antagonist for each school from an authorized physician and surgeon. Such prescription may be filled by local or mail order pharmacies or manufacturers. (Education Code 49414.3)

If the medication is used, the school nurse, other qualified supervisor of health, or district administrator, as applicable, shall restock the medication as soon as reasonably possible, but no later than two weeks after it is used. In addition, the medication shall be restocked before its expiration date. (Education Code 49414.3)

Information regarding defense and indemnification provided by the district for any and all civil liability for volunteers administering naloxone hydrochloride or another opioid antagonist for emergency aid shall be provided to each volunteer and retained in his/her personnel file. (Education Code 49414.3)

A school may accept gifts, grants, and donations from any source for the support of the school in carrying out the requirements of Education Code 49414.3, including, but not limited to, the acceptance of the naloxone hydrochloride or another opioid antagonist from a manufacturer or wholesaler. (Education Code 49414.3)

**ADMINISTERING MEDICATION AND MONITORING HEALTH CONDITIONS**  
(continued)

**The Superintendent or designee shall maintain records regarding the acquisition and disposition of naloxone hydrochloride or another opioid antagonist for a period of three years from the date the records were created. (Business and Professions Code 4119.8)**

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# CSBA Sample Board Policy

## Instruction

BP 6164.6(a)

### IDENTIFICATION AND EDUCATION UNDER SECTION 504

Note: The following policy and accompanying administrative regulation address the identification and education of students who may be eligible for services under the provisions of Section 504 of the federal Rehabilitation Act of 1973 (29 USC 794; **34 CFR 104.1-104.39**). Pursuant to 34 CFR 104.33, eligible students are entitled to a free appropriate public education (FAPE) which is designed to meet the student's individual educational needs as adequately as the needs of ~~nondisabled~~ students **without disabilities** are met. Enforcement of Section 504 requirements is the responsibility of the U.S. Department of Education's Office for Civil Rights (OCR), which monitors districts' policies, processes, and practices to ensure legal compliance.

~~A~~ **Students** may be identified as ~~disabled~~ **a student with a disability** under Section 504 even though ~~they do not require services pursuant to~~ **he/she is not identified as a child with a disability under** the federal Individuals with Disabilities Education Act (IDEA) (20 USC 1400-1482). The identification of students eligible for **special education and related** services under **the** IDEA is addressed at BP/AR 6164.4 - Identification and Evaluation of Individuals for Special Education.

The Governing Board believes that all children, including children with disabilities, should have ~~an~~ **the** opportunity to learn in a safe and nurturing environment. The ~~district~~ **Superintendent or designee** shall work to identify children with disabilities who reside within ~~its~~ **the** jurisdiction **of the district** in order to ensure that they receive educational and related services required by law.

Note: Section 504 of the Rehabilitation Act of 1973 and its implementing regulations (34 CFR 104.1-104.39) prohibit discrimination on the basis of disability in district programs and activities; see BP 0410 - Nondiscrimination in District Programs and Activities.

The Superintendent or designee shall provide ~~identified~~ **qualified** students with disabilities with a free appropriate public education (**FAPE**), as defined under Section 504 of the federal Rehabilitation Act of 1973. Such students shall receive regular or special education and related aids and services designed to meet their individual educational needs as adequately as the needs of ~~nondisabled~~ students **without disabilities** are met. (34 CFR 104.33)

(cf. 0410 - Nondiscrimination in District Programs and Activities)  
(cf. 0430 - Comprehensive Local Plan for Special Education)  
(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)  
(cf. 5141.22 - Infectious Diseases)  
(cf. 5141.23 - Asthma Management)  
(cf. 5141.24 - Specialized Health Care Services)  
(cf. 5141.27 - Food Allergies/Special Dietary Needs)  
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))  
(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

Note: Pursuant to 34 CFR 104.33, as interpreted by OCR in its January 2013 Dear Colleague Letter, a district's responsibility under Section 504 **requirements** extends to providing students with disabilities equal opportunity to participate in extracurricular athletics and other nonacademic programs or activities that constitute the overall educational program.

**IDENTIFICATION AND EDUCATION UNDER SECTION 504** (continued)

In addition, qualified students with disabilities shall be provided an equal opportunity to participate in programs and activities that are integral components of the district's basic education program, including, but not limited to, extracurricular athletics, interscholastic sports, and/or other nonacademic activities. (34 CFR 104.37)

(cf. 6145 - Extracurricular and Cocurricular Activities)

(cf. 6145.2 - Athletic Competition)

(cf. 6145.5 - Student Organizations and Equal Access)

**Note: The following optional paragraph may be revised to reflect district practice. Education Code 52060 requires that the district adopt a local control and accountability plan (LCAP) that includes annual goals, aligned with specified state priorities, to be achieved for all students and for each numerically significant subgroup as defined in Education Code 52052. Pursuant to Education Code 52052, students with disabilities are one of the numerically significant subgroups whose needs must be addressed in the LCAP, when there are at least 30 students with disabilities in the district or a school. See BP/AR 0460 - Local Control and Accountability Plan.**

**The district's local control and accountability plan shall include goals and specific actions to improve student achievement and other outcomes of students with disabilities. At least annually, the Superintendent or designee shall assess the district's progress in attaining the goals established for students with disabilities and shall report these results to the Board. (Education Code 52052, 52060)**

(cf. 0460 - Local Control and Accountability Plan)

In providing services to students with disabilities under Section 504, the Superintendent or designee shall ensure district compliance with law, including providing the students and their parents/guardians with applicable procedural safeguards and required notifications. Any dispute as to the identification, evaluation, or placement of any student with a disability shall be resolved in accordance with the processes specified in the "Procedural Safeguards" section of the accompanying administrative regulation.

**Note: The following optional paragraph ensures the availability of hearing officers to conduct impartial hearings to resolve disagreements about the provision of FAPE, pursuant to 34 CFR 104.36.**

The Superintendent or designee shall maintain a list of impartial hearing officers who are qualified and willing to conduct Section 504 hearings. To ensure impartiality, such officers shall not be employed by or under contract with the district in any other capacity except as hearing officer and shall not have any professional or personal involvement that would affect their impartiality or objectivity in the matter.

*Legal Reference: (see next page)*

## IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

### Legal Reference:

#### EDUCATION CODE

49423.5 *Specialized physical health care services*

**52052 Numerically significant student subgroups**

**52060-52077 Local control and accountability plan**

**56043 Special education, timelines**

**56321 Assessment; development of IEP; parental notifications, consent**

#### CODE OF REGULATIONS, TITLE 5

3051.12 *Health and Nursing Services*

#### UNITED STATES CODE, TITLE 20

1232g *Family Educational Rights and Privacy Act of 1974*

1400-1482 *Individuals with Disabilities Education Act*

#### UNITED STATES CODE, TITLE 29

705 *Definitions; Vocational Rehabilitation Act*

794 *Rehabilitation Act of 1973, Section 504*

#### UNITED STATES CODE, TITLE 42

12101-12213 *Americans with Disabilities Act*

#### **CODE OF REGULATIONS, TITLE 28**

**35.101-35.190 Nondiscrimination on the basis of disability in state and local government services**

#### CODE OF FEDERAL REGULATIONS, TITLE 34

104.1-104.61 *Nondiscrimination on the basis of handicap, especially:*

104.1 *Purpose to effectuate Section 504 of the Rehabilitation Act of 1973*

104.3 *Definitions*

104.32 *Location and notification*

104.33 *Free appropriate public education*

104.34 *Educational setting*

104.35 *Evaluation and placement*

104.36 *Procedural safeguards*

**104.37 Nonacademic services**

**104.7 Responsible employee; grievance procedures**

#### COURT DECISIONS

Christopher S. v. Stanislaus County Office of Education, (2004) 384 F.3d 1205

### Management Resources:

#### CSBA PUBLICATIONS

Rights of Students with Diabetes Under IDEA and Section 504, Policy Brief, ~~November~~ December 2007

#### CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES

Legal Advisory on Rights of Students with Diabetes in California's K-12 Public Schools, August 2007

#### U.S. DEPARTMENT OF EDUCATION OFFICE FOR CIVIL RIGHTS PUBLICATIONS

**Dear Colleague Letter and Resource Guide on Students with ADHD, July 2016**

**Protecting Students with Disabilities: Frequently Asked Questions About Section 504 and the Education of Children with Disabilities, October 2015**

Dear Colleague Letter, January 2013

Dear Colleague Letter and Questions and Answers on ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools, January 2012

Free Appropriate Public Education for Students with Disabilities: Requirements under Section 504 of the Rehabilitation Act of 1973, September 2007

Management Resources continued: (see next page)



**IDENTIFICATION AND EDUCATION UNDER SECTION 504** (continued)

*Management Resources: (continued)*

**WEB SITES**

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office for Civil Rights: <http://www2.ed.gov/about/offices/list/ocr>

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**Policy Reference UPDATE Service**

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# CSBA Sample

## Administrative Regulation

Instruction

AR 6164.6(a)

### IDENTIFICATION AND EDUCATION UNDER SECTION 504

Note: Section 504 of the federal Rehabilitation Act of 1973 (29 USC 794) prohibits discrimination on the basis of disability. Pursuant to 34 CFR 104.7, the district is required to designate the person(s) responsible for the overall implementation of the requirements of Section 504, as specified below.

The U.S. Department of Education Office for Civil Rights (OCR), which is responsible for enforcing the provisions of Section 504 and also for receiving and handling complaints from parents/guardians, students, and advocates, has issued guidance on Section 504 requirements. In its Dear Colleague Letter issued in January 2012, and the attached Questions and Answers on ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools, OCR clarifies the extent to which 29 USC 705, which was amended by the Americans with Disabilities Amendments Act (ADA) of 2008, affects the definition of "disability" and "substantially limits" for Section 504 purposes. In addition, in January 2013, OCR issued another Dear Colleague Letter to clarify districts' obligations under Section 504, particularly as they relate to providing students with disabilities an opportunity to participate in extracurricular athletics and other nonacademic activities that are a part of the overall education program.

The following **optional** administrative regulation focuses on district procedures for identifying and evaluating students who are eligible to receive a free appropriate public education (FAPE) under Section 504 and is consistent with OCR guidance from the U.S. Department of Education Office for Civil Rights (OCR), which is responsible for enforcing the provisions of Section 504 and also for receiving and handling complaints from parents/guardians, students, and advocates.

Pursuant to 34 CFR 104.7, the district is required to designate the person(s) responsible for the overall implementation of the requirements of Section 504. The district should fill in the blanks below to specify the position title and contact information of the designated employee(s).

The Superintendent designates the following position as the district's 504 Coordinator to implement the requirements of Section 504 of the federal Rehabilitation Act of 1973: (34 CFR 104.7)

Director of Student Services  
(position title)  
201 Sixth Street, Coronado, CA 92118  
(address)  
619-522-8900  
(telephone number)

### Definitions

Note: The following definitions are consistent with 42 USC 12101-12213, the Americans with Disabilities Act (ADA) Amendments Act of 2008 (42 USC 12101-12213), and its implementing regulations (28 CFR 35.101-35.190, as amended by 81 Fed. Reg. 53203).

For the purpose of implementing Section 504 of the Rehabilitation Act of 1973, the following terms and phrases shall have only the meanings specified below:

**IDENTIFICATION AND EDUCATION UNDER SECTION 504** (continued)

*Free appropriate public education* (FAPE) means the provision of regular or special education and related aids and services designed to meet the individual educational needs of a student with disabilities as adequately as the needs of ~~nondisabled~~ students **without disabilities** are met, ~~without~~ **at no** cost to the student or his/her parent/guardian except when a fee is ~~imposed on nondisabled students~~ **specifically authorized by law for all students.** (34 CFR 104.33)

(cf. 3260 - Fees and Charges)

Note: Pursuant to ~~34 CFR 104.3~~ **28 CFR 35.108**, a student is considered **disabled to have a disability** when he/she has a physical or mental impairment that substantially limits a major life activity, has a record of such impairment, or is regarded as having such impairment. ~~According to OCR, a district is required to provide FAPE only to those students whose impairment currently limits a major life activity. Accordingly, a student may have a disability and technically meet eligibility requirements under Section 504, but not actually need any services. A Dear Colleague Letter issued by OCR in July 2016 clarifies that a district is not required to provide additional services to a student with a disability if the student does not need any special education or related service as a result of the disability.~~ However, Section 504 **still** requires districts to protect a student who has a record of or is regarded as having such an impairment from discriminatory treatment. For example, it would be discriminatory and thus illegal to prohibit a student who has a record of bone cancer, ~~but is even if~~ currently in remission, from trying out for the basketball team based on his/her history of cancer.

**As added by 81 Fed. Reg. 53203, 28 CFR 35.108 expands and clarifies the definition of "disability" and its associated terms. In general, the term "disability" must be interpreted broadly, in favor of providing "expansive coverage" to the maximum extent permitted by the ADA.**

*Student with a disability* means a student who has a physical or mental impairment which substantially limits one or more major life activities. (**28 CFR 35.108 34 CFR 104.3**)

Note: ~~Examples of physical or mental impairments that may constitute disabling conditions under Section 504 if they substantially limit a major life activity may include, but are not limited to, diabetes; communicable diseases such as HIV/AIDS; tuberculosis; attention deficit disorder (ADD) or attention deficit hyperactivity disorder (ADHD); chronic asthma and severe allergies; physical disabilities such as spina bifida or hemophilia; and temporary disabilities depending on the anticipated length of disability, the seriousness of the illness/injury, and the needs of the student (e.g., students injured in accidents or suffering short term illnesses).~~ **As added by 81 Fed. Reg. 53203, 28 CFR 35.108 defines "physical and mental impairment" and provides a nonexhaustive list of conditions that qualify as physical and mental impairments, updated to include dyslexia, attention deficit hyperactivity disorder (ADHD), and disorders and conditions affecting the immune and circulatory systems.** In the event that these conditions fall within the disabilities categories specified in the Individuals with Disabilities Education Act (IDEA), then the student may need to be considered for services under that law; see BP/AR 6164.4 - Identification and Evaluation of Individuals for Special Education.

*Physical impairment* means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more ~~of the following~~ body systems, **such as:** neurological; musculoskeletal, special sense organs; respiratory, (including speech organs); cardiovascular; reproductive, digestive, genito-urinary; **immune**, hemic, **and** lymphatic; skin; and endocrine. (**28 CFR 35.108 34 CFR 104.3**)

**IDENTIFICATION AND EDUCATION UNDER SECTION 504** (continued)

*Mental impairment* means any mental or psychological disorder, such as ~~mental retardation~~ **intellectual disability**, organic brain syndrome, emotional or mental illness, and specific learning disabilities. (**28 CFR 35.108** ~~34 CFR 104.3~~)

**Note: 28 CFR 35.108, as added by 81 Fed. Reg. 53203, requires the term "substantially limits" to be construed broadly. An impairment is a disability if it substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population. Such comparison usually does not require scientific, medical, or statistical evidence. An impairment need not prevent or significantly or severely restrict the performance of a major life activity in order to qualify as substantially limiting.**

**28 CFR 35.108 also provides that (1) in determining whether or not an impairment substantially limits a major life activity, the ameliorative effects of mitigating measures, other than ordinary eyeglasses or contact lenses, may not be considered; (2) an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active; and (3) an impairment that substantially limits one major life activity need not substantially limit other major life activities in order to be considered a substantially limiting impairment.**

**Additionally, 28 CFR 35.108 expands the definition of "major life activities" to include the operation of specific major bodily functions.**

*Substantially limits major life activities* means limiting a person's ability to perform functions, **as compared to most people in the general population**, such as caring for himself/herself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, **writing**, communicating, and working. *Major life activities* also includes major bodily functions such as functions of the immune system, **special sense organs and skin**, normal cell growth, ~~and~~ digestive, bowel, bladder, neurological, brain, respiratory, circulatory, **cardiovascular**, endocrine, **hemic, lymphatic, musculoskeletal**, and reproductive functions, **as well as the operation of an individual organ within a body system. The determination of whether an impairment** ~~substantially limits a student's major life activities~~ shall be ~~determined-made~~ without regard to the ameliorative effects of mitigating measures other than ordinary eyeglasses or contact lenses. *Mitigating measures* **are measures that an individual may use to eliminate or reduce the effects of an impairment**, including, but ~~are~~ not limited to, medications, **medical supplies or equipment**, prosthetic devices, assistive devices, **reasonable modifications or auxiliary aids or services**, learned behavioral, or adaptive neurological modifications, **psychotherapy, behavioral therapy, or physical therapy**. ~~which an individual may use to eliminate or reduce the effects of an impairment.~~ (42 USC 12102; **28 CFR 35.108** ~~34 CFR 104.3~~)

**Referral, Identification, and Evaluation**

**Note: 34 CFR 104.35 requires the district to conduct an evaluation of any student who needs or is believed to need special education or related services under Section 504. However, the law does not require a specific procedure for referral of a student for the evaluation. Items #1-2 below provide such a procedure and should be modified to reflect district practice.**

**IDENTIFICATION AND EDUCATION UNDER SECTION 504** (continued)

Any action or decision to be taken by the district involving the referral, identification, or evaluation of a student with disabilities shall be in accordance with the following procedures:

1. A parent/guardian, teacher, other school employee, student success team, or community agency may refer a student to the principal or 504 Coordinator for identification as a student with a disability under Section 504.

*(cf. 6164.5 - Student Success Teams)*

2. Upon receipt of any such referral, the principal, 504 Coordinator, or other qualified individual with expertise in the area of the student's suspected disability shall consider the referral and determine whether an evaluation is appropriate. This determination shall be based on a review of the student's school records, including those in academic and nonacademic areas of the school program; consultation with the student's teacher(s), other professionals, and the parent/guardian, as appropriate; and analysis of the student's needs.

If it is determined that an evaluation is unnecessary, the principal or 504 Coordinator shall inform the parents/guardians in writing of this decision and of the procedural safeguards available, as described in the "Procedural Safeguards" section below.

3. If ~~it is determined that~~ the student needs or is believed to need special education or related services under Section 504, the district shall conduct an evaluation of the student prior to his/her initial placement. (34 CFR 104.35)

Note: OCR has interpreted Section 504 to require districts to obtain ~~parental~~parent/guardian permission for initial evaluations. Although the law is silent on the form of ~~parental~~parent/guardian consent, it is recommended that the district obtain such consent in writing. The following paragraph should be modified to reflect district practice.

Prior to conducting an initial evaluation of a student for eligibility under Section 504, the district shall obtain written parent/guardian consent.

Note: 34 CFR 104.35 requires that the district's evaluation and placement procedures include the elements specified in items #a-c below.

The district's evaluation procedures shall ensure that the tests and other evaluation materials: (34 CFR 104.35)

- a. Have been validated and are administered by trained personnel in conformance with the instruction provided by the test publishers
- b. Are tailored to assess specific areas of educational need and are not merely designed to provide a single general intelligence quotient

**IDENTIFICATION AND EDUCATION UNDER SECTION 504** (continued)

- c. Reflect the student's aptitude or achievement or whatever else the tests purport to measure rather than his/her impaired sensory, manual, or speaking skills, except where those skills are the factors that the tests purport to measure

**Section 504 Services Plan and Placement**

Services and placement decisions for students with disabilities shall be determined as follows:

1. A multidisciplinary 504 team shall be convened to review the evaluation data in order to make placement decisions.

The 504 team shall consist of a group of persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. (34 CFR 104.35)

In interpreting evaluation data and making placement decisions, the team shall draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. The team shall also ensure that information obtained from all such sources is documented and carefully considered and that the placement decision is made in conformity with 34 CFR 104.34. (34 CFR 104.35)

Note: While there is no specific requirement that a Section 504 services plan (sometimes called an accommodation plan) be in writing, it is strongly recommended that the district develop a written plan for each student detailing the regular and/or special education and related services that the student will be provided in order to ensure that the student is receiving FAPE in accordance with 34 CFR 104.33.

2. If, upon evaluation, a student is determined to be eligible for services under Section 504, the team shall meet to develop a written 504 services plan which shall specify the types of regular or special education services, accommodations, and supplementary aids and services necessary to ensure that the student receives FAPE.

The parents/guardians shall be invited to participate in the meeting and shall be given an opportunity to examine all relevant records.

*(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)*

*(cf. 5141.22 - Infectious Diseases)*

*(cf. 5141.23 - Asthma Management)*

*(cf. 5141.24 - Specialized Health Care Services)*

*(cf. 5141.26 - Tuberculosis Testing)*

*(cf. 5141.27 - Food Allergies/Special Dietary Needs)*

**IDENTIFICATION AND EDUCATION UNDER SECTION 504** (continued)

3. If the 504 team determines that no services are necessary for the student, the record of the team's meeting shall reflect whether or not the student has been identified as a ~~disabled~~ person **with a disability** under Section 504 and shall state the basis for the determination that no special services are presently needed. The student's parent/guardian shall be informed in writing of his/her rights and procedural safeguards, as described in the "Procedural Safeguards" section below.
4. The student shall be placed in the regular educational environment, unless the district can demonstrate that the education of the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. The student shall be educated with those who are not disabled to the maximum extent appropriate to his/her individual needs. (34 CFR 104.34)

Note: The law does not specify a time frame for completion of the evaluation and placement process, but OCR requires completion within "a reasonable amount of time." Generally, compliance with the timelines in **the IDEA** will be considered "reasonable" and thus in compliance with Section 504. However, Section 504 does not provide for an automatic suspension of the timelines during extended breaks or when schools are not in session, **as is permitted for the IDEA-associated timelines pursuant to Education Code 56043 and 56321**. For timelines under **the IDEA**, see AR 6164.4 - Identification and Evaluation of Individuals for Special Education.

5. The district shall complete the identification, evaluation, and placement process within a reasonable time frame. **The district shall adhere to this time frame regardless of any extended school breaks or times that school is otherwise not in session.**
6. A copy of the student's Section 504 services plan shall be kept in his/her student record. The student's teacher(s) and any other staff who provide services to the student shall be informed of the plan's requirements.

If a student transfers to another school within the district, the principal or designee at the school from which the student is transferring shall ensure that the principal or designee at the new school receives a copy of the plan prior to the student's enrollment in the new school.

**(cf. 5116.1 - Intradistrict Open Enrollment)**

(cf. 5125 - Student Records)

**Review and Reevaluation**

Note: 34 CFR 104.35 requires a district to establish procedures for the periodic reevaluation of a student who has been identified as needing services under Section 504. A reevaluation procedure consistent with the IDEA is one means of meeting this requirement. The following section should be modified to reflect district practice.

**IDENTIFICATION AND EDUCATION UNDER SECTION 504** (continued)

The 504 team shall monitor the progress of the student and, at least annually, shall review the effectiveness of the student's Section 504 services plan to determine whether the services are appropriate and necessary and whether the student's needs are being met as adequately as the needs of **nondisabled** students **without disabilities are met**. In addition, each student with a disability under Section 504 shall be reevaluated at least once every three years.

Note: As part of its responsibilities pursuant to 34 CFR 104.35, the district is required to reevaluate a student's needs before a significant change in his/her placement. Examples of actions that might constitute a "significant change in placement" triggering a reevaluation include, but are not limited to, expulsions; suspensions that exceed 10 school days within a school year; or removal from a fully integrated curriculum to a resource room, home instruction, independent study, or continuation school.

A reevaluation of the student's needs shall be conducted before any subsequent significant change in placement. (34 CFR 104.35)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

**Procedural Safeguards**

Note: 34 CFR 104.36 requires districts to adopt a system of procedural safeguards which must include the rights of parents/guardians to receive notice, examine relevant records, have an impartial hearing in which they would have an opportunity to participate and be represented by legal counsel, and a process for review of the hearing and decision as detailed in the following section.

Timelines suggested in this section should be revised to reflect district practice; however, OCR requires that the due process hearing procedures be completed within a "reasonably prompt time frame."

The Superintendent or designee shall notify the parents/guardians of students with disabilities of all actions and decisions by the district regarding the identification, evaluation, or educational placement of their children. He/she also shall notify the parents/guardians of all the procedural safeguards available to them if they disagree with the district's action or decision, including an opportunity to examine all relevant records and an impartial hearing in which they shall have the right to participate. (34 CFR 104.36)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

Note: 34 CFR 104.36 requires that the district's procedural safeguards for Section 504 include an impartial hearing to resolve disagreements about the provision of FAPE. This Section 504 due process hearing is separate from the due process hearing procedures under **the** IDEA and from the district's uniform complaint procedures, which are used to resolve complaints regarding discriminatory treatment (e.g., harassment or accessibility issues). See BP/AR 1312.3 - Uniform Complaint Procedures.

If a parent/guardian disagrees with any district action or decision regarding the identification, evaluation, or educational placement of his/her child under Section 504, he/she may request a Section 504 due process hearing within 30 days of that action or decision.



**IDENTIFICATION AND EDUCATION UNDER SECTION 504** (continued)

Note: According to OCR, the parent/guardian cannot be required to participate in an administrative review prior to exercising his/her right to a Section 504 due process hearing. Districts with questions should consult legal counsel, as appropriate.

Prior to requesting a Section 504 due process hearing, the parent/guardian may, at his/her discretion, but within 30 days of the district's action or decision, request an administrative review of the action or decision. The Coordinator shall designate an appropriate administrator to meet with the parent/guardian to attempt to resolve the issue and the administrative review shall be held within 14 days of receiving the parent/guardian's request. If the parent/guardian is not satisfied with the resolution of the issue, **or if the parent/guardian did not request an administrative review**, he/she may request a Section 504 due process hearing.

**A** Section 504 due process hearing shall be conducted in accordance with the following procedures:

1. The parent/guardian shall submit a written request to the Coordinator within 30 days of receiving the district's decision or, if an administrative review is held, within 14 days of the completion of the review. The request for the due process hearing shall include:
  - a. The specific nature of the decision with which he/she disagrees
  - b. The specific relief he/she seeks
  - c. Any other information he/she believes is pertinent to resolving the disagreement
2. Within 30 days of receiving the parent/guardian's request, the Superintendent or designee and 504 Coordinator shall select an impartial hearing officer. This 30-day deadline may be extended for good cause or by mutual agreement of the parties.
3. Within 45 days of the selection of the hearing officer, the Section 504 due process hearing shall be conducted and a written decision mailed to all parties. This 45-day deadline may be extended for good cause or by mutual agreement of the parties.
4. The parties to the hearing shall be afforded the right to:
  - a. Be accompanied and advised by **legal** counsel and by individuals with special knowledge or training related to the problems of students with disabilities under Section 504
  - b. Present written and oral evidence

**IDENTIFICATION AND EDUCATION UNDER SECTION 504** (continued)

- c. Question and cross-examine witnesses
- d. Receive written findings by the hearing officer stating the decision and explaining the reasons for the decision

If desired, either party may seek a review of the hearing officer's decision by a federal court of competent jurisdiction.

**Notifications**

The Superintendent or designee shall ensure that the district has taken appropriate steps to notify students and parents/guardians of the district's duty under Section 504. (34 CFR 104.32)

*(cf. 5145.6 - Parental Notifications)*

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# CSBA Sample

## Administrative Regulation

### Instruction

AR 6173.3(a)

### EDUCATION FOR JUVENILE COURT SCHOOL STUDENTS

Note: The following administrative regulation is for use by districts that maintain secondary schools. Juvenile court schools are operated by county offices of education pursuant to Education Code 48645-48646 and serve students who are under the protection or authority of the county juvenile justice system. Pursuant to Education Code 48645.2, such schools may be administered either by the County Superintendent of Schools or by the board of the district in which the juvenile court school is located, through a contract between the County Board of Education and the district's governing board.

Education Code 51225.1 and 51225.2, as amended by AB 2306 (Ch. 464, Statutes of 2016), establish educational rights of former juvenile court school students who transition into a district school. These include rights related to the immediate enrollment of such students, the immediate transfer of educational records, the transfer of coursework and credits, and exemption from district-established graduation requirements under certain conditions.

The following **optional** paragraph reflects the intent expressed in Education Code 48647 to encourage collaboration between the district and county agencies to ensure effective communication, enrollment, and placement practices.

The Superintendent or designee shall collaborate with the County Superintendent of Schools and the county probation department to facilitate the transition of students from a juvenile court school into the regular schools of the district. Such collaboration may include, but not be limited to, the development of data-sharing systems, communication strategies, and other structures that aid in the enrollment, placement, and continuous educational progress of such students.

### Enrollment

Note: Education Code 48645.5 requires the immediate enrollment of a student who has had contact with the juvenile justice system. Pursuant to Education Code 48645.5 and 48853.5, such a student must be enrolled even if he/she (1) has outstanding fees, fines, textbooks, or other items or monies due to the previous school; (2) does not have clothing normally required by the school, such as school uniforms; or (3) is unable to produce records normally required for enrollment.

A former juvenile court school student transferring into a regular district school shall be immediately enrolled in the school. The Superintendent or designee shall not deny enrollment to a student solely on the basis of his/her arrest, adjudication by a juvenile court, formal or informal supervision by a probation officer, detention in a juvenile facility, enrollment in a juvenile court school, or other contact with the juvenile justice system. (Education Code 48645.5)

*(cf. 5111 - Admission)*

*(cf. 5111.1 - District Residency)*

*(cf. 5125 - Student Records)*

*(cf. 5125.2 - Withholding Grades, Diploma or Transcripts)*

**EDUCATION FOR JUVENILE COURT SCHOOL STUDENTS** (continued)

(cf. 5132 - Dress and Grooming)  
 (cf. 5141.26 - Tuberculosis Testing)  
 (cf. 5141.31 - Immunizations)

**Transfer of Coursework and Credits**

When a student transfers from a juvenile court school into a district school, the district shall accept and issue full credit for any coursework that the student has satisfactorily completed at that school and shall not require the student to retake the course. If the student did not complete the entire course, he/she shall be issued partial credit for the coursework completed and shall not be required to retake the portion of the course completed. (Education Code 48645.5, 51225.2)

However, a student may be required to retake the portion of the course completed if the Superintendent or designee, in consultation with the holder of educational rights for the student, finds that the student is reasonably able to complete the requirements in time to graduate from high school. Whenever partial credit is issued to a former juvenile court school student in any particular course, he/she shall be enrolled in the same or equivalent course, if applicable, so that he/she may continue and complete the entire course. (Education Code 51225.2)

Note: The following paragraph should be revised to reflect district practice, consistent with district policy related to partial credit awarded to homeless students and foster youth. Although Education Code 51225.2, as amended by AB 2306 (Ch. 464, Statutes of 2016), requires districts to award partial credits to former juvenile court school students who transfer from school to school, there is no uniform system for calculating and awarding partial credits. The following paragraph reflects a recommendation in the California Child Welfare Council's Partial Credit Model Policy and Practice Recommendations and is consistent with the approach provided in AR 6173 - Education for Homeless Children and AR 6173.1 - Education for Foster Youth.

Partial credits shall be awarded on the basis of 0.5 credits for every seven class periods attended per subject. If the school is on a block schedule, each block schedule class period attended shall be equal to two regular class periods per subject.

In no event shall the district prevent a former juvenile court school student from taking or retaking a course to meet the eligibility requirements for admission to the California State University or the University of California. (Education Code 51225.2)

(cf. 6143 - Courses of Study)

**Graduation**

If a student completes district graduation requirements while being detained in a juvenile facility, the district shall issue the student a diploma from the school the student last attended, unless the County Superintendent issues the diploma. (Education Code 48645.5)

**EDUCATION FOR JUVENILE COURT SCHOOL STUDENTS** (continued)

*(cf. 6146.1 - High School Graduation Requirements)*

Note: The remainder of this section addresses the completion of graduation requirements by students who transfer from a juvenile court school to a district school after completing two years of high school. Education Code 51225.1, as amended by AB 2306 (Ch. 464, Statutes of 2016), exempts such students from district-established graduation requirements under certain conditions.

A student who transfers to a district school from a juvenile court school shall generally be expected to complete all courses required by Education Code 51225.3 and to fulfill any additional graduation requirements prescribed by the Governing Board.

However, when a student who has completed his/her second year of high school transfers from a juvenile court school into a district school, he/she shall be exempted from all district-adopted coursework and other district-established graduation requirements, unless the district makes a finding that the student is reasonably able to complete the additional requirements in time to graduate from high school by the end of his/her fourth year of high school. Within 30 calendar days of the student's transfer, the Superintendent or designee shall notify the student, the person holding the right to make educational decisions for him/her, and the student's social worker or probation officer of the availability of the exemption and whether the student qualifies for it. If the Superintendent or designee fails to provide this notification, the student shall be eligible for the exemption once notified, even if the notification occurs after the termination of the court's jurisdiction over the student. (Education Code 51225.1)

*(cf. 5145.6 - Parental Notifications)*

To determine whether a student is in his/her third or fourth year of high school, the district shall use either the number of credits he/she has earned as of the date of the transfer or the length of his/her school enrollment, whichever qualifies him/her for the exemption. (Education Code 51225.1)

The Superintendent or designee shall notify any former juvenile court school student who is granted an exemption and the person holding the right to make educational decisions for him/her how any requirements that are waived will affect the student's ability to gain admission to a postsecondary educational institution and shall provide information about transfer opportunities available through the California Community Colleges. (Education Code 51225.1)

The district shall not require or request a former juvenile court school student to transfer schools in order to qualify for an exemption, and no request for a transfer solely to qualify for an exemption shall be made by a student, the person holding the right to make educational decisions for the student, or the student's social worker or probation officer. (Education Code 51225.1)

**EDUCATION FOR JUVENILE COURT SCHOOL STUDENTS** (continued)

If a student is exempted from local graduation requirements, the exemption shall continue to apply after the termination of the court's jurisdiction over the student or if he/she transfers to another school or school district. (Education Code 51225.1)

If the Superintendent or designee determines that a former juvenile court school student is reasonably able to complete district graduation requirements within his/her fifth year of high school, he/she shall: (Education Code 51225.1)

1. Inform the student and, if the student is under 18 years of age, the person holding the right to make educational decisions for him/her, of the option available to the student to remain in school for a fifth year to complete the district's graduation requirements and how that will affect his/her ability to gain admission to a postsecondary educational institution
2. Provide information to the student about transfer opportunities available through the California Community Colleges
3. Upon agreement with the student or with the person holding the right to make educational decisions for him/her if he/she is under 18 years of age, permit the student to stay in school for a fifth year to complete the district's graduation requirements

**Notification and Complaints**

Information regarding the educational rights of former juvenile court school students, as specified in Education Code 51225.1 and 51225.2, shall be included in the annual uniform complaint procedures notification distributed to students, parents/guardians, employees, and other interested parties pursuant to 5 CCR 4622. (Education Code 51225.1, 51225.2)

Note: Education Code 51225.1 and 51225.2, as amended by AB 2306 (Ch. 464, Statutes of 2016), provide that complaints of noncompliance with specified requirements related to the educational rights of former juvenile court school students may be filed in accordance with the uniform complaint procedures specified in 5 CCR 4600-4687. As with other complaints covered under the uniform complaint procedures, a complainant may appeal the district's decision to the California Department of Education (CDE) and, if the district or CDE finds any merit in the complaint, the district must provide a remedy to the affected student. See BP/AR 1312.3 - Uniform Complaint Procedures.

Any complaint that the district has not complied with requirements regarding the education of former juvenile court school students, as specified in Education Code 51225.1 or 51225.2, may be filed in accordance with the district's procedures in AR 1312.3 - Uniform Complaint Procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

*Legal Reference: (see next page)*

## **EDUCATION FOR JUVENILE COURT SCHOOL STUDENTS (continued)**

### *Legal Reference:*

#### EDUCATION CODE

48645-48648 Juvenile court schools

48853.5 Immediate enrollment

51225.1 Exemption from district graduation requirements

51225.2 Former juvenile court school student defined; acceptance of coursework, credits, retaking of course

51225.3 High school graduation

60851.5 Suspension of high school exit examination

#### WELFARE AND INSTITUTIONS CODE

602 Minors violating law; ward of court

880-893 Wards and dependent children; juvenile homes, ranches and camps

#### CODE OF REGULATIONS, TITLE 5

4600-4687 Uniform complaint procedures

### *Management Resources:*

#### CALIFORNIA CHILD WELFARE COUNCIL

*Partial Credit Model Policy and Practice Recommendations*

#### YOUTH LAW CENTER PUBLICATIONS

*Educational Injustice: Barriers to Achievement and Higher Education for Youth in California Juvenile Court Schools, 2016*

#### WEB SITES

CSBA: <http://www.csba.org>

California Child Welfare Council: <http://www.chhs.ca.gov/Pages/CAChildWelfareCouncil.aspx>

California Department of Education, Juvenile Court Schools: <http://www.cde.ca.gov/sp/eo/jc>

Youth Law Center: <http://www.ylc.org>

# CSBA Sample

## Board Bylaw

### Board Bylaws

BB 9323(a)

### MEETING CONDUCT

Note: Education Code 35010 **mandates** the **Governing** Board to "prescribe and enforce" rules for its own governance. These rules must not be inconsistent with law or with regulations prescribed by the State Board of Education. The following bylaw provides suggested rules and procedures for meeting conduct and reflects provisions of law as applicable.

### Meeting Procedures

All Governing Board meetings shall begin on time and shall be guided by an agenda prepared in accordance with Board bylaws and posted and distributed in accordance with the Ralph M. Brown Act (open meeting requirements) and other applicable laws.

*(cf. 9322 - Agenda/Meeting Materials)*

Note: The law does not specify that a particular set of procedures must govern Board meetings. Although Robert's Rules of Order can serve as a useful guide, the Board may adopt any procedure that allows for the efficient and consistent conduct of meetings.

The Board president shall conduct Board meetings in accordance with Board bylaws and procedures that enable the Board to efficiently consider issues and carry out the will of the majority.

*(cf. 9121 - President)*

Note: The following **optional** paragraph limits the length of Board meetings and should be revised to reflect district practice.

The Board believes that late night meetings deter public participation, can affect the Board's decision-making ability, and can be a burden to staff. Regular Board meetings shall be adjourned at 10:30 p.m. unless extended to a specific time determined by a majority of the Board. The meeting shall be extended no more than once and subsequently may be adjourned to a later date.

*(cf. 9320 - Meetings and Notices)*

Note: In Rubin v. City of Burbank, an appellate court held that inclusion of "sectarian prayer" at city council meetings, which communicated a preference for a particular religious faith and advanced one faith over another, was unconstitutional by directing the prayer "in the name of Jesus." The court held that it would be constitutional to require the city to advise those people conducting the prayer of this limitation. This opinion is consistent with an unpublished 9th circuit federal court opinion which stated that an invocation "in the name of Jesus" was unconstitutional in that it displayed allegiance to a particular faith.



## MEETING CONDUCT (continued)

Some general guidelines for invocations can be found in an Attorney General's opinion (76 Ops.Cal.Atty.Gen. 281 (1993)) which stated that a county board of supervisors could open its sessions with an invocation when the invocation is (1) not required by law as a condition to the official proceedings, (2) not part of the deliberative agenda, (3) not offered, supervised, or approved as to content by a public officer, (4) not officially limited to a particular religion, (5) not disparaging of others, and (6) not directed towards proselytizing. However, because this is an unsettled area of law that is subject to frequent litigation, it is strongly recommended that districts consult legal counsel if they wish to open meetings with an invocation. Note that a different legal analysis applies to student-led or student-initiated prayer; see BP 5127 - Graduation Ceremonies and Activities.

## Quorum and Abstentions

The Board shall act by majority vote of all of the membership constituting the Board. (Education Code 35164)

(cf. 9323.2 - Actions by the Board)

Note: According to an Attorney General opinion (61 Ops.Cal.Atty.Gen. 243 (1978)), members of a public body have a duty to vote on issues before them so that the public is represented and receives the services which the public body was created to provide. Issues arise when a motion is tied and one Board member has abstained. The general parliamentary rule is that an abstention is counted as agreeing with the action taken by the majority of those who vote, whether affirmatively or negatively (66 Ops.Cal.Atty.Gen. 336 (1983)). However, a stronger argument could be made that the parliamentary rule is in conflict with Education Code 35164 which requires a majority vote of all of the membership of the Board in order for the Board to act (i.e., a majority of all of the membership of the Board must vote affirmatively in order to approve any action). In 55 Ops.Cal.Atty.Gen. 26 (1972), the Attorney General opined that, when a statutory requirement exists that requires an affirmative action of at least a majority of the members of the Board, the general rule that members not voting were deemed to have agreed with the action taken by the majority of those that voted is not applicable.

The following **optional** paragraph is consistent with CSBA's opinion that a majority of the Board must vote affirmatively for a motion to carry, but the law is not settled and contrary legal opinions may exist. It is strongly recommended that the district consult with legal counsel and modify the following **optional** paragraph to ensure consistency with district practice.

The Board believes that when no conflict of interest requires abstention, its members have a duty to vote on issues before them. When a member abstains, his/her abstention shall not be counted for purposes of determining whether a majority of the membership of the Board has taken action.

(cf. 9270 - Conflict of Interest)

Note: The following paragraph applies only to districts with seven member boards and **should be deleted by districts with a three or five member board.**

~~If a Board consists of seven members and not more than two vacancies occur on the Board,~~

**MEETING CONDUCT** (continued)

**Provided the Board typically has seven members and there are no more than two vacancies on the Board,** the vacant position(s) shall not be counted for purposes of determining how many members of the Board constitute a majority. In addition, **if a vacancy exists on the Board,** whenever any provisions of the Education Code require unanimous action of all or a specific number of the members, the vacant position(s) shall be not be counted for purposes of determining the total membership constituting the Board. (Education Code 35165)

**Public Participation**

Note: Pursuant to Government Code 54953.3, a member of the public cannot be required to register his/her name, complete a questionnaire, or provide other information as a condition of attending a Board meeting. If an attendance list or similar document is posted near the entrance or circulated during the meeting, it must clearly state that signing or completing the document is voluntary.

Members of the public are encouraged to attend Board meetings and to address the Board concerning any item on the agenda or within the Board's jurisdiction. So as not to inhibit public participation, persons attending Board meetings shall not be requested to sign in, complete a questionnaire, or otherwise provide their name or other information as a condition of attending the meeting.

In order to conduct district business in an orderly and efficient manner, the Board requires that public presentations to the Board comply with the following procedures:

Note: Education Code 35145.5 **mandates** the Board to adopt regulations which ensure that the public can address the Board regarding agenda items, as specified below.

**District employees have the same right as members of the public to address the Board during a public Board meeting. In 90 Ops.Cal.Atty.Gen. 47 (2007), the Attorney General opined that, under the Ralph M. Brown Act, an administrative district employee cannot be prohibited from attending a Board meeting or from speaking during the public comment period, including comments on an employment-related issue.**

1. The Board shall give members of the public an opportunity to address the Board on any item of interest to the public that is within the subject matter jurisdiction of the Board, either before or during the Board's consideration of the item. (Education Code 35145.5; Government Code 54954.3)
2. At a time so designated on the agenda at a regular meeting, members of the public may bring before the Board matters that are not listed on the agenda. The Board shall take no action or discussion on any item not appearing on the posted agenda, except as authorized by law. (Education Code 35145.5; Government Code 54954.2)

**MEETING CONDUCT** (continued)

3. Without taking action, Board members or district staff members may briefly respond to statements made or questions posed by the public about items not appearing on the agenda. Additionally, on their own initiative or in response to questions posed by the public, a Board or staff member may ask a question for clarification, make a brief announcement, or make a brief report on his/her own activities. (Government Code 54954.2)

Furthermore, the Board or a Board member may provide a reference to staff or other resources for factual information, ask staff to report back to the Board at a subsequent meeting concerning any matter, or take action directing staff to place a matter of business on a future agenda. (Government Code 54954.2)

4. The Board need not allow the public to speak on any item that has already been considered by a committee composed exclusively of Board members at a public meeting where the public had the opportunity to address the committee on that item. However, if the Board determines that the item has been substantially changed since the committee heard the item, the Board shall provide an opportunity for the public to speak. (Government Code 54954.3)

(cf. 9130 - Board Committees)

5. A person wishing to be heard by the Board shall first be recognized by the president and shall then proceed to comment as briefly as the subject permits.

Note: Government Code 54954.3 authorizes regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker. The following paragraph should be revised to reflect district practice.

**If the Board limits the time for public comment, Government Code 54954.3, as amended by AB 1787 (Ch. 507, Statutes of 2016), requires the Board to provide at least twice the allotted time to a member of the public who utilizes a translator, as provided below.**

Individual speakers shall be allowed three minutes to address the Board on each agenda or nonagenda item. The Board shall limit the total time for public input on each item to 20 minutes. With Board consent, the **Board** president may increase or decrease the time allowed for public presentation, depending on the topic and the number of persons wishing to be heard. The president may take a poll of speakers for or against a particular issue and may ask that additional persons speak only if they have something new to add.

**In order to ensure that non-English speakers receive the same opportunity to directly address the Board, any member of the public who utilizes a translator shall be provided at least twice the allotted time to address the Board, unless simultaneous translation equipment is used to allow the Board to hear the translated public testimony simultaneously. (Government Code 54954.3)**

**MEETING CONDUCT** (continued)

6. The Board president may rule on the appropriateness of a topic, **subject to the following conditions:**

- a. If a topic would be suitably addressed at a later time, the Board president may indicate the time and place when it should be presented.
- b. The Board shall not prohibit public criticism of its policies, procedures, programs, services, acts, or omissions. (Government Code 54954.3) **In addition, the Board may not prohibit public criticism of district employees.**

Note: The following **optional** item addresses the issue of specific charges or complaints against district employees in open Board meetings. ~~The Board president must first determine that the speech in question is a specific complaint or charge against a specific employee or employees before invoking the following provision. Although the Board may inform the speaker of appropriate district complaint procedures, it cannot prohibit general~~ criticisms of the district and its employees, no matter how harsh, ~~may not be prohibited~~. Board members and staff may briefly respond to the concerns raised by the complainant at the meeting.

In Baca v. Moreno Valley Unified School District, a federal district court issued a preliminary injunction against the district prohibiting it from enforcing its policy barring criticism of employees at public Board meetings. The court found that the district's policy violated the plaintiff's First Amendment rights by restricting the content of her speech. The court further noted that the district could not legally prevent a person from speaking in open session, even if the speech was clearly defamatory. **It is recommended that the Board consult legal counsel if a question arises regarding public criticism of a district employee.** Districts should note that this decision does not apply to any district other than the Moreno Valley Unified School District at this time. ~~However, a different federal court has also reached the same result in a case involving the Vista Unified School District. Districts should be very cautious in implementing this policy and be guided by the advice of their legal counsel.~~

~~For a district to be safe from litigation, the only option is for the Board to place no content restriction on public comments during the Board meeting. This option, however, would permit accusations to be made against an employee without notice or opportunity for employee response.~~

- c. ~~In addition,~~ **The Board shall not prohibit public criticism of district employees. However, w**Whenever a member of the public initiates specific complaints or charges against an **individual** employee, the Board president shall inform the complainant **of the appropriate complaint procedure.** ~~that in order to protect the employee's right to adequate notice before a hearing of such complaints and charges, and also to preserve the ability of the Board to legally consider the complaints or charges in any subsequent evaluation of the employee, it is the policy of the Board to hear such complaints or charges, in closed session unless otherwise requested by the employee pursuant to Government Code 54957. The Board president shall also encourage the complainant to file a complaint using the appropriate district complaint procedure.~~

**MEETING CONDUCT** (continued)

Note: As provided in item #7 below, Government Code 54957.9 authorizes the Board to remove persons who willfully disrupt or disturb a meeting. Examples of disruptive conduct might include conduct that is extremely loud, disturbing, or creates a health or safety risk. In McMahon v. Albany Unified School District, the court held that a speaker's constitutional rights were not violated when he was removed from a Board meeting after dumping a substantial amount of garbage on the floor of the meeting room. ~~The speaker had come to the Board meeting to complain about high school students littering, but did not stop dumping garbage when admonished by the Board president.~~ Because ~~he~~**the speaker** was not removed based on the content of his speech, the court upheld his conviction for a willful disruption of a public meeting. **In City of San Jose v. Garbett, the court held that a legislative body may exclude from a meeting a person who has expressed a credible threat of violence that would place a reasonable person in fear for his/her safety or the safety of his/her immediate family and that serves no legitimate purpose.**

**However, the courts have found that a person's conduct must actually disrupt the meeting in order to warrant ejection. In Norse v. City of Santa Cruz, the court held that the city council improperly ejected a member of the public who gave the council a silent Nazi salute, on the grounds that the action did not interfere with the proceedings of the meeting.**

7. The Board president shall not permit any disturbance or willful interruption of Board meetings. Persistent disruption by an individual or group **or any conduct or statements that threaten the safety of any person(s) at the meeting** shall be grounds for the president to terminate the privilege of addressing the Board.

The Board may remove disruptive individuals and order the room cleared if necessary. In this case, members of the media not participating in the disturbance shall be allowed to remain, and individuals not participating in such disturbances may be allowed to remain at the discretion of the Board. When the room is ordered cleared due to a disturbance, further Board proceedings shall concern only matters appearing on the agenda. (Government Code 54957.9)

When such disruptive conduct occurs, the Superintendent or designee shall contact local law enforcement **as necessary**.

**Recording by the Public**

Note: Government Code 54953.5 provides that any person attending an open meeting may record it with an audio or video ~~tape~~ recorder or a still or ~~movie~~**motion picture** camera unless the Board makes a reasonable finding that the recording cannot continue without noise, illumination, or obstruction of view which would persistently disrupt the meeting. Government Code 54953.6 requires a similar finding before the Board can prohibit or restrict a broadcast of its meetings.

**The following paragraph extends the right to record an open meeting to include recordings made by other devices such as a cell phone.**

**MEETING CONDUCT** (continued)

**Members of the public may record an open Board meeting using an audio or video recorder, still or motion picture camera, cell phone, or other device, provided that the noise, illumination, or obstruction of view does not persistently disrupt the meeting.** The Superintendent or designee ~~shall~~ **may** designate locations from which members of the public may ~~broadcast, photograph, or tape record open meetings~~ **make such recordings** without causing a distraction.

*(cf. 9324 - Board Minutes and Recordings)*

If the Board finds that noise, illumination, or obstruction of view related to these activities would persistently disrupt the proceedings, these activities shall be discontinued or restricted as determined by the Board. (Government Code 54953.5, 54953.6)

*Legal Reference: (see next page)*

## MEETING CONDUCT (continued)

### Legal Reference:

#### EDUCATION CODE

5095 Powers of remaining board members and new appointees  
32210 Willful disturbance of public school or meeting a misdemeanor  
35010 Prescription and enforcement of rules  
35145.5 Agenda; public participation; regulations  
35163 Official actions, minutes and journal  
35164 Vote requirements  
35165 Effect of vacancies upon majority and unanimous votes by seven member board

#### CODE OF CIVIL PROCEDURE

#### 527.8 Workplace Violence Safety Act

#### GOVERNMENT CODE

#### 54953.3 Prohibition against conditions for attending a board meeting

54953.5 Audio or video ~~tape~~ recording of proceedings  
54953.6 Broadcasting of proceedings  
54954.2 Agenda; posting; action on other matters  
54954.3 Opportunity for public to address legislative body; regulations  
54957 Closed sessions  
54957.9 Disorderly conduct of general public during meeting; clearing of room

#### PENAL CODE

403 Disruption of assembly or meeting

#### COURT DECISIONS

City of San Jose v. Garbett, (2010) 190 Cal.App.4th 526

Norse v. City of Santa Cruz, (9th Cir. 2010) 629 F3d 966

McMahon v. Albany Unified School District, (2002) 104 Cal.App.4th 1275

Rubin v. City of Burbank, (2002) 101 Cal.App.4th 1194

Baca v. Moreno Valley Unified School District, (1996) 936 F.Supp. 719

#### ATTORNEY GENERAL OPINIONS

90 Ops.Cal.Atty.Gen. 47 (2007)

76 Ops.Cal.Atty.Gen. 281 (1993)

66 Ops.Cal.Atty.Gen. 336 (1983)

63 Ops.Cal.Atty.Gen. 215 (1980)

61 Ops.Cal.Atty.Gen. 243, 253 (1978)

59 Ops.Cal.Atty.Gen. 532 (1976)

55 Ops.Cal.Atty.Gen. 26 (1972)

### Management Resources:

#### CSBA PUBLICATIONS

Call to Order: A Blueprint for Great Board Meetings, 2015

The Brown Act: School Boards and Open Meeting Laws, rev. 20052014

Board Presidents' Handbook, rev. 2002

Maximizing School Board Governance: Boardmanship

#### ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for **Local** Legislative Bodies, 2003

#### WEB SITES

CSBA: <http://www.csba.org>

California Attorney General's Office: <http://www.caag.state.ca.us><https://oag.ca.gov>

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### Policy Reference UPDATE Service

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## **8.0 DISTRICT ORGANIZATION AND BOARD OPERATION**

### **8.1 Proposed List of Agenda Items for Future Board Meetings**

#### **Background Information:**

The Board requested that a list of topics for future Board agendas be published monthly to inform the public of proposed Board reports, items that will be discussed, and items to be voted on by the Board.

#### **Reports:**

To assist the Board in planning, the topics listed below are tentatively scheduled for the months indicated. Dates may vary due to the availability of necessary information. The reports are in addition to regular information and action items such as personnel and business items which appear on the agenda every month.

#### **March 2, 2017: Regular Board Meeting**

- Instruction/Learning Survey Results
- Preliminary Elimination of Particular Kinds of Services
- Second Interim Report
- Learning Report: Math Update
- Human Resources Report
- Business Services Report
- Board Policy Updates Second Read

#### **April 13, 2017: Regular Board Meeting**

- Uniform Complaint Quarterly Report
- Approve DO and Site Strategic Plans
- Board Policy Updates
- Special Education Report
- Learning Report
- Human Resources Report
- Business Services Report

#### **May 18, 2017: Regular Board Meeting**

- Final Elimination of Particular Kinds of Services
- Board Policy Updates
- SAFE Annual Report
- CSF Annual Report
- Character Counts Report
- Learning Report
- Human Resources Report - Staff Evaluation

#### **June 8, 2017: Regular Board Meeting**

- GASB 45 Resolution
- Board Policy Updates - First Reading
- Designate Funds held in Reserve
- Accept Uniform Quarterly Report
- LCAP Hearing
- Budget Hearing
- Learning Report
- Human Services Report
- Business Services Report



**Financial Impact:**

There is no impact to the general fund as a result of this report.

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This report is provided to the Board for information.