

POLICY GUIDE SHEET

Page 1 of 2

Note: Descriptions below identify revisions made to CSBA's sample board policies, administrative regulations, board bylaws, and/or exhibits. Editorial changes have also been made. Districts and county offices of education should review the sample materials and modify their own policies accordingly.

BP 1100 - Communication with the Public

(BP revised)

Policy updated to add definition of the types of mass mailings that cannot be sent at district expense and to reflect law which prohibits certain mass mailings, which are otherwise permissible, from being sent within 60 days preceding an election. Policy also deletes references to repealed Title 2 regulation (Register 2018, No. 12).

BP 3290 - Gifts, Grants and Bequests

(BP revised)

Policy updated to add new section on "Online Fundraising" addressing considerations for approving a crowdfunding Internet platform to raise funds for district, school, or classroom projects or equipment. Policy also adds a prohibition against accepting any gift, grant, or bequest that promotes the use of non-nutritious foods or beverages and provides that any advertising used by a corporate sponsor meet the standards specified in BP 1325 - Advertising and Promotion.

AR 3320 - Claims and Actions Against the District

(AR revised)

Regulation updated to reflect **NEW LAW (SB 1053)** which clarifies that districts do not have the authority to use district-established claims procedures for claims of childhood sexual abuse and that such claims are governed by the timelines and procedures of Code of Civil Procedure 340.1.

AR 3460 - Financial Reports and Accountability

(AR revised)

Regulation updated to add new section on "Report on Expenditures of State Facilities Funds" reflecting state law, as amended by **NEW LAW (AB 1808)**, which requires districts that receive state facilities funding under the Leroy F. Greene School Facilities Act to annually report a list of expenditures for completed facilities projects and conclude an audit within one year of project completion.

BP/AR 5141.6 - School Health Services

(BP/AR revised)

Policy updated to delete references to the obsolete API, Healthy Start program, and Healthy Families program. Regulation updated to expand section on "Types of Health Services" to include additional services for which districts can receive Medi-Cal reimbursement. Regulation also includes the requirement for employees to complete a random-moment time study for the Medi-Cal Administrative Activities program and reflects **NEW LAW (AB 3192)** which requirements the Department of Health Care Services to develop a program guide for the LEA Medi-Cal Billing Option.

BP/AR 5144.1 - Suspension and Expulsion/Due Process

(BP/AR revised)

Policy and regulation updated to reflect **NEW LAW (AB 752, 2017)** which prohibits the expulsion of a child enrolled in a California State Preschool Program (CSPP) unless the district has taken specified steps and the child's continued enrollment presents a serious safety threat to the child or other enrolled children. Policy also adds data collection on the type of firearm involved in any expulsion for firearm possession, in accordance with federal law. Regulation also revises section on "Final Action by the Board" to correct the location in policy where acts requiring "mandatory recommendation and mandatory expulsion" are listed.

POLICY GUIDE SHEET

Page 2 of 2

BP/AR 5148.3 - Preschool/Early Childhood Education

(BP/AR revised)

Policy updated to reflect **NEW LAW (AB 1808)** which (1) exempts CSPP programs from specified licensure and regulation requirements if they are operated in a school building and (2) requires that the district's Williams uniform complaint procedures be used to resolve allegations of deficiencies related to health and safety requirements in license-exempt CSPP programs. Policy and regulation reflect a provision of AB 1808 which allows districts to commingle 4-year-old children enrolled in a CSPP program with children enrolled in a transitional kindergarten (TK) program under specified conditions. Regulation also reflects **NEW LAW (AB 2626)** which changes the birthdate by which children are eligible for CSPP programs, **NEW LAW (AB 273, 2017)** which revises eligibility criteria for CSPP preschool to include parents/guardians engaged in an educational program for English learners or for attainment of a high school diploma or general educational development certificate, and **NEW LAW (AB 752, 2017)** which prohibits the expulsion or unenrollment of a child enrolled in a CSPP program unless the district has taken specified steps and the child's continued enrollment presents a serious safety threat to the child or other enrolled children.

CSBA Sample

Board Policy

Community Relations

BP 1100(a)

COMMUNICATION WITH THE PUBLIC

Note: The following **optional** policy may be revised to reflect district practice.

The Governing Board recognizes the district's responsibility to keep the public informed regarding the goals, programs, achievements, and needs of the schools and district and to be responsive to the concerns and interests of the community. The Superintendent or designee shall establish strategies for effective two-way communications between the district and the public and shall consult with the Board regarding the role of Board members as advocates for the district's students, programs, and policies.

(cf. 5020 - Parent Rights and Responsibilities)
(cf. 9000 - Role of the Board)

Note: Protocols for media relations, including the identification of Governing Board and staff spokespersons designated to meet with the media on behalf of the district, are addressed in BP 1112 - Media Relations. The district may choose to establish additional protocols for communications with other segments of the public.

The Superintendent or designee shall provide the Board and staff with communications protocols and procedures to assist the district in presenting a consistent, unified message on district issues. Such protocols and procedures may include, but are not limited to, identification of the spokesperson(s) authorized to speak to the media on behalf of the district, strategies for coordinating communications efforts and activities, and legal requirements pertaining to confidentiality as well as the public's right to access records.

(cf. 1112 - Media Relations)
(cf. 1340 - Access to District Records)
(cf. 2111 - Superintendent Governance Standards)
(cf. 3580 - District Records)
(cf. 5125 - Student Records)
(cf. 5125.1 - Release of Directory Information)
(cf. 9005 - Governance Standards)
(cf. 9010 - Public Statements)
(cf. 9011 - Disclosure of Confidential/Privileged Information)

The Superintendent or designee shall utilize a variety of **communications** methods **in order** to provide **information to** the public with access to information. Such methods may include, but are not limited to, district and school newsletters, web sites, social **networking pages** **media**, **or other online communications technologies**, **direct email** **electronic** communications, mailings, notices sent home with students, recorded telephone messages for parent/guardian information, community forums and public events, news releases, meetings with education reporters and editorial boards, presentations at parent organization meetings, and meetings with representatives of local governments, community organizations, and businesses.

COMMUNICATION WITH THE PUBLIC (continued)

(cf. 0510 - School Accountability Report Card)

~~(cf. 1020 - Youth Services)~~

(cf. 1113 - District and School Web Sites)

(cf. 1114 - District-Sponsored Social Media)

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)

(cf. 1700 - Relations Between Private Industry and the Schools)

Note: Pursuant to Education Code 48985, when 15 percent or more of students enrolled in a school speak a single primary language other than English, all notices and reports sent to the parents/guardians of those students must also be written in that primary language. In addition, the Americans with Disabilities Act (28 CFR 35.130 and 35.160) requires districts to provide services and aids to ensure that a disabled individual is not excluded from participation or denied a benefit, service, or program on the basis of a disability. See BP 0410 - Nondiscrimination in District Programs and Activities.

In developing communications strategies, the Superintendent or designee shall take into account the needs of all members of the public, including individuals with disabilities and those whose primary language is not English.

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

The Superintendent or designee ~~shall ensure that staff members are responsive to requests by parents/guardians or members of the public for information or assistance and may provide staff members with professional development in their "customer service" role as needed to assist them in effectively responding to requests for information or assistance by parents/guardians or members of the public.~~

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

The Superintendent or designee shall provide multiple **avenues and** opportunities for members of the public to give input on district and school issues and operations. Community members are encouraged to become involved in school activities, participate on district and school committees, provide input at Board meetings, submit suggestions to district staff, and use the district's complaint procedures as appropriate.

(cf. 0460 - Local Control and Accountability Plan)

(cf. 1220 - Citizen Advisory Committees)

(cf. 1230 - School-Connected Organizations)

(cf. 1240 - Volunteer Assistance)

(cf. 1250 - Visitors/Outsiders)

(cf. 1260 - Educational Foundation)

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.2 - Complaints Concerning Instructional Materials)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

(cf. 3555 - Nutrition Program Compliance)

COMMUNICATION WITH THE PUBLIC (continued)

(cf. 6020 - Parent Involvement)

(cf. 9322 - Agenda/Meeting Materials)

(cf. 9323 - Meeting Conduct)

Prohibition Against Mass Mailings at Public Expense

Note: Education Code 7054 and 2 CCR 18901.1 prohibit the use of public funds for a mass mailing that (1) expressly advocates the election or defeat of a candidate or the qualification, passage, or defeat of a ballot measure or (2) if taken in context, unambiguously urges an election result. Violation of these provisions could result in an enforcement action by the Fair Political Practices Commission. See BP 1160 - Political Processes for language regarding the use of district funds for activities related to ballot measures, candidates, or lobbying.

~~Any~~ Newsletters or mass mailings regarding ballot measures, candidates, legislative activities, or any other campaign activities shall be sent and distributed in accordance with law and Board policy.

(cf. 1160 - Political Processes)

Note: Government Code 82041.5, and 89001, and 89002 and 2 CCR 18901 prohibit the use of public funds for a mass mailing which features a Board member or includes the name, signature, or photograph of a Board member, except as specifically allowed by law. "Mass mailing" is defined as over 200 substantially similar pieces of mail sent in a single calendar month or course of an election. A "mass mailing" does not include form letters or mail sent in response to an unsolicited request, letter, or other inquiry, or permissible informational materials otherwise authorized by law. **Government Code 89002**. Because these laws are very complex, with complicated definitions and numerous exceptions, districts should consult with legal counsel if there is a question about the appropriateness of a planned mailing.

In addition, Education Code 7054 and 2 CCR 18901.1 prohibit the use of public funds for a mass mailing that (1) expressly advocates the election or defeat of a candidate or the qualification, passage, or defeat of a ballot measure or (2) if taken in context, unambiguously urges an election result. Violation of these provisions could result in an enforcement action by the Fair Political Practices Commission. See BP 1160 - Political Processes for language regarding the use of district funds for activities related to ballot measures, candidates, or lobbying. Because these laws are very complex, with complicated definitions and numerous exceptions, districts should consult with legal counsel if there is a question about the appropriateness of a planned mailing.

No newsletter or other mass mailing, as defined in Government Code 82041.5 and 2 CCR 18901 shall be sent by the district at public expense if such material aggrandizes one or more Board members. The name, signature, or photograph of a Board member may be included in such materials only as permitted by 2 CCR 18901. (Government Code 82041.5, 89001; 2 CCR 18901)

~~Any newsletter or mass mailing regarding ballot measures, candidates, legislative activities, or any other campaign activities shall be sent and distributed in accordance with law and Board policy.~~

COMMUNICATION WITH THE PUBLIC (continued)

(cf. 1160—Political Processes)

A mass mailing is prohibited if all of the following criteria are met: (Government Code 89001-89002)

- 1. The mailing involves sending a tangible item, such as a videotape, record, button, or written document, which is delivered by any means to recipients at their residence, place of employment or business, or post office box**
- 2. The item features a Board member or includes the name, office, photograph, or other reference to a Board member and is prepared or sent in cooperation, consultation, coordination, or concert with the Board member.**
- 3. The costs of distribution, or any costs of design, production, and printing exceeding \$50, are paid with district funds.**
- 4. More than 200 substantially similar items, as defined in Government Code 89002, are sent in a single calendar month.**

The above prohibition does not apply to the types of mass mailings specified in Government Code 89002(b), including, but not limited to: (Government Code 89002)

- 1. An item in which the Board member's name appears only in a roster containing the names of all Board members or in the letterhead or logotype of the stationery, forms, and envelopes of the district, a district committee, or the Board member**
- 2. An announcement including only a single mention of the Board member's name which concerns a public meeting related to the Board member's duties or any official district event(s) for which the district is providing the use of its facilities, staff, or other financial support**
- 3. A business card that contains only one mention of the Board member's name and no photograph of the Board member**

However, any of the excepted mailings listed in items #1-3 above that meets the criteria for prohibited mass mailings shall not be sent within 60 days preceding an election in which a Board member to whom the mailing relates will appear on the ballot as a candidate. (Government Code 89003)

COMMUNICATION WITH THE PUBLIC (continued)

Comprehensive Communications Plan

Note: **The following optional section may be revised to reflect district practice.** A comprehensive district communications plan may include strategies for internal and external communications on issues that are important to the district and community. The plan also may incorporate specific communications strategies required by other Board policies and administrative regulations. For example, see AR 0450 - Comprehensive Safety Plan, BP 1112 - Media Relations, AR 3516 - Emergencies and Disaster Preparedness Plan, and BP/AR 6020 - Parent Involvement.

The Superintendent or designee shall develop a written communications plan which establishes priorities for proactive community outreach to build support for district programs and issues. The plan shall identify specific communications goals aligned with the district's vision and goals for student learning. For each communications goal, the plan shall identify key messages, individuals or groups that can help the district achieve its goal, strategies tailored to each target audience, timelines, persons responsible for each activity, and budget implications.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

As appropriate for each issue, target audiences may include parents/guardians, the media, local governmental agencies, businesses, community organizations and civic groups, postsecondary institutions, health care professionals, child care providers, community leaders, state or federal legislators or agencies, and/or other segments of the public.

The plan shall incorporate strategies for effective communications during a crisis or other emergency situation that may arise.

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

The Superintendent or designee shall periodically evaluate the implementation and effectiveness of the district's communications plan and recommend to the Board whether the goals and key issues identified in the plan need to be revised to meet changing circumstances or priorities.

Legal Reference: (see next page)

COMMUNICATION WITH THE PUBLIC (continued)

Legal Reference:

EDUCATION CODE

7054 *Use of district property or funds re: ballot measures and candidates*

35145.5 *Board meetings, public participation*

35172 *Promotional activities*

38130-38138 *Civic Center Act*

48980-48985 *Parental notifications*

GOVERNMENT CODE

54957.5 *Meeting agendas and materials*

82041.5 *Mass mailing*

89001-**89003** *Newsletter or mass mailing*

CODE OF REGULATIONS, TITLE 2

~~18901~~ *Mass mailings sent at public expense*

18901.1 *Campaign-related mailings sent at public expense*

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 *Americans with Disabilities Act*

Management Resources:

WEB SITES

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

California School Public Relations Association: <http://www.calspra.org>

Fair Political Practices Commission: <http://www.fppc.ca.gov>

(3/08 3/11) 10/18

CSBA Sample

Board Policy

Business and Noninstructional Operations

BP 3290(a)

GIFTS, GRANTS AND BEQUESTS

Note: Education Code 41032 authorizes the Governing Board to accept gifts on behalf of the district and to prescribe conditions for their acceptance. Criteria listed in this **optional** policy may be revised to reflect district practice.

The Governing Board may accept any gift, grant, or bequest of money, property, or service to the district from any individual, **private agency or** organization, **foundation**, or **other public or private** agency that desires to support the district's educational program. While greatly appreciating suitable donations, the Board shall reject any gift which may directly or indirectly impair its authority to make decisions in the best interest of district students or its ability or commitment to provide equitable educational opportunities.

(cf. 0100 - Philosophy)
(cf. 0200 - Goals for the School District)
(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 0415 - Equity)
(cf. 1260 - Educational Foundation)
(cf. 9270 - Conflict of Interest)

Note: A donor may impose restrictions and conditions on the use of a gift. Unless the conditions are illegal, the district will be subject to those conditions if it accepts the gift.

Before accepting any gift, grant, or bequest, the Board shall carefully consider any conditions or restrictions imposed by the donor to ensure their consistency with the district's vision, philosophy, and operations. If the Board believes the district will be unable to fully satisfy the donor's conditions, the gift shall not be accepted.

(cf. 0000 - Vision)
(cf. 0100 - Philosophy)

In addition, the Board shall ensure that acceptance of the gift, grant, or bequest does not:

1. Involve creation of a program which the Board would be unable to sustain when the donation is exhausted
2. Entail undesirable or excessive costs
3. Promote the use of violence, drugs, tobacco, or alcohol **or the violation of any law or district policy**

(cf. 5131.6 - Alcohol and Other Drugs)
(cf. 5131.62 - Tobacco)

GIFTS, GRANTS AND BEQUESTS (continued)

(cf. 5030 - Student Wellness)

4. Encourage or enable the violation of any law or district policy

4.5. Imply endorsement of any business or product or unduly commercialize or politicize the school environment

(cf. 1325 - Advertising and Promotion)

Any gift of books **and or** instructional materials **shall may** be accepted **only** if they meet **regular** district criteria for selection of instructional materials.

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

(cf. 6161.11 - Supplementary Instructional Materials)

All gifts, grants, and bequests shall become district property. Donors are encouraged to donate all gifts to the district rather than to a particular school, **classroom, or teacher**. At the Superintendent or designee's discretion, a gift may be used at a particular school **or classroom**.

Note: Education Code 41030 allows districts to invest monies gifted to them when not immediately needed. Education Code 41031 requires that such funds be placed in a district special fund in the county treasury and designated as the Foundation Fund. Funds donated for specific purposes must be placed in a separate account in that fund. **Pursuant to Education Code 41035-41038, districts Boards** that place money in a foundation fund pursuant to these laws must adopt related rules and regulations and appoint an advisory committee to advise the board about investments to be made. **(Education Code 41035-41038)**

When any gift of money received by the district is not immediately used, it shall be placed in the county treasury in accordance with law. (Education Code 41030-41031)

(cf. 3430 - Investing)

The Superintendent or designee shall annually provide a report to the Board indicating the gifts, grants, and/or bequests received on behalf of the district in the preceding fiscal year. The report shall include a statement of account and expenditure of all gifts of money and an inventory of all gifts of physical assets.

(cf. 3440 - Inventories)

(cf. 3460 - Financial Reports and Accountability)

GIFTS, GRANTS AND BEQUESTS (continued)

Appreciation

The Board may show appreciation for any donation to the district in any manner it deems appropriate. Such appreciation may take the form of letters of recognition or Board resolutions; plaques, commendations, or awards; planting of commemorative trees or gardens; or naming or renaming of buildings, grounds, or facilities. Conferment of any such honor shall be in accordance with applicable Board policy.

(cf. 1150 - Commendations and Awards)

(cf. 7310 - Naming of Facility)

Corporate Sponsorship

Note: **Under the general authority granted to boards pursuant to Education Code 35160, the Board is authorized to enter into a corporate sponsorship agreement** with an outside entity including for-profit and nonprofit corporations. In exchange for funds, products, and services provided by such entities, the Board may allow them to advertise and/or promote their products and services within district buildings or facilities. The Board may set guidelines for entering into such agreements to ensure that they are limited to appropriate matters. Standards related to advertising and promotions are addressed in BP 1325 - Advertising and Promotion. The Board may revise the following **optional** section to ensure consistency with those standards.

The Board may enter into an agreement or arrangement with an outside entity for the sponsorship of an educational, athletic, or other program or activity. When appropriate, the agreement may allow the outside entity to advertise or promote its business, product, or service in district publications or on district property or web sites.

(cf. 1113 - District and School Web Sites)

(cf. 1700 - Relations Between Private Industry and the Schools)

(cf. 3312 - Contracts)

(cf. 6145.2 - Athletic Competition)

Every sponsorship agreement shall be in writing and shall be approved by the Board. The Board shall ensure that the district's relationship and arrangement with the sponsor are consistent with the district's mission, values, and goals. Any advertising or promotional message, image, or other depiction to be used by the sponsor shall meet the standards set for commercial advertising on district property and in district-sponsored publications **in accordance with BP 1325 - Advertising and Promotion. No message, image, or other depiction that promotes the use of obscene language, pornography, alcohol, tobacco, or prohibited drugs or that advocates unlawful discrimination, use of violence, or the violation of law or district policy shall be allowed.**

Each sponsorship agreement shall contain statements including, but not limited to:

1. The purpose of the relationship with the sponsor, details of the benefits to the district, and how the benefits will be distributed;

GIFTS, GRANTS AND BEQUESTS (continued)

2. The duration of the agreement and the roles, expectations, rights, and responsibilities of the district and the sponsor, including whether and to what extent the sponsor is allowed to advertise or promote its products and/or services.
3. The authority of the Board to retain exclusive right over the use of the district's name, logo, and other proprietary information **and the requirement that the sponsor obtain prior approval of the Board before using such information.** ~~The sponsor's use of such information shall require prior approval of the Board.~~
- ~~5.~~ **4.** The prohibition against the collection **or distribution** of students' personal information except as allowed by law.
- ~~4.~~ **5.** The authority of the Board to terminate the agreement without any penalty or sanction to the district if the sponsor's message, business, or product becomes inconsistent with **the** district's vision, mission, or goals or the sponsor engages in any prohibited activity.
- ~~5.~~ ~~The prohibition against the collection of students' personal information except as allowed by law.~~

(cf. 5022 - Student and Family Privacy Rights)

(cf. 5125 - Student Records)

Online Fundraising

Note: The following optional section addresses the practice of using a crowdfunding Internet platform (e.g., GoFundMe, PledgeCents, Donors Choose, etc.) to raise funds for district, school or classroom projects or equipment and may be revised to reflect district practice.

Any person or entity who wishes to conduct an online fundraising campaign, including a crowdfunding campaign, for the benefit of the district, a school, or a classroom shall submit a written request for prior approval to the Superintendent or designee. Approval of requests shall take into consideration compatibility with the district's vision and goals, core beliefs, instructional priorities, and infrastructure; the manner in which donations are collected and distributed; equity of the use of funds; and any other factors deemed relevant or appropriate by the district.

Any person or entity approved to conduct an online fundraising campaign shall comply with relevant district policies and procedures, including ensuring financial transparency in describing the purpose and use of the funds and protecting student privacy as applicable. Such person or entity shall specify that the district, rather than a staff member, classroom, or school, will own the funded resources.

GIFTS, GRANTS AND BEQUESTS (continued)

Funds raised by an online fundraising campaign and donated to the district shall be subject to the same terms, criteria for acceptance, and accountability measures as any other donation as specified in this policy.

Appreciation

The Board may show appreciation for any donation to the district in any manner it deems appropriate. Such appreciation may take the form of letters of recognition or Board resolutions; plaques, commendations, or awards; planting of commemorative trees or gardens; or naming or renaming of buildings, grounds, or facilities. Conferment of any such honor shall be in accordance with applicable Board policy.

(cf. 1150 - Commendations and Awards)

(cf. 7310 - Naming of Facility)

Legal Reference:

EDUCATION CODE

1834 Acquisition of materials and apparatus

35160 Powers and duties

35162 Power to sue, be sued, hold and convey property

41030 School district may invest surplus monies from bequest or gifts

41031 Special fund or account in county treasury

41032 Authority of school board to accept gift or bequest; investments; gift of land requirements

41035 Advisory committee

41036 Function of advisory committee

41037 Rules and regulations

41038 Applicability of other provisions of chapter

Management Resources:

WEB SITES

California Consortium of Education Foundations: <http://www.cceflink.org>

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CSBA Sample Administrative Regulation

Business and Noninstructional Operations

AR 3320(a)

CLAIMS AND ACTIONS AGAINST THE DISTRICT

Note: The Government Claims Act (Government Code 810-996.6) sets forth prelitigation requirements and deadlines for claims against public entities, including school districts, ~~as well as statute of limitations and other requirements for lawsuits~~. In City of Stockton v. Superior Court, the California Supreme Court held that the claim requirements in Government Code 900-915.4 also apply to claims for breach of contract.

Because a district's insurance carrier or joint powers authority (JPA) may require the district to comply with certain claims management conditions as part of the district's contractual coverage obligation, it is strongly recommended that this administrative regulation be reviewed for consistency with any applicable conditions of coverage. A district's failure to follow those contractual conditions may result in a loss of coverage benefits. The district's risk manager and legal counsel should also be consulted, as appropriate.

Time Limitations

Note: Items #1-~~3-4~~ below list timelines for ~~presentation of~~ claims pursuant to the Government Claims Act ~~and other applicable statutes~~. If a claimant misses a deadline for a claim required to be submitted in accordance with item #1 or #3 below, he/she may present an application to present a late claim pursuant to Government Code 911.4; see section below entitled "Late Claims." As amended by SB 1053 (Ch. 153, Statutes of 2018), Government Code 935 clarifies that the authority of a district to adopt local claims presentation procedures for causes of action which are excepted from the Government Claims Act by Government Code 905 and are not governed by other statutes or regulations does not apply to childhood sexual abuse. Rather, claims for childhood sexual abuse are governed by the timelines and procedures specified in Code of Civil Procedure 340.1.

The following time limitations apply to claims against the district:

- 1. Claims for money or damages relating to any cause of action which is governed by a statute or regulation, including childhood sexual abuse and other causes of action specifically excepted from the Government Claims Act by Government Code 905, shall be filed in accordance with the governing statute or regulation. (Government Code 905, 935)**
- ~~1. Claims for money or damages relating to a cause of action for death or for injury to person, personal property, or growing crops shall be presented to the Governing Board not later than six months after the accrual of the cause of action. (Government Code 905, 911.2)~~
- ~~2. Claims for money or damages as authorized in Government Code 905 and not included in item #1 above shall be filed not later than one year after the accrual of the cause of action. (Government Code 905, 911.2)~~

CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)

Note: Pursuant to Government Code 935, a district may establish its own procedure for the presentation of those claims which are excluded from the Government Claims Act as specified in Government Code 905. **Optional** item **#3 #2** below is for use by any district whose board has chosen to exercise the authority to establish district procedures for such claims; see the accompanying Board policy. Item **#3 #2** provides six months as the time limitation for filing such claims, which is consistent with the requirement in Government Code 935 that the district's procedure not require a shorter time for presentation of a claim than the time specified in Government Code 911.2. However, the Governing Board has the discretion to adopt a more flexible time limitation and may increase the amount of time allowed for filing such claims. If the Board adopts a more flexible time limitation, ~~the following paragraph~~ **item #2** should be revised accordingly. ~~In *Big Oak Flat Groveland Unified School District v. Superior Court of Tuolumne County*, the appellate court ruled that a claim of childhood sexual abuse, which is excepted from the Government Claims Act pursuant to Government Code 905, should have been presented to the district under the district procedures established pursuant to Government Code 935 prior to the filing of the lawsuit on that claim.~~

If a claimant misses a deadline for a claim required to be submitted in accordance with item ~~#1~~ **#2** or **#3** below, he/she may present an application to present a late claim pursuant to Government Code 911.4; see section below entitled "Late Claims."

3.2. In accordance with the Board's authority pursuant to Government Code 935, claims for money or damages which **are relate to any cause of action** specifically **exempted excepted** from the Government Claims Act by Government Code 905 **and but which** are not governed by any other claims presentation statute or regulation shall be filed not later than six months after the accrual of the cause of action. (Government Code 905, **911.2**, 935)

~~1. 3.~~ Claims for money or damages relating to a cause of action for death or for injury to person, personal property, or growing crops shall be presented to the Governing Board not later than six months after the accrual of the cause of action. (Government Code **905**, 911.2)

~~2. 4.~~ Claims for money or damages ~~as authorized in Government Code 905 and not included in item #1 above~~ **relating to any other cause of action** shall be filed not later than one year after the accrual of the cause of action. (Government Code **905**, 911.2)

Receipt of Claims

A claim, any amendment thereto, or an application to present a late claim shall be deemed presented and received when delivered to the district office or deposited in a post office, mailbox, sub-post office, substation, mail chute, or other similar facility maintained by the U.S. government, in a sealed envelope properly addressed to the district office with postage paid, or when otherwise actually received in the district office or by the Board secretary or clerk. (Government Code 915, 915.2)

Note: In most circumstances, a district's insurance provider or JPA **is** responsible for claims management, including investigating, defending, and managing a district's response to a claim presented under the

CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)

Government Claims Act. The following paragraph requires the Superintendent or designee to immediately forward any claims received to the district's JPA or insurance provider in order to help ensure compliance with any conditions of coverage.

Upon receipt of a claim against the district pursuant to the Government Claims Act, the Superintendent or designee shall promptly provide written notice to the district's joint powers authority or insurance carrier in accordance with the applicable conditions of coverage.

Review of Contents of the Claim

Note: Most JPAs and insurance carriers provide a claim form. The person submitting the claim need not use the claim form provided by the district, but, pursuant to Government Code 910 and 910.2, the claim must contain a signature and all of the information listed below.

The Superintendent or designee shall review any claim received to ensure that the claim contains all of the following information as specified in Government Code 910 and 910.2:

1. The name and post office address of the claimant
2. The post office address to which the person presenting the claim desires notices to be sent
3. The date, place, and other circumstances of the occurrence or transaction which gave rise to the claim asserted
4. A general description of the indebtedness, obligation, injury, damage, or loss incurred insofar as it may be known at the time of presentation of the claim
5. The name(s) of the district employee(s) causing the injury, damage, or loss if known
6. The amount claimed if it totals less than \$10,000, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the claim, together with the basis of computation of the amount claimed. If the amount claimed exceeds \$10,000, the dollar amount shall not be included in the claim and the claimant shall indicate whether the claim is a limited civil case.
7. The signature of the claimant or the person acting on his/her behalf

Notice of Claim Insufficiency

Note: Pursuant to Government Code 911, if the district, or the JPA or insurance carrier acting on the district's behalf, fails to give notice that the claim is insufficient, as specified below, then the district may not later raise that issue as a defense to the claim.

CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)

If a claim is found insufficient or not to satisfy the form requirements under Government Code 910 and 910.2, the Board or its designee shall, within 20 days of receipt of the claim, personally deliver or mail to the claimant, at the address stated in the claim or application, a notice that states the particular defects or omission in the claim. (Government Code 910.8, 915.4)

Note: Districts should be cautious before rejecting a claim because of insufficiency of information and consult legal counsel and/or the district's JPA or insurance provider, as appropriate. Courts have held that a claim is sufficient as long as enough information is disclosed to allow the district to adequately conduct an investigation of the claim's merits.

The Board shall not act upon the claim until at least 15 days after such notice is given. (Government Code 910.8)

Amendment to Claims

Within the time limits provided in the section "Time Limitations" above or prior to final action by the Board, whichever is later, a claim may be amended if, as amended, it relates to the same transaction or occurrence which gave rise to the original claim. (Government Code 910.6)

Late Claims

Note: The reference to item ~~#3~~ **#2** in the following paragraph should be deleted if the district has not established district procedures pursuant to Government Code 935 for claims that are specifically exempted in **Government** Code 905 or adopted a time limitation that is not less than one year (see the accompanying Board policy and item ~~#3~~ **#2** in the section "Time Limitations" above).

For claims under items ~~#3~~ **#1** **#2** and #3 in the section "Time Limitations" above, any person who presents a claim later than six months after the accrual of the cause of action shall present, along with the claim, an application to present a late claim. Such claim and the application to present a late claim shall be presented not later than one year after the accrual of the cause of action. (Government Code 905, 911.4)

Note: If the claim is presented late and is not accompanied by an application to present a late claim, the Board or its agent should notify the claimant that "no action" was taken because the claim was presented late. If the Board were to state that the claim was "rejected," this would indicate that the Board had accepted the filing of the late claim and taken action to reject it.

If the claim is presented late and is not accompanied by an application to present a late claim, the Board or its designee may, within 45 days, give written notice that the claim was not presented timely and that it is being returned without further action. (Government Code 911.3)

CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)

The Board shall grant or deny the application to present a late claim within 45 days after it is presented. This 45-day period may be extended by written agreement of the claimant and the Board provided that such agreement is made before the expiration of the 45-day period. (Government Code 911.6)

The Board shall grant the application to present a late claim where one or more of the following conditions are applicable: (Government Code 911.6)

1. The failure to present the claim was through mistake, inadvertence, surprise, or excusable neglect and the district was not prejudiced in its defense regarding the claim by the claimant's failure to present the claim within the time limit.
2. The person who sustained the alleged injury, damage, or loss was a minor during all of the time specified for presentation of the claim.
3. The person who sustained the alleged injury, damage, or loss was physically or mentally incapacitated during all of the time specified for presentation of the claim and the disability was the reason he/she failed to present the claim.
4. The person who sustained the alleged injury, damage, or loss died before the expiration of the time specified for the presentation of the claim.

If the application to present a late claim is denied, the claimant shall be given notice in substantially the same form as set forth in Government Code 911.8. (Government Code 911.8)

If the Board does not take action on the application to present a late claim within 45 days, the application shall be deemed to have been denied on the 45th day unless the time period has been extended, in which case it shall be denied on the last day of the period specified in the extension agreement. (Government Code 911.6)

Action on Claims

Note: If the Board formally acts to reject a claim and provides notice of such rejection, the claimant has only six months from the rejection to initiate a lawsuit. If the Board takes no action, the claim is considered to be rejected, but the claimant then has two years to initiate a suit against the district. The notice of rejection must comply with the notification requirements of Government Code 913 unless the claim has no address on it.

Although the Board takes final action on claims as specified below, such action is based on the evaluation of the claim by the district's insurance provider or JPA.

Within 45 days after the presentation or amendment of a claim, the Board shall take action on the claim. This time limit may be extended by written agreement between the district and the

CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)

claimant before the expiration of the 45-day period. If the 45-day period has expired, the time limit may be extended if legal action has not commenced or been barred by legal limitations. (Government Code 912.4)

The Board may act on the claim in one of the following ways: (Government Code 912.4, 912.6)

1. If the Board finds that the claim is not a proper charge against the district, the claim shall be rejected.
2. If the Board finds that the claim is a proper charge against the district and is for an amount justly due, the claim shall be allowed.
3. If the Board finds that the claim is a proper charge against the district but is for an amount greater than is justly due, the Board shall either reject the claim or allow it in the amount justly due and reject it as to the balance.
4. If legal liability of the district or the amount justly due is disputed, the Board may reject or compromise the claim.
5. If the Board takes no action on the claim, the claim shall be deemed rejected.

If the Board allows the claim in whole or in part or compromises the claim and the claimant accepts the amount allowed or offered to settle the claim, the Board may require the claimant to accept it in settlement of the entire claim. (Government Code 912.6)

The Board or its designee shall transmit to the claimant written notice of action taken or of inaction which is deemed rejection. The notice shall be in the form set forth in Government Code 913 and shall either be personally delivered or mailed to the address stated in the claim or application. (Government Code 913, 915.4)

(3/10 7/18) 10/18

CSBA Sample

Administrative Regulation

Business and Noninstructional Operations

AR 3460(a)

FINANCIAL REPORTS AND ACCOUNTABILITY

Interim Reports

Note: Education Code 42130 requires that the district issue two interim fiscal reports; see the accompanying Board policy for information about the use of these reports to certify whether the district will be able to meet its fiscal obligations for the remainder of the fiscal year and, based on current forecasts, for the two subsequent fiscal years.

Each interim fiscal report developed pursuant to Education Code 42130 shall include an assessment of the district budget as revised to reflect current information regarding the adopted state budget, district property tax revenues, if any, and ending balances for the preceding fiscal year. (Education Code 42130, 42131)

Note: Interim reports must be based on the criteria and standards adopted by the State Board of Education (SBE) pursuant to Education Code 33127. These criteria and standards are specified in 5 CCR 15453-15464 and address the areas listed below.

The interim reports shall be based on State Board of Education (SBE) criteria and standards which address fund and cash balances, reserves, deficit spending, estimation of average daily attendance (ADA), projected enrollment, ratio of ADA to enrollment, projected local control funding formula (LCFF) revenue, salaries and benefits, other revenues and expenditures, and facilities maintenance. For purposes of assessing projections of LCFF revenue, the first interim report shall be compared to the adopted district budget, and the second interim report shall be compared to the projections in the first interim report. (Education Code 42130; 5 CCR 15453-15464)

(cf. 3100 - Budget)

(cf. 3220.1 - Lottery Funds)

(cf. 3300 - Expenditures and Purchases)

(cf. 3314 - Payment for Goods and Services)

The report shall also provide supplemental information regarding contingent liabilities, use of one-time revenues for ongoing expenditures, contingent revenues, contributions (i.e., projected contributions from unrestricted general fund resources to restricted general fund resources, projected transfers to or from the general fund to cover operating deficits in the general fund or any other fund, and capital project cost overruns that may impact the general fund budget), long-term commitments, unfunded liabilities, temporary interfund borrowings, the status of labor agreements, and the status of other funds. (Education Code 42130; 5 CCR 15453, 15464)

(cf. 3110 - Transfer of Funds)

FINANCIAL REPORTS AND ACCOUNTABILITY (continued)

Audit Report

Note: Pursuant to Education Code 41020, each year the district is required to arrange for an independent audit of all the district's funds. The audit must be approved by the Governing Board and submitted to the County Superintendent of Schools, California Department of Education (CDE), and State Controller within specified timelines. See the accompanying Board policy.

The Superintendent or designee shall establish a timetable for the completion and review of the annual audit within the deadlines established by law.

Note: The following paragraph is **optional**. Governmental Accounting Standards Board (GASB) Statement 34 contains requirements for the contents of the district's annual audited financial reports.

The Superintendent or designee shall provide the necessary financial records and cooperate with the auditor selected by the Governing Board to ensure that the audit report contains all information required by law and the Governmental Accounting Standards Board (GASB).

Note: Pursuant to Education Code 41020, the audit must include an audit of income and expenditures for all district funds, as provided below. Additionally, Education Code 41020 requires that the audit include a determination of whether funds were expended in accordance with the district's local control and accountability plan (LCAP). Pursuant to Education Code 52061, the annual update to the LCAP must list expenditures for specific actions to be taken to achieve the goals in the LCAP, including expenditures for services to English learners, foster youth, and students eligible for free and reduced-price meals. See BP/AR 0460 - Local Control and Accountability Plan for requirements pertaining to the LCAP.

The audit shall include an audit of income and expenditures by source of funds for all funds of the district, including the student body and cafeteria funds and accounts, state and federal grant funds, and any other funds under the control or jurisdiction of the district, as well as an audit of student attendance procedures. The audit shall also include a determination of whether LCFF funds were expended in accordance with the district's local control and accountability plan or an approved annual update of the plan. (Education Code 41020)

(cf. 0460 - Local Control and Accountability Plan)
(cf. 3230 - Federal Grant Funds)
(cf. 3430 - Investing)
(cf. 3451 - Petty Cash Funds)
(cf. 3452 - Student Activity Funds)
(cf. 3551 - Food Service Operations/Cafeteria Fund)

Note: The following **optional** paragraph is for use by districts that elect to participate in the school district of choice program (Education Code 48300-48316); see BP/AR 5117 - Interdistrict Attendance. Pursuant to Education Code 48301, any district that elects to participate in the school district of choice program must ensure that its annual financial audit includes a review of the district's compliance with program requirements to establish a random, unbiased process for student admittance and to provide appropriate and factually accurate parent/guardian communications. A summary of any audit exceptions found by the auditor must be included in reports to each geographically adjacent school district, the county office of education, CDE, and Department of Finance as required by Education Code 48313.

FINANCIAL REPORTS AND ACCOUNTABILITY (continued)

If the district participates in the school district of choice program to accept interdistrict transfers, the Superintendent or designee shall notify the auditor, prior to the commencement of the audit, that the audit must include a review of the district's compliance with specified program requirements. (Education Code 48301)

(cf. 5117 - Interdistrict Attendance)

Note: Pursuant to Education Code 41344 and 41344.1, the district may appeal to the Education Audit Appeals Panel (EAAP) when an audit finding requires the district to repay an apportionment or pay a penalty. If the EAAP finds that there has been substantial compliance with the law, it may waive or reduce repayments or order other remedial measures to induce future compliance.

If an audit finding results in the district being required to repay an apportionment or pay a penalty, the district may appeal the finding to the Education Audit Appeals Panel by making an informal summary appeal within 30 days of receiving the final audit report or initiating a formal appeal within 60 days of receiving the report. (Education Code 41344, 41344.1)

While a public accounting firm is performing the audit of the district, it shall not provide any nonauditing, management, or other consulting services for the district except as provided in Government Auditing Standards, Amendment #3, published by the U.S. Government Accountability Office. (Education Code 41020)

Report on Expenditures of State Facilities Funds

Note: Pursuant to Education Code 41024, as added by AB 99 (Ch. 15, Statutes of 2017) and amended by AB 1808 (Ch. 32, Statutes of 2018), districts that receive state facilities funding pursuant to the Leroy F. Greene School Facilities Act (Education Code 17070.10-17079.30) must annually report a detailed list of all expenditures of state funds, including interest, and of the district's matching funds for completed projects. Education Code 41024 requires that an audit of completed facilities projects be submitted within one year of project completion.

Education Code 41024 requires CDE to provide the Office of Public School Construction with a copy of the audit identifying any adjustments to be made in grant funding as a result of the audit findings. The district may appeal any finding in accordance with the timelines and process specified in Education Code 41344.

When the district participates in the school facilities program pursuant to Education Code 17070.10-17079.30, the Superintendent or designee shall annually report a detailed list of all expenditures of state facilities funds, including interest, and of the district's matching funds for completed projects until all such funds are expended. The report shall identify expenditures on a project-by-project basis, reflect completed projects that were reimbursed within that fiscal year, and clearly indicate the list of projects that have been completed. (Education Code 41024; 2 CCR 1859.104)

FINANCIAL REPORTS AND ACCOUNTABILITY (continued)

Audits of facilities projects shall be concluded within one year of project completion, and shall be included as part of the district's audit for the fiscal year in which the project is reported as completed. A project shall be deemed completed when any of the following conditions is met: (Education Code 41024; 2 CCR 1859.104)

- 1. When the notice of completion for the project has been filed, all outstanding invoices, claims, and change orders have been satisfied, and the facility is currently in use by the district**
- 2. Three years from the date of the final fund release for an elementary school project**
- 3. Four years from the date of the final fund release for a middle or high school project**

Fund Balance

Note: The following **optional** section reflects GASB Statement 54, which addresses the manner in which fund balances in the general fund must be reported in external financial reports. Pursuant to GASB 54, the Board has sole authority to specify purposes of committed funds (item #3 below) and also must express, or **delegate** the authority to express, intended purposes of resources resulting in the assigned fund balance (item #4 below); see BP 3100 - Budget.

In accordance with GASB Statement 54, external financial reports shall report fund balances in the general fund within the following classifications based on the relative strength of constraints placed on the purposes for which resources can be used:

1. Nonspendable fund balance, including amounts that are not expected to be converted to cash, such as resources that are not in a spendable form or are legally or contractually required to be maintained intact
2. Restricted fund balance, including amounts constrained to specific purposes by their providers or by law
3. Committed fund balance, including amounts constrained to specific purposes by the Board
4. Assigned fund balance, including amounts which the Board, **Superintendent or Chief Business Officer** or its designee intends to use for a specific purpose
5. Unassigned fund balance, including amounts that are available for any purpose

FINANCIAL REPORTS AND ACCOUNTABILITY (continued)**Negative Balance Report**

Note: When applicable, Education Code 42127.5 requires districts to report the reasons for a negative unrestricted fund balance or negative cash balance. "Unrestricted funds" are any funds that are not constrained by law to be spent on specific purposes and which therefore may be spent as the Board deems appropriate. Such funds may be reported in the committed fund balance, assigned fund balance, or unassigned fund balance as provided in items #3-5 in the section "Fund Balance" above.

Whenever the district reports a negative unrestricted fund balance or a negative cash balance in its annual budget or annual audit report, it shall include in the budget a statement that identifies the reasons for the negative unrestricted fund balance or negative cash balance and the steps that have been taken to ensure that the negative balance will not occur at the end of the current fiscal year. (Education Code 42127.5)

Non-Voter-Approved Debt Report

Note: The following section addresses notices regarding the issuance of revenue bonds, certificates of participation, and other non-voter-approved debts. Pursuant to Education Code 17150 and 17150.1, the County Superintendent and county auditor may, within 15 days of receiving these notices from the district, comment publicly to the Board regarding the capability of the district to repay the debt obligation.

Pursuant to Education Code 42133, a district that has a qualified or negative certification in any fiscal year cannot issue non-voter-approved debt in that fiscal year or in the next fiscal year unless the County Superintendent determines that the district's repayment of the debt is probable.

Upon approval by the Board to proceed with the issuance of revenue bonds or any agreement for financing school construction pursuant to Education Code 17170-17199.5, the Superintendent or designee shall notify the County Superintendent of Schools and the county auditor. The Superintendent or designee shall provide the Board, the county auditor, the County Superintendent, and the public with related repayment schedules and evidence of the district's ability to repay the obligation. (Education Code 17150)

(cf. 3470 - Debt Issuance and Management)

(cf. 7214 - General Obligation Bonds)

When the Board is considering the issuance of certificates of participation and other debt instruments that are secured by real property and do not require the approval of the voters of the district, the Superintendent or designee shall provide notice to the County Superintendent and county auditor no later than 30 days before the Board's approval to proceed with issuance. The Superintendent or designee shall provide the Board, the county auditor, the County Superintendent, and the public with information necessary to assess the anticipated effect of the debt issuance, including related repayment schedules, evidence of the district's ability to repay the obligation, and the issuance costs. (Education Code 17150.1)

FINANCIAL REPORTS AND ACCOUNTABILITY (continued)

Other Postemployment Benefits Report

Note: The following section reflects GASB Statement 75, which replaces Statement 45 for fiscal years beginning after June 15, 2017 or sooner at the district's discretion. GASB 75 contains reporting requirements pertaining to "other postemployment benefits" (OPEBs) (i.e., medical, dental, vision, hearing, life insurance, long-term care, long-term disability, and other nonpension benefits for retired employees). Under GASB 75, districts that do not provide OPEB through a trust are required to report the total unfunded liability (i.e., OPEBs that are not prefunded), as calculated in the most recent actuary report, in the district's financial statements. Previously, districts were allowed to amortize the unfunded liability over a period of up to 30 years and report the annual amount in financial statements. The decision of whether to prefund the benefits, and by how much, is at the Board's discretion; see BP 3100 - Budget.

The SBE's criteria and standards for budget adoption (5 CCR 15440-15451) require districts to estimate unfunded OPEBs as well as the unfunded portion of any self-insured benefits program. Changes to the unfunded liabilities are disclosed at interim reporting periods pursuant to 5 CCR 15453 and 15464. These reports are included in the state's standardized account code structure software used to develop budget and interim reports.

CSBA's OPEB Solutions Program provides access to qualified actuaries and consultants and a GASB 45-75-compliant trust to prefund future obligations. See CSBA's web site for further information.

The following **optional** section may be revised to reflect district practice and should be deleted by districts that do not provide OPEBs.

In accordance with GASB Statement 75, the district's financial statements shall report the expense of nonpension other postemployment benefits (OPEBs) on an accrual basis over retirees' active working lifetime, as determined by a qualified actuary procured by the Superintendent or designee. To the extent that these OPEBs are not prefunded, the district shall report a liability on its financial statements.

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

(cf. 9250 - Remuneration, Reimbursement and Other Benefits)

The Superintendent or designee shall annually present the estimated accrued but unfunded cost of OPEBs and the actuarial report upon which those costs are based at a public meeting of the Board. (Education Code 42140)

Note: Pursuant to GASB 75, the district must arrange for an actuary to update the valuation of its OPEB obligations every two years. The exception allowing OPEB plans with fewer than 200 members to perform the actuarial valuation every three years has been eliminated effective June 15, 2017. However, GASB 75 includes an option for the use of a specified alternative method in lieu of an actuarial valuation for purposes of determining the total OPEB liability for benefits provided through an OPEB plan with fewer than 100 members. Such districts may modify the following paragraph to reflect district practice.

The district's financial obligation for OPEBs shall be reevaluated every two years in accordance with GASB 75.

FINANCIAL REPORTS AND ACCOUNTABILITY (continued)

Workers' Compensation Claims Report

Note: The following **optional** section is for use by districts that are self-insured for workers' compensation claims, either individually or as part of a joint powers agency. See BP 3100 - Budget for provisions related to funding the estimated accrued cost of workers' compensation claims.

The Superintendent or designee shall annually provide the Board, at a public meeting, information and related actuarial reports showing the estimated accrued but unfunded cost of workers' compensation claims. The estimate of costs shall be based on an actuarial report completed at least every three years by a qualified actuary. (Education Code 42141)

(4/14 9/16) 10/18

CSBA Sample Board Policy

Certificated Personnel

BP 4114(a)

TRANSFERS

Note: The following optional policy is subject to collective bargaining agreements and should be revised to reflect district practice. ~~is for use by those districts that do not have transfer provisions included in the collective bargaining agreement with certificated employees. Those districts that have such provisions in the bargaining agreement may use and modify the following paragraph for consistency with the agreement.~~

The Governing Board desires that certificated staff be assigned in a manner that equitably distributes highly qualified and experienced teachers, meets the needs of district students, and satisfies staffing requirements at each school. The Superintendent or designee is authorized to assign certificated staff in accordance with district policy and/or the collective bargaining agreement as applicable.

(cf. 0415 - Equity)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4113 - Assignment)

(cf. 4141/4241- Collective Bargaining Agreement)

Subject to the approval of the **Governing** Board, the Superintendent or designee may transfer a teacher from one district school to another when he/she determines the transfer is in the best interest of the district. (Education Code 35035)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4113 - Assignment)

~~Such transfers shall be determined in accordance with the district's collective bargaining agreement with certificated employees.~~

(cf. 4141/4241 - Collective Bargaining Agreement)

Voluntary Transfers

The Superintendent or designee may establish processes and deadlines for the submission of transfer requests to facilitate staff assignments with minimal disruption to the educational program.

Upon receipt of a written transfer request by a teacher, the Superintendent or designee may consider the input of the principals at the current school and the requested school, alignment of the teacher's qualifications with needs of **students and** the school(s), **the academic performance of the requested school**, and opportunities for the professional growth of the teacher.

TRANSFERS (continued)

(cf. 4112.2 - Certification)

(cf. 4112.22 - Staff Teaching English Learners)

(cf. 4112.23 - Special Education Staff)

~~Note: SB 1655 (Ch. 518, Statutes of 2006) added Education Code 35036 to allow principals of schools ranked in deciles 1-3 on the Academic Performance Index to refuse a request of a teacher to transfer into the school, as specified below.~~

~~In addition, Education Code 35036, as added by SB 1655 (Ch. 518, Statutes of 2006), prohibits the Board from adopting a policy or regulation or entering into a collective bargaining agreement that, after April 15 prior to the school year that a transfer would become effective, assigns priority to a teacher who requests to be transferred to another school over other qualified teachers who have applied for positions requiring certification qualifications at that school.~~

~~If either of these provisions of Education Code 35036 conflicts with the terms of a collective bargaining agreement in effect on January 1, 2007, the provisions become operative upon the expiration of the agreement.~~

~~However, if the principal of a school ranked in deciles 1-3 on the Academic Performance Index refuses to accept a transfer request, the Superintendent or designee shall not transfer the teacher. (Education Code 35036)~~

~~*(cf. 0500 - Accountability)*~~

After April 15 prior to the school year that a transfer would become effective, no teacher who requests to be transferred to another school shall have priority over other qualified teachers who have applied for positions requiring certification qualifications at that school. (Education Code 35036)

Involuntary Transfers

Involuntary transfers may become necessary when programs are reduced or cancelled, when schools are closed, or when otherwise required in order to accommodate the school's staffing needs.

(cf. 4117.3 - Personnel Reduction)

If a teacher objects to a transfer, he/she may request a meeting with the Superintendent or designee and the principal. If dissatisfied with the results of this meeting, the teacher may appeal to the Board. The Board's decision shall be final.

Legal Reference: (see next page)

TRANSFERS (continued)

Legal Reference:

EDUCATION CODE

35035 *Additional powers and duties of superintendent, transfer authority*

35036 *Voluntary transfers*

35186 *Complaint process, teacher vacancy or misassignment*

37616 *Assignment of teachers to year-round schools*

GOVERNMENT CODE

3543.2 *Scope of representation*

CSBA Sample Board Policy

Students

BP 5141.6(a)

SCHOOL HEALTH SERVICES

Note: The following **optional** policy should be revised to reflect district practice. This policy addresses the provision of health services at or near school sites, ~~such as through (e.g.,~~ a school-based or school-linked health center or mobile van) **through the employment of or contract with health care professionals or community health centers**. Districts maintaining or planning to establish school health services are encouraged to ~~read-review~~ CSBA's policy brief entitled Expanding Access to School Health Services: Policy Considerations for Governing Boards.

Other CSBA sample policies and/or administrative regulations address specific health requirements and services for students. For example, see BP/AR 5141.21 - Administering Medication and Monitoring Health Conditions, AR 5141.24 - Specialized Health Care Services, BP/AR 5141.3 - Health Examinations, and AR 5141.32 - Health Screening for School Entry.

The Governing Board recognizes that good physical and mental health is critical to a student's ability to learn and believes that all students should have access to comprehensive health services. The district may provide access to health services at or near district schools through the establishment of a school health center and/or mobile van(s) that serve multiple campuses.

The Board and the Superintendent or designee shall collaborate with local and state agencies and health care providers to assess the health needs of students in district schools and the community. Based on the results of this needs assessment and the availability of resources, the Superintendent or designee shall recommend for Board approval the types of health services to be provided by the district.

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)

(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. 5141.21 - Administering Medication and Monitoring Health Conditions)

(cf. 5141.22 - Infectious Diseases)

(cf. 5141.23 - Asthma Management)

(cf. 5141.24 - Specialized Health Care Services)

(cf. 5141.25 - Availability of Condoms)

(cf. 5141.26 - Tuberculosis Testing)

(cf. 5141.3 - Health Examinations)

(cf. 5141.31 - Immunizations)

(cf. 5141.32 - Health Screening for School Entry)

(cf. 5141.33 - Head Lice)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

(cf. 5141.52 - Suicide Prevention)

(cf. 6145.2 - Athletic Competition)

(cf. 6159 - Individualized Education Program)

(cf. 6164.6 - Identification and Education Under Section 504)

SCHOOL HEALTH SERVICES (continued)

Note: School health centers are generally funded by a combination of insurance reimbursements; state, federal, and county grants; district funds; subsidies from community clinics or hospitals; and/or private donations. ~~In some cases, the provision of school health services has been supported by grants provided through the state's Healthy Start program (Education Code 8800 8807) although districts are expected to sustain programs and services after the grant period expires.~~

Board approval shall be required for any proposed use of district resources and facilities to support school health services. The Superintendent or designee shall identify funding opportunities available through grant programs, private foundations, and partnerships with local agencies and organizations.

(cf. 1260 - Educational Foundation)

(cf. 1330.1 - Joint Use Agreement)

(cf. 3100 - Budget)

(cf. 7000 - Facilities Master Plan)

Note: The following **optional** paragraph may be revised to reflect district practice. ~~Health and Safety Code 124174.6 establishes a grant program within the Public School Health Center Support Program to award funds to school health centers, if and when funds are appropriated in the State Budget. Preference for grant funding shall be given in accordance with the priorities specified below.~~

The Board may prioritize school health services to schools **serving students** with the greatest need, including schools with medically underserved populations, **and/or** a high percentage of low-income and uninsured children and youth. ~~, large numbers of English learners, Academic Performance Index rankings in deciles 1-3, and/or a shortage of health professionals in the community.~~

(cf. 0415 - Equity)

School health services shall be provided ~~or supervised by~~ **under the supervision of** a licensed health care professional. The Board may employ or contract with health care professionals or partner with community health centers to provide the services under the terms of a written contract or memorandum of understanding.

~~(cf. 1020 - Youth Services)~~

(cf. 3312 - Contracts)

If a school nurse is employed by the school or district, he/she shall be involved in planning and implementing the school health services as appropriate.

Note: The following **optional** paragraph may be revised to reflect district practice. The California Department of Education's Health Framework for California Public Schools recommends a coordinated school health approach which integrates health services, health education, physical education, parent/community involvement, nutrition services, psychological and counseling services, a safe and healthy school environment, and health promotion for staff.

SCHOOL HEALTH SERVICES (continued)

The Superintendent or designee shall coordinate the provision of school health services with other student wellness initiatives, including health education, nutrition and physical fitness programs, and other activities designed to create a healthy school environment. The Superintendent or designee shall encourage joint planning and regular communications among health services staff, district administrators, teachers, counselors, other staff, and parents/guardians.

(cf. 3550 - Food Service/Child Nutrition Program)

(cf. 5030 - Student Wellness)

(cf. 6142.7 - Physical Education and Activity)

(cf. 6142.8 - Comprehensive Health Education)

(cf. 6164.2 - Counseling/Guidance Services)

Note: The following **optional** paragraph is for use by districts that choose to engage in outreach and enrollment efforts to encourage eligible students' participation in no-cost or low-cost health coverage programs. **See E 5141.6 for a related sample board resolution.**

Education Code 49557.2 authorizes the district to include on the application for free and reduced-price meals information about the Medi-Cal program and a student's potential eligibility. Pursuant to Education Code 49558, districts may release information on the free and reduced-price meals application to the local agency that determines eligibility under the Medi-Cal program, provided that the student is approved for free meals and the parent/guardian consents to the sharing of information. See BP/AR 3553 - Free and Reduced Price Meals.

~~Students who do not qualify for Medi-Cal may be eligible for low-cost insurance through the state Healthy Families program, a part of the federal State Children's Health Insurance Program (SCHIP) (42 USC 1397aa-1397jj), which provides coverage for a variety of health, dental, and vision services, with the exception of early and periodic screening, diagnosis, and treatment services.~~

To further encourage student access to health care services, the Superintendent or designee shall develop and implement outreach strategies to increase enrollment of eligible students from low- to moderate-income families in affordable, comprehensive state or federal health coverage programs and local health initiatives. Such strategies may include, but **are not be** limited to, providing information about the Medi-Cal program on the application for free and reduced-price meals in accordance with law ~~and providing students and parents/guardians with information about the low-cost Healthy Families insurance program.~~

(cf. 3553 - Free and Reduced Price Meals)

Consent and Confidentiality

Note: **Parent/guardian consent is generally required prior to providing health services to a minor student. However,** Family Code 6920-6929 specify exceptions under which minors do not need parent/guardian consent prior to receiving services, **including an exception for:** ~~As amended by AB 499 (Ch. 652, Statutes of 2011), Family Code 6926 authorizes~~ a minor age 12 years or older to consent to medical care related to the prevention of a sexually transmitted disease. In addition, Health and Safety Code 124260 allows a minor age 12 or older to consent to outpatient mental health services if, in the opinion of a

SCHOOL HEALTH SERVICES (continued)

professional person, as defined, the minor is mature enough to participate intelligently in the mental health treatment or counseling services. In this case, the child's parent/guardian must be involved unless the professional person determines it would be inappropriate.

The Superintendent or designee shall obtain written parent/guardian consent prior to providing services to a student, except when the student is authorized to consent to the service pursuant to Family Code 6920-6929, Health and Safety Code 124260, or other applicable law.

Note: The Health Insurance Portability and Accountability Act (HIPAA) (45 CFR 164.500-164.534) mandates actions that "covered entities" must take to protect the privacy of an individual's health information. Generally, entities covered by HIPAA may release or receive "protected health information" about an individual only if that individual gives permission or the Act expressly permits its release. Districts with questions about the applicability of HIPAA should consult legal counsel as appropriate.

In addition, 22 CCR 51270 requires districts serving as Medi-Cal providers (see section entitled "Payment/Reimbursement for Services" below) to comply with confidentiality requirements specified in **42 USC 1320c-9, 42 CFR 431.300, Welfare and Institutions Code 14100.2, Education Code 49073-49079, Welfare and Institutions Code 14100.2, and 22 CCR 51009, 42 USC 1320c-9, and 42 CFR 431.300.**

The Superintendent or designee shall maintain the confidentiality of student health records in accordance with law.

(cf. 5125 - Student Records)

Payment/Reimbursement for Services

Note: Some school health services, such as medical and related services specified in an individualized education program for students with disabilities, must be provided free of charge. For other services, districts may charge a fee and are entitled to seek third-party reimbursement from students' private insurance and state or federal programs such as Medi-Cal, **the low cost Healthy Families insurance program, and or** the Child Health and Disability Prevention program. See the accompanying administrative regulation.

~~The Board desires that costs not be a barrier to student access to services. Services may be provided free of charge or on a sliding scale in accordance with law.~~

The Superintendent or designee **~~shall establish procedures for billing~~ may bill** public and private insurance programs and other applicable programs for reimbursement of services as appropriate. **Services may be provided free of charge or on a sliding scale in accordance with law.**

(cf. 5143 - Insurance)

SCHOOL HEALTH SERVICES (continued)

Note: The following **optional** paragraph is for use by districts that have received approval from the California Department of Health Care Services to serve as Medi-Cal providers. ~~A program that receives funding through the Healthy Start program is required by Education Code 8804 to seek designation as a Medi-Cal provider.~~ Pursuant to Welfare and Institutions Code 14132.06 and 22 CCR 51051 and 51190.1, to the extent that federal funding is available, local educational agencies (LEAs) may receive partial Medi-Cal reimbursement through the LEA Medi-Cal Billing Option for health services provided to an enrolled student under age 22 who is certified for Medi-Cal and/or **an eligible a** member of **his/her the student's** family. In addition, pursuant to Welfare and Institutions Code 14132.47, LEAs may be reimbursed through the Medi-Cal Administrative Activities (MAA) program for some of their administrative costs associated with school-based health and outreach activities that are not claimable under the LEA Medi-Cal Billing Option or other programs. See the accompanying administrative regulation.

Districts may receive assistance with Medi-Cal ~~and Medicaid~~ billing through CSBA's Practi-Cal program. See CSBA's web site for further information.

The district shall serve as a Medi-Cal provider to the extent feasible, comply with all related legal requirements, and seek reimbursement of costs to the extent allowed by law.

Note: The following **optional** paragraph is for use by districts that choose to engage in outreach and enrollment efforts to encourage eligible students' participation in no cost or low cost health coverage programs. See E 5141.6 for a related sample board resolution.

~~Education Code 49557.2 authorizes the district to include on the application for free and reduced price meals information about the Medi-Cal program and a student's potential eligibility. Pursuant to Education Code 49558, districts may release information on the free and reduced price meals application to the local agency that determines eligibility under the Medi-Cal program, provided that the student is approved for free meals and the parent/guardian consents to the sharing of information. See BP/AR 3553—Free and Reduced Price Meals.~~

~~Students who do not qualify for Medi-Cal may be eligible for low cost insurance through the state Healthy Families program, a part of the federal State Children's Health Insurance Program (SCHIP) (42 USC 1397aa-1397jj), which provides coverage for a variety of health, dental, and vision services, with the exception of early and periodic screening, diagnosis, and treatment services.~~

~~To further encourage student access to health care services, the Superintendent or designee shall develop and implement outreach strategies to increase enrollment of eligible students from low to moderate income families in affordable, comprehensive state or federal health coverage programs and local health initiatives. Such strategies may include, but not be limited to, providing information about the Medi-Cal program on the application for free and reduced price meals in accordance with law and providing students and parents/guardians with information about the low cost Healthy Families insurance program.~~

(cf. 3553—Free and Reduced Price Meals)

Program Evaluation

In order to continuously improve school health services, the Board shall evaluate the effectiveness of such services and the extent to which they continue to meet student needs.

SCHOOL HEALTH SERVICES (continued)

The Superintendent or designee shall provide the Board with periodic reports that may include, but **are** not necessarily **be** limited to, rates of participation in school health services; changes in student outcomes such as school attendance or achievement; **measures of school climate**; feedback from staff and participants regarding program accessibility and operations, including accessibility to low-income and linguistically and culturally diverse students and families; and program costs and revenues.

(cf. 0500 - Accountability)

*Legal Reference:*EDUCATION CODE

8800-8807 Healthy Start support services for children

49073-49079 Privacy of student records

49423.5 Specialized physical health care services

49557.2-49558 Eligibility for free and reduced-price meals; sharing information with Medi-Cal

FAMILY CODE

6920-6929 Consent by minor for medical treatment

GOVERNMENT CODE

95020 Individualized family service plan

HEALTH AND SAFETY CODE

104830-104865 School-based application of fluoride or other tooth decay-inhibiting agent

121020 HIV/AIDS testing and treatment; parental consent for minor under age 12

123110 Minor's right to access health records

123115 Limitation on parent/guardian access to minor's health records

123800-123995 California Children's Services Act

124025-124110 Child Health and Disability Prevention Program

124172-124174.6 Public School Health Center Support Program

124260 Mental health services; consent by minors age 12 and older

130300-130317 Health Insurance Portability and Accountability Act (HIPAA)

WELFARE AND INSTITUTIONS CODE

14059.5 Definition of "medically necessary"

14100.2 Confidentiality of Medi-Cal information

14115 Medi-Cal claims process

14115.8 LEA Medi-Cal Billing Option, program guide

14124.90 Third-party health coverage

14132.06 Covered benefits; health services provided by local educational agencies

14132.47 Administrative claiming process and targeted case management

CODE OF REGULATIONS, TITLE 10

2699.6500-2699.6905 Healthy Families Program

CODE OF REGULATIONS, TITLE 17

2951 Testing standards for hearing tests

6800-6874 Child Health and Disability Prevention Program

Legal Reference continued: (see next page)

SCHOOL HEALTH SERVICES (continued)

Legal Reference: (continued)

CODE OF REGULATIONS, TITLE 22

51009 Confidentiality

51050-51192 Definitions of Medi-Cal providers and services

51200 Requirements for providers

51231.2 Wheelchair van requirements

51270 Local educational agency provider; conditions for participation

51304 Limitations on specified benefits

51309 Psychology, physical therapy, occupational therapy, speech pathology, audiological services

51323 Medical transportation services

51351 Targeted case management services

51360 Local educational agency; types of services

51491 Local educational agency eligibility for payment

51535.5 Reimbursement to local educational agency providers

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act (FERPA)

UNITED STATES CODE, TITLE 42

1320c-9 Prohibition against disclosure of records

1397aa-1397jjmm State Children's Health Insurance Program

CODE OF FEDERAL REGULATIONS, TITLE 42

431.300 Use and disclosure of information on Medicaid applicants and recipients

CODE OF FEDERAL REGULATIONS, TITLE 45

164.500-164.534 Health Insurance Portability and Accountability Act (HIPAA)

Management Resources:

CSBA PUBLICATIONS

Expanding Access to School Health Services: Policy Considerations for Governing Boards, Policy Brief, November 2008

Promoting Oral Health for California's Students: New Role, New Opportunities for Schools, Policy Brief, November 2008

Providing School Health Services in California: Perceptions, Challenges and Needs of District Leadership Teams, 2008

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Health Framework for California Public Schools, Kindergarten Through Grade Twelve, 2003

CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES PUBLICATIONS

California School-Based Medi-Cal Administrative Activities Manual

LEA Medi-Cal Provider Manual

California School Based Medi-Cal Administrative Activities Manual

DEPARTMENT OF HEALTH SERVICES POLICY LETTERS

00-06 Managed Care Plan Relationships with Local Education Agency Providers, December 11, 2000

CALIFORNIA SCHOOL-BASED HEALTH ALLIANCE PUBLICATIONS

How to Fund Health Services in Your School District, September 2014

Documenting the Link Between School-Based Health Centers and Academic Success, May 2014

NATIONAL ASSEMBLY ON SCHOOL-BASED HEALTH CARE PUBLICATIONS

A Guidebook for Evaluating School Based Health Centers

Management Resources continued: (see next page)

SCHOOL HEALTH SERVICES (continued)

Management Resources: (continued)

NATIONAL CENTER FOR YOUTH LAW PUBLICATIONS

~~Minor Consent, Confidentiality, and Child Abuse Reporting in California, October 2006~~

Confidential Medical Release: Frequently Asked Questions from Schools and Districts, November 2015

WEB SITES

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

CSBA, Practi-Cal Program: <http://www.csba.org/Services/Services/DistrictServices/PractiCal.aspx>
<https://www.csba.org/ProductsAndServices/AllServices/PractiCal>

California County Superintendents Educational Services Association: <http://www.ccsesa.org>

California Department of Education, Health Services and School Nursing:

<http://www.cde.ca.gov/ls/he/hn>

California Department of Health Care Services: <http://www.dhcs.ca.gov>

California Department of Public Health: <http://www.cdph.ca.gov>

California ~~School Health Centers Association~~ **School-Based Health Alliance:**

<http://www.schoolhealthcenters.org>

California School Nurses Organization: <http://www.csno.org>

Center for Health and Health Care in Schools: <http://www.healthinschools.org>

Centers for Disease Control and Prevention, School Health Policies and Programs (SHPPS) Study:

<http://www.cdc.gov/HealthyYouth/shpps>

Centers for Medicare and Medicaid Services: <http://www.cms.hhs.gov>

~~Healthy Families Program: <http://www.healthyfamilies.ca.gov>~~

~~National Assembly on School Based Health Care: <http://www.nasbhc.org>~~

National Center for Youth Law: <http://www.youthlaw.org>

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CSBA Sample Administrative Regulation

Students

AR 5141.6(a)

SCHOOL HEALTH SERVICES

Types of Health Services

Note: The following **optional** section may be revised to reflect district practice. **Health and Safety Code 124174.6 establishes a grant program within the Public School Health Center Support Program to award funds, if and when funds are appropriated in the State Budget, to school health centers that provide the following services.**

In accordance with student and community needs and available resources, school health services offered by the district may include, but are not limited to:

1. Health screenings, evaluations, and assessments of students' need for health services

1.2. Physical examinations, immunizations, and other preventive medical services

(cf. 5141.26 - Tuberculosis Testing)

(cf. 5141.3 - Health Examinations)

(cf. 5141.31 - Immunizations)

(cf. 5141.32 - Health Screening for School Entry)

2. 3. First aid and administration of medications

(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)

3. 4. Diagnosis and treatment of minor injuries and acute medical conditions

4. 5. Management of chronic medical conditions

(cf. 5141.23 - Asthma Management)

5. 6. Basic laboratory tests

6. Referral to and follow up for specialty care

7. Emergency response procedures

(cf. 5141 - Health Care and Emergencies)

8. Nutrition services

(cf. 3550 - Food Service/Child Nutrition Program)

SCHOOL HEALTH SERVICES (continued)

(cf. 5030 - Student Wellness)

9. Oral health services that may include preventive services, basic restorative services, and referral to specialty services

Note: Pursuant to Health and Safety Code 104830-104865, elementary and secondary students must be offered an opportunity each school year to receive a topical application of fluoride or other decay-inhibiting agent by a dentist or dental assistant, under a program organized and operated by the county health officer. Districts are required to cooperate with the county health officer in carrying out the program in any school in their jurisdiction and to provide notification to parents/guardians regarding the availability of the program, as provided below.

The Superintendent or designee shall notify all parents/guardians of the opportunity pursuant to Health and Safety Code 104830-104865 for their child to receive the topical application of fluoride, including fluoride varnish, or other decay-inhibiting agent to the teeth during the school year. **This notification may be returned by the parent/guardian to consent to the treatment or to indicate that the student shall not receive treatment because he/she has received the treatment from a dentist or the treatment is not desired. Such application of fluoride or other decay-inhibiting agent shall only be provided to a student whose parent/guardian returns the notification with an indication consenting to the treatment.** (Health and Safety Code 104830, 104850, 104855)

(cf. 5145.6 - Parental Notifications)

10. Mental health services, which may include assessments, crisis intervention, counseling, treatment, and referral to a continuum of services including emergency psychiatric care, community support programs, inpatient care, and outpatient programs

~~*(cf. 1020 - Youth Services)*~~

~~*(cf. 5141.52 - Suicide Prevention)*~~

~~*(cf. 6164.2 - Counseling/Guidance Services)*~~

11. Substance abuse prevention and intervention services

~~*(cf. 5131.6 - Alcohol and Other Drugs)*~~

~~*(cf. 5131.62 - Tobacco)*~~

~~*(cf. 5131.63 - Steroids)*~~

12. Vision and audiology services

13. Speech therapy

14. Occupational therapy

SCHOOL HEALTH SERVICES (continued)

15. Physical therapy

Note: Item # 12 16 may be deleted by districts that offer only elementary grades.

~~12~~16. Reproductive health services

(cf. 5141.25 - Availability of Condoms)

~~13. Screening of students to identify the need for physical, mental, and oral health services~~

17. Specialized health care services for students with disabilities

(cf. 5141.24 - Specialized Health Care Services)

(cf. 6159 - Individualized Education Program)

18. Medical transportation

19. Targeted case management

~~14~~20. Referrals and linkage to services not offered on-site

~~15~~21. Public health and disease surveillance

~~16~~22. Individual and family health education

~~17~~23. School or districtwide health promotion

CSBA Sample

Board Policy

Students

BP 5144.1(a)

SUSPENSION AND EXPULSION/DUE PROCESS

Note: Education Code 35291 requires the Governing Board to prescribe rules and regulations for maintaining discipline in the schools under its jurisdiction. Education Code 48918 **mandates** the setting of rules and regulations for student expulsion as specified in this Board policy and the accompanying administrative regulation.

While recognizing that suspension or expulsion of students is sometimes necessary, legislative, administrative, regulatory, civic, and educational leaders are united in the belief that instructional time should be used for student learning purposes and that school discipline should be imposed in a way that, as much as possible, does not exclude students from school or limit their ability or opportunity to learn. According to the U.S. Department of Justice's Civil Rights Division (DOJ) and the U.S. Department of Education's Office for Civil Rights (OCR), in their joint January 2014 Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, studies suggest a correlation between exclusionary discipline policies and practices (such as suspension and expulsion) and an array of serious educational, economic, and social problems, including school avoidance and diminished educational engagement, decreased academic achievement, increased behavior problems, and increased likelihood of dropping out, substance abuse, and involvement with the juvenile justice system. Consequently, they recommend that districts adopt alternative disciplinary measures that provide students with appropriate interventions and supports as a means for preventing and addressing student misbehaviors.

Pursuant to Education Code 48900.5, a district is not authorized to suspend a student for certain specified violations unless the student has been subjected to other means of correction which have failed to bring about proper conduct. Such other means of correction include, but are not limited to, conferences between school personnel and the student and his/her parents/guardians; use of study, guidance, or other intervention teams to develop a plan to address the behavior in partnership with the student; and participation in a restorative justice program. For further information about specific disciplinary strategies, including alternatives to class or school removals, see BP/AR 5144 - Discipline. Education Code 48900.5 authorizes a district to document in a student's records the alternative means of correction used to address the student's behavior. Furthermore, when a student is being suspended by the Superintendent, principal, or designee, Education Code 48911, ~~as amended by AB 667 (Ch. 445, Statutes of 2017)~~, requires that the student be informed, during the informal conference that precedes the suspension, of the other means of correction that were attempted before the suspension.

The Governing Board desires to provide district students access to educational opportunities in an orderly school environment that protects their safety and security, ensures their welfare and well-being, and promotes their learning and development. The Board shall develop rules and regulations setting the standards of behavior expected of district students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion.

(cf. 5131 - Conduct)

(cf. 5131.1 - Bus Conduct)

(cf. 5131.2 - Bullying)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

The grounds for suspension and expulsion and the procedures for considering, recommending, and/or implementing suspension and expulsion shall be only those specified in law, in this policy, and in the accompanying administrative regulation.

Note: Pursuant to Education Code 48900(s), a student may be subject to discipline only when the violation is related to a school activity or school attendance as specified below. A student may also be disciplined for a violation committed away from school if it is related to a school activity or to school attendance. For example, Education Code 48900 defines bullying by means of an electronic act as including an act that originates off campus; see the accompanying administrative regulation and BP/AR 5131.2 - Bullying. Another example is the hostile school environment which a victim may suffer from sexual harassment that occurs off campus; see BP/AR 5145.7 - Sexual Harassment.

Except when otherwise permitted by law, a student may be suspended or expelled only when his/her behavior is related to a school activity or school attendance occurring within any district school or another school district, regardless of when it occurs, including, but not limited to, the following: (Education Code 48900(s))

1. While on school grounds
2. While going to or coming from school
3. During the lunch period, whether on or off the school campus

(cf. 5112.5 - Open/Closed Campus)

4. During, going to, or coming from a school-sponsored activity

Note: The following paragraph addresses the problem of unlawful discrimination in the administration of student discipline. In their joint January 2014 [Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline](#), DOJ and OCR noted that, based on the civil rights data collection conducted by OCR, students of certain racial or ethnic groups tended to be disciplined more, and sometimes more harshly, than their similarly situated peers in violation of federal nondiscrimination laws. The letter warned that any district determined to have engaged in unlawful discrimination could be subject to OCR investigation and significant remedial action.

District staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, equally, and in accordance with the district's nondiscrimination policies.

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

Appropriate Use of Suspension Authority

Note: Education Code 48900.5 requires districts to use other means of correction instead of suspension or expulsion except when a student commits certain enumerated offenses. The following section reflects legislative intent regarding appropriate use of suspension as a means of disciplining students and may be modified to reflect district practice.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Except when a student's act violates Education Code 48900(a)-(e), as listed in items #1-5 under "Grounds for Suspension and Expulsion: Grades K-12" of the accompanying administrative regulation, or when his/her presence causes a danger to others, suspension shall be used only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5, 48900.6)

(cf. 1020 - Youth Services)

(cf. 5138 - Conflict Resolution/Peer Mediation)

(cf. 5144 - Discipline)

(cf. 6142.4 - Service Learning/Community Service Classes)

(cf. 6164.2 - Guidance/Counseling Services)

(cf. 6164.5 - Student Success Teams)

Note: The following optional paragraph may be revised to reflect district practice.
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A student's parents/guardians shall be notified as soon as possible when there is an escalating pattern of misbehavior that could lead to on-campus or off-campus suspension.

<p>Note: Education Code 48900(k) prohibits a district from suspending students in grades K-3 for disruption or willful defiance and authorizes, but does not require, a district to suspend students in grades 4-12 for disruption or willful defiance. Even with this authority, districts should be careful in using these grounds, as available data have indicated a disproportionate use with certain student subgroups. Option 1 below is for use by any district that chooses to suspend students in grades 4-12 for disruption and/or willful defiance as authorized pursuant to Education Code 48900(k). Any district that chooses to eliminate disruption and willful defiance as reasons for suspending any of its students from school should select Option 2 below. Such districts should also delete the first paragraph in the section titled "Additional Grounds for Suspension and Expulsion: Grades 4-12" in the accompanying administrative regulation.</p>
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<p>Each option below reflects an exception granted to teachers pursuant to Education Code 48910 to suspend students, including a K-3 student, from class; see section "Suspension from Class by a Teacher" in the accompanying administrative regulation.</p>

OPTION 1: No student in grades K-3 may be suspended for disruption or willful defiance, except by a teacher pursuant to Education Code 48910. (Education Code 48900)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

On-Campus Suspension

Note: As an alternative to off-campus suspension, Education Code 48911.1 authorizes a supervised suspension classroom program for students who pose no imminent danger to anyone at school and who have not been recommended for expulsion, as specified below. Education Code 48911.2 states that, if the number of students suspended during the prior year exceeds 30 percent of the school's enrollment, the district should consider implementing this program and/or another on-campus progressive discipline program.

The following **optional** section is for use by districts implementing a supervised suspension classroom program. Such districts may continue to claim funding apportionments for students so assigned, provided they meet specific criteria which are set forth under "Supervised Suspension Classroom" in the accompanying administrative regulation. A district does not receive funding for off-campus suspensions.

To ensure the proper supervision and ongoing learning of students who are suspended for any of the reasons enumerated in Education Code 48900 and 48900.2, but who pose no imminent danger or threat to anyone at school and for whom expulsion proceedings have not been initiated, the Superintendent or designee shall establish a supervised suspension classroom program which meets the requirements of law.

Except where a supervised suspension is permitted by law for a student's first offense, supervised suspension shall be imposed only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5)

Authority to Expel

A student may be expelled only by the Board. (Education Code 48918(j))

As required by law, the Superintendent or principal shall recommend expulsion and the Board shall expel any student found to have committed any of the following "mandatory recommendation and mandatory expulsion" acts at school or at a school activity off school grounds: (Education Code 48915)

1. Possessing a firearm which is not an imitation firearm, as verified by a certificated employee, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence

(cf. 5131.7 - Weapons and Dangerous Instruments)

2. Selling or otherwise furnishing a firearm
3. Brandishing a knife at another person

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

4. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
5. Committing or attempting to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committing a sexual battery as defined in Penal Code 243.4
6. Possessing an explosive as defined in 18 USC 921

For all other violations listed in the accompanying administrative regulation under "Grounds for Suspension and Expulsion: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12," the Superintendent or principal shall have the discretion to recommend expulsion of a student. If expulsion is recommended, the Board shall order the student expelled only if it makes a finding of either or both of the following: (Education Code 48915(b) and (e))

1. That other means of correction are not feasible or have repeatedly failed to bring about proper conduct
2. That due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others

A vote to expel a student shall be taken in an open session of a Board meeting.

Note: Pursuant to Education Code 48917, the Board may decide to suspend the enforcement of an order for expulsion as long as a student satisfies specific conditions. See the accompanying administrative regulation for criteria. In addition, the Attorney General opined in 80 Ops.Cal.Atty.Gen. 85 (1997) that the enforcement of an expulsion order may be suspended even in those cases where the student has committed an offense for which expulsion is required by law. Legal counsel should be consulted as appropriate.

The Board may vote to suspend the enforcement of the expulsion order pursuant to the requirements of law and the accompanying administrative regulation. (Education Code 48917)

No student shall be expelled for disruption or willful defiance. (Education Code 48900)

Note: The following paragraph is for use by districts that contract with the California Department of Education (CDE) to operate a California State Preschool Program. Education Code 8239.1, as added by AB 752 (Ch. 708, Statutes of 2017), prohibits the expulsion or disenrollment of a child in a preschool program unless the district has taken specified steps and the child's continued enrollment would present a serious safety threat to the child or other enrolled children. For further details regarding the steps the district must take prior to expelling a child, see BP 5148.3 - Preschool/Early Childhood Education.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

No child enrolled in a preschool program shall be expelled except under limited circumstances as specified in AR 5148.3 - Preschool/Early Childhood Education.

(cf. 5148.3 - Preschool/Early Childhood Education)

Due Process

The Board shall provide for the fair and equitable treatment of students facing suspension and/or expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices, hearings, and appeals as specified in law and administrative regulation. (Education Code 48911, 48915, 48915.5, 48918)

(cf. 5119 - Students Expelled from Other Districts)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

Maintenance and Monitoring of Outcome Data

Note: Pursuant to Education Code 48900.8 and 48916.1, **require** the district ~~is required~~ to maintain data related to suspensions and expulsions **as provided below. Pursuant to Education Code 48916.1, the and to report such data to the** Superintendent of Public Instruction **may require submission of such data as part of the Federal Program Monitoring process. In addition, 20 USC 7961 requires districts to submit to the CDE a description of the circumstances surrounding any expulsions based on bringing or possessing a firearm on campus, including the name of the school, the number of students expelled, and the type of firearms involved.**

The Superintendent or designee shall ~~annually present to the Board a report of the~~ **maintain** outcome data **related to student suspensions and expulsions in accordance with which the district is required to collect pursuant to** Education Code 48900.8 and 48916.1, including, **but not limited to,** the number of students recommended for expulsion, the grounds for each recommended expulsion, the actions taken by the Board, the types of referral made after each expulsion, and the disposition of the students after the expulsion period. **For any expulsion that involves the possession of a firearm, such data shall include the name of the school and the type of firearm involved, as required pursuant to 20 USC 7961. Suspension and expulsion data shall be reported to the Board annually and to the California Department of Education when so required.**

Note: Pursuant to Education Code 52060, districts are required to address school climate in the local control and accountability plan, as measured by student suspension and expulsion rates and other local measures for each school and each numerically significant student subgroup. As defined in Education Code 52052, numerically significant subgroups include ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students, when there are at least 30 students in the subgroup or at least 15 foster youth or homeless students.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

In presenting the report to the Board, the Superintendent or designee shall disaggregate data on suspensions and expulsions by school and by numerically significant student subgroups, including, but not limited to, ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students. Based on the data, the Board shall address any identified disparities in the imposition of student discipline and shall determine whether and how the district is meeting its goals for improving school climate as specified in its local control and accountability plan.

(cf. 0460 - Local Control and Accountability Plan)

*Legal Reference:*EDUCATION CODE

212.5 Sexual harassment

233 Hate violence

1981-1981.5 Enrollment of students in community school

8239.1 Prohibition against expulsion of preschool student

17292.5 Program for expelled students

32261 Interagency School Safety Demonstration Act of 1985

35145 Open board meetings

35146 Closed sessions (regarding suspensions)

35291 Rules (for government and discipline of schools)

35291.5 Rules and procedures on school discipline

48645.5 Readmission; contact with juvenile justice system

48660-48666 Community day schools

48853.5 Foster youth

48900-48927 Suspension and expulsion

48950 Speech and other communication

48980 Parental notifications

49073-49079 Privacy of student records

52052 Numerically significant student subgroups

52060-52077 Local control and accountability plan

64000-64001 Consolidated application

CIVIL CODE

47 Privileged communication

48.8 Defamation liability

CODE OF CIVIL PROCEDURE

1985-1997 Subpoenas; means of production

GOVERNMENT CODE

11455.20 Contempt

54950-54963 Ralph M. Brown Act

HEALTH AND SAFETY CODE

11014.5 Drug paraphernalia

11053-11058 Standards and schedules

Legal Reference continued: (see next page)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Legal Reference: (continued)

LABOR CODE

230.7 ~~Discharge or discrimination against employee for taking~~ **Employee** time off to appear in school on behalf of a child

PENAL CODE

31 Principal of a crime, defined

240 Assault defined

241.2 Assault fines

242 Battery defined

243.2 Battery on school property

243.4 Sexual battery

245 Assault with deadly weapon

245.6 Hazing

261 Rape defined

266c Unlawful sexual intercourse

286 Sodomy defined

288 Lewd or lascivious acts with child under age 14

288a Oral copulation

289 Penetration of genital or anal openings

417.27 Laser pointers

422.55 Hate crime defined

422.6 Interference with exercise of civil rights

422.7 Aggravating factors for punishment

422.75 Enhanced penalties for hate crimes

626.2 Entry upon campus after written notice of suspension or dismissal without permission

626.9 Gun-Free School Zone Act of 1995

626.10 Dirks, daggers, knives, razors, or stun guns

868.5 Supporting person; attendance during testimony of witness

WELFARE AND INSTITUTIONS CODE

729.6 Counseling

UNITED STATES CODE, TITLE 18

921 Definitions, firearm

UNITED STATES CODE, TITLE 20

1415(K) Placement in alternative educational setting

7961 Gun-free schools

UNITED STATES CODE, TITLE 42

11432-11435 Education of homeless children and youths

COURT DECISIONS

T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267

Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421

Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H. (2001) 85 Cal.App.4th 1321

Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 118

Garcia v. Los Angeles Board of Education (1991) 123 Cal. App. 3d 807

John A. v. San Bernardino School District (1982) 33 Cal. 3d 301

Legal Reference: (see next page)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Legal Reference: (continued)

ATTORNEY GENERAL OPINIONS

84 Ops.Cal.Atty.Gen. 146 (2001)

80 Ops.Cal.Atty.Gen. 348 (1997)

80 Ops.Cal.Atty.Gen. 91 (1997)

80 Ops.Cal.Atty.Gen. 85 (1997)

Management Resources:

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

Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014

WEB SITES

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

California Attorney General's Office: <http://www.oag.ca.gov>

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

U.S. Department of Education, Office for Civil Rights:

<http://www.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf>

U.S. Department of Education, Office of Safe and Healthy Students:

<https://www2.ed.gov/about/offices/list/oese/oshhs>

(12/14 12/17) 10/18

CSBA Sample

Administrative Regulation

Students

AR 5144.1(a)

SUSPENSION AND EXPULSION/DUE PROCESS

Note: CSBA recommends that this administrative regulation be approved by the Governing Board, regardless of the usual district practice.

Education Code 35291 requires the Board to adopt rules and regulations, which are not inconsistent with law or rules adopted by the State Board of Education, for the government and discipline of the schools under its jurisdiction. In addition, Education Code 48918 and 48918.5 **mandate** that districts adopt rules concerning the due process rights of students in expulsion situations, and Education Code 48916 **mandates** procedures for filing and processing requests for readmission. Specific language complying with these mandates is included throughout this administrative regulation.

The acts for which students may be suspended or expelled are specified in law and in the sections below titled "Grounds for Suspension and Expulsion: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12." The Board does not have authority to add to those enumerated acts. However, the Board has authority to prohibit suspension or expulsion for certain acts for which suspension or expulsion is permissible rather than mandatory. The Board may consider limiting the use of suspension and expulsion for such offenses as part of the district plan to address school climate within the local control and accountability plan required pursuant to Education Code 52060. In addition, pursuant to Education Code 48900.5, a district is not authorized to suspend a student for certain specified violations unless other means of correction have failed to bring about proper conduct.

Definitions

Suspension means removal of a student from ongoing instruction for adjustment purposes. However, suspension does not mean any of the following: (Education Code 48925)

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Governing Board for students of the same grade level
2. Referral to a certificated employee designated by the principal to advise students
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code 48910

Expulsion means removal of a student from the immediate supervision and control or the general supervision of school personnel. (Education Code 48925)

Notice of Regulations

At the beginning of each school year, the principal of each school shall ensure that all students and parents/guardians are notified in writing of all school rules related to discipline, including suspension and expulsion. (Education Code 35291, 48900.1, 48980)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

(cf. 5144 - Discipline)

(cf. 5145.6 - Parental Notifications)

Grounds for Suspension and Expulsion: Grades K-12

Acts for which a student, including a student with disabilities, may be suspended or expelled shall be only those specified as follows:

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

1. Caused, attempted to cause, or threatened to cause physical injury to another person; willfully used force or violence upon another person, except in self-defense; or committed as an aider or abettor, as adjudged by a juvenile court, a crime of physical violence in which the victim suffered great or serious bodily injury (Education Code 48900(a) and (t))

Note: The Attorney General, in 80 Ops.Cal.Atty.Gen. 91 (1997), determined that a student may be expelled for "possession" of a firearm if the student knowingly and voluntarily had direct control over the firearm. The only exceptions are when the student has permission from school officials to possess the firearm (pursuant to Education Code 48900 and 48915) or when the possession is brief and solely for the purpose of disposing of the firearm, such as handing it to school officials. Note that "firearm" does not include "imitation firearm" which is listed separately in item #12 below. See BP 5131.7 - Weapons and Dangerous Instruments.

Pursuant to Penal Code 417.27, students are prohibited from possessing a laser pointer on school premises, except for a valid instructional or other school-related purpose. See BP 5131 - Conduct.

2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence (Education Code 48900(b))

(cf. 5131 - Conduct)

(cf. 5131.7 - Weapons and Dangerous Instruments)

3. Unlawfully possessed, used, sold, otherwise furnished, or was under the influence of any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind (Education Code 48900(c))

(cf. 5131.6 - Alcohol and Other Drugs)

4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented same as such controlled substance, alcoholic beverage, or intoxicant (Education Code 48900(d))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

5. Committed or attempted to commit robbery or extortion (Education Code 48900(e))
6. Caused or attempted to cause damage to school property or private property (Education Code 48900(f))
7. Stole or attempted to steal school property or private property (Education Code 48900(g))
8. Possessed or used tobacco or products containing tobacco or nicotine products, including, but not limited to, cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel, except that this restriction shall not prohibit a student from using or possessing his/her own prescription products (Education Code 48900(h))

(cf. 5131.62 - Tobacco)

9. Committed an obscene act or engaged in habitual profanity or vulgarity (Education Code 48900(i))
10. Unlawfully possessed, offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5 (Education Code 48900(j))
11. Knowingly received stolen school property or private property (Education Code 48900(l))
12. Possessed an imitation firearm (Education Code 48900(m))

Imitation firearm means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm. (Education Code 48900(m))

13. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committed a sexual battery as defined in Penal Code 243.4 (Education Code 48900(n))
14. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness (Education Code 48900(o))
15. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma (Education Code 48900(p))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

16. Engaged in, or attempted to engage in, hazing (Education Code 48900(q))

Hazing means a method of initiation or pre-initiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. *Hazing* does not include athletic events or school-sanctioned events. (Education Code 48900(q))

Note: Education Code 48900(r) defines "bullying" as "any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of electronic act," which is directed toward a student and which would have serious detrimental consequences upon a reasonable student. Pursuant to Education Code 48900, a student may be disciplined for bullying by means of an electronic act even when the act originated off campus. See also BP 5131.2 - Bullying.

17. Engaged in an act of bullying (Education Code 48900(r))

Bullying means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, directed toward one or more students that has or can reasonably be predicted to have the effect of placing a reasonable student in fear of harm to himself/herself or his/her property; cause the student to experience a substantially detrimental effect on his/her physical or mental health; or cause the student to experience substantial interferences with his/her academic performance or ability to participate in or benefit from the services, activities, or privileges provided by a school. (Education Code 48900(r))

Note: "Bullying" also would include any act of sexual harassment, hate violence, or harassment, threat, or intimidation committed by a student of any grade level, as set forth in Education Code 48900.2, 48900.3, or 48900.4, when the act results in harm to a reasonable student as specified in the above paragraph. However, when bullying is found under these circumstances, students below grade 4 may be disciplined for the "bullying" but not for the underlying act of sexual harassment, hate violence, or harassment, threat, or intimidation as specified below in items #1-3 of "Additional Grounds for Suspension and Expulsion: Grades 4-12."

Bullying shall include any act of sexual harassment, hate violence, or harassment, threat, or intimidation, as defined in Education Code 48900.2, 48900.3, or 48900.4 and below in items #1-3 of "Additional Grounds for Suspension and Expulsion: Grades 4-12," that has any of the effects described above on a reasonable student.

Electronic act means the creation or transmission of a communication originated on or off school site, including, but not limited to, a message, text, sound, image, or post on a social network Internet web site, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager. A post on a social network Internet web site shall include,

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

but is not limited to, the posting or creation of a burn page or the creation of a credible impersonation or false profile for the purpose of causing a reasonable student any of the effects of bullying described above. (Education Code 48900(r))

Reasonable student means a student, including, but not limited to, a student who has been identified as a student with a disability, who exercises average care, skill, and judgment in conduct for a person of his/her age, or for a person of his/her age with his/her disability. (Education Code 48900(r))

(cf. 1114 - District-Sponsored Social Media)

(cf. 5131.2 - Bullying)

(cf. 6163.4 - Student Use of Technology)

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

(cf. 6164.6 - Identification and Education under Section 504)

Note: Education Code 48900 allows for the suspension, but not expulsion, of a student who "aids or abets," as defined in Penal Code 31, the infliction or attempted infliction of physical injury to another person. The term "aiding or abetting," is a complex legal term and requires that, at the time he/she committed the crime, the aider or abettor was aware of the crime and specifically intended to commit the crime. Because of the complexities of criminal law, legal counsel should be consulted as appropriate.

18. Aided or abetted the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31 (Education Code 48900(t))
19. Made terrorist threats against school officials and/or school property (Education Code 48900.7)

A *terrorist threat* includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person or property damage in excess of \$1,000, with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out. (Education Code 48900.7)

Additional Grounds for Suspension and Expulsion: Grades 4-12

Note: The following section applies only to students in grades 4-12 and may be revised to reflect grade levels offered by the district.

Education Code 48900, as amended by AB 420 (Ch. 667, Statutes of 2014), prohibits the use of disruption and/or willful defiance as reasons for expelling any student. ~~As amended,~~ Education Code 48900 also restricts their use as a basis for suspending students from school in grades 4-12. Since districts are authorized but not required to suspend students in grades 4-12 based on these grounds, a district may choose, consistent with Option 2 in accompanying Board policy, to prohibit the use of these reasons for suspending its students. **Any district that chooses to do so should delete the following paragraph.**

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Any student in grades 4-12 may be suspended, but not expelled, for disrupting school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties. (Education Code 48900(k))

(cf. 5131.4 - *Student Disturbances*)

Note: As discussed in item #17 of "Grounds for Suspension and Expulsion: Grades K-12" above, although Education Code 48900(r) defines bullying to include acts involving items #1-3 below, only students in grades 4-12 may be suspended or expelled for the individual acts that constitute sexual harassment, hate violence, and harassment. The interplay between "bullying" and items #1-3 can raise complex legal issues. Districts should consult legal counsel as appropriate.

A student in grades 4-12 shall be subject to suspension or recommendation for expulsion when it is determined that he/she:

1. Committed sexual harassment as defined in Education Code 212.5 (Education Code 48900.2)

Sexual harassment means conduct which, when considered from the perspective of a reasonable person of the same gender as the victim, is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment. (Education Code 212.5, 48900.2)

(cf. 5145.7 - *Sexual Harassment*)

2. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code 233 (Education Code 48900.3)

Hate violence means any act punishable under Penal Code 422.6, 422.7, or 422.75. Such acts include injuring or intimidating a victim, interfering with the exercise of a victim's civil rights, or damaging a victim's property because of the victim's race, ethnicity, religion, nationality, disability, gender, gender identity, gender expression, or sexual orientation; a perception of the presence of any of those characteristics in the victim; or the victim's association with a person or group with one or more of those actual or perceived characteristics. (Education Code 233; Penal Code 422.55)

(cf. 5145.9 - *Hate-Motivated Behavior*)

3. Intentionally engaged in harassment, threats, or intimidation against district personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

invading the rights of school personnel or students by creating an intimidating or hostile educational environment (Education Code 48900.4)

(cf. 5145.3 - Nondiscrimination/Harassment)

Suspension from Class by a Teacher

Note: The following section is **optional** and may be revised to reflect district practice. While Education Code 48900(k), ~~as amended by AB 420 (Ch. 660, Statutes of 2014)~~, prohibits a district from suspending students in grades K-3 for disruption or willful defiance, it still allows for a teacher to suspend a K-3 student on these grounds.

A teacher may suspend a student, including a grade K-3 student, from class for the remainder of the day and the following day for disruption, willful defiance, or any of the other acts specified in Education Code 48900 and listed as items #1-18 under "Grounds for Suspension and Expulsion: Grades K-12" above. (Education Code 48910)

When suspending a student from class, the teacher shall immediately report this action to the principal or designee and send the student to the principal or designee for appropriate action. If that action requires the continuing presence of the student at school, he/she shall be appropriately supervised during the class periods from which he/she has been suspended. (Education Code 48910)

As soon as possible after the teacher decides to suspend the student, he/she shall ask the student's parent/guardian to attend a parent-teacher conference regarding the suspension. A counselor or psychologist may attend the conference if it is practicable, and a school administrator shall attend if either the parent/guardian or teacher so requests. (Education Code 48910)

A student suspended from class shall not be returned to class during the period of the suspension without the approval of the teacher of the class and the principal or designee. (Education Code 48910)

A student suspended from class shall not be placed in another regular class during the period of suspension. However, a student assigned to more than one class per day may continue to attend other regular classes except those held at the same time as the class from which he/she was suspended. (Education Code 48910)

The teacher of any class from which a student is suspended may require the student to complete any assignments and tests missed during the removal. (Education Code 48913)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Suspension by Superintendent, Principal or Principal's Designee

To implement disciplinary procedures at a school site, the principal may, in writing, designate as the principal's designee another administrator or, if the principal is the only administrator at the school site, a certificated employee. As necessary, the principal may, in writing, also designate another administrator or certificated employee as the secondary designee to assist with disciplinary procedures when the principal and the principal's primary designee are absent from the school site.

The Superintendent, principal, or designee shall immediately suspend any student found at school or at a school activity to have committed any of the acts listed in the Board policy under "Authority to Expel" and for which he/she is required to recommend expulsion. (Education Code 48915(c))

Note: Education Code 48900.5 limits situations warranting suspension for a first offense to when the violation involves Education Code 48900(a)-(e) or the student's presence causes a danger to persons.

The Superintendent, principal, or designee may impose a suspension for a first offense if he/she determines that the student violated any of items #1-5 listed under "Grounds for Suspension and Expulsion: Grades K-12" above or if the student's presence causes a danger to persons. (Education Code 48900.5)

Note: Pursuant to Education Code 48900 and 48915, except for certain egregious acts or offenses for which suspension is permissible or mandatory, as specified above pursuant to Education Code 48915(a) or (c), the Superintendent or principal is authorized to use his/her discretion to provide an alternative, age-appropriate disciplinary measure that is tailored to correct a student's specific misbehavior. In addition, the U.S. Department of Justice's Civil Rights Division (DOJ) and the U.S. Department of Education's Office for Civil Rights (OCR), in their joint January 2014 <u>Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline</u> , recommend that effective alternatives to suspension and expulsion be implemented for correcting student misbehavior. For a list of appropriate alternatives, see AR 5144 - Discipline.

For all other offenses, a student may be suspended only when the Superintendent or principal has determined that other means of correction have failed to bring about proper conduct in the student. (Education Code 48900.5)

When other means of correction are implemented prior to imposing suspension or supervised suspension upon a student, the Superintendent, principal, or designee shall document the other means of correction used and retain them in the student's record. (Education Code 48900.5)

(cf. 5125 - Student Records)

Length of Suspension

The Superintendent, principal, or designee may suspend a student from school for not more than five consecutive school days. (Education Code 48911)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

A student may be suspended from school for not more than 20 school days in any school year. However, if a student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class for the purpose of adjustment, he/she may be suspended for not more than 30 school days in a school year. The district may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which the student may be suspended in any school year. (Education Code 48903, 48911, 48912)

(cf. 6184 - Continuation Education)

These restrictions on the number of days of suspension shall not apply when the suspension is extended pending an expulsion. (Education Code 48911)

Due Process Procedures for Suspension

Suspensions shall be imposed in accordance with the following procedures:

1. **Informal Conference:** Suspension shall be preceded by an informal conference conducted by the Superintendent, principal, or designee with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action, presented with the available evidence against him/her, and given the opportunity to present his/her version and evidence in support of his/her defense. (Education Code 48911)

This conference may be omitted if the Superintendent, principal, or designee determines that an emergency situation exists involving a clear and present danger to the lives, safety, or health of students or school personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of the conference and the conference shall be held within two school days, unless the student waives his/her right to it or is physically unable to attend for any reason. In such a case, the conference shall be held as soon as the student is physically able to return to school. (Education Code 48911)

Note: Item #2 below should be revised to reflect the district's processing and reporting procedures.
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2. **Administrative Actions:** All requests for student suspension are to be processed by the principal or designee. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee. (Education Code 48911)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

3. **Notice to Parents/Guardians:** At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall also be notified in writing of the suspension. (Education Code 48911)

This notice shall state the specific offense committed by the student. (Education Code 48900.8)

Note: The following optional paragraph may be revised to reflect district practice.
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In addition, the notice may state the date and time when the student may return to school.

4. **Parent/Guardian Conference:** Whenever a student is suspended, school officials may request a meeting with the parent/guardian to discuss the cause(s) and duration of the suspension, the school policy involved, and any other pertinent matter. (Education Code 48914)

If school officials request to meet with the parent/guardian, the notice may state that the law requires the parent/guardian to respond to such requests without delay. However, no penalties may be imposed on the student for the failure of the parent/guardian to attend such a conference. The student may not be denied reinstatement solely because the parent/guardian failed to attend the conference. (Education Code 48911)

5. **Extension of Suspension:** If the Board is considering the expulsion of a suspended student from any school or the suspension of a student for the balance of the semester from continuation school, the Superintendent or designee may, in writing, extend the suspension until such time as the Board has made a decision, provided the following requirements are followed: (Education Code 48911)
- a. The extension of the original period of suspension is preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard. This conference may be held in conjunction with a meeting requested by the student or parent/guardian to challenge the original suspension.
 - b. The Superintendent or designee determines, following a meeting in which the student and the student's parent/guardian were invited to participate, that the student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process. (Education Code 48911)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Note: When the student being considered for expulsion is a foster youth, Education Code 48911 and 48918.1 require the district to invite the student's attorney and an appropriate county child welfare agency representative to the meeting specified above. **See the section below titled "Additional Notice of Expulsion Hearing for Foster Youth and Homeless Students."** To ensure such invitation, the following paragraph provides that the district liaison for foster youth be notified. However, any district that has designated another position to carry out this responsibility may modify the paragraph to specify that position. For designation of the liaison for foster youth, see AR 6173.1 - Education for Foster Youth.

- c. If the student involved is a foster youth, the Superintendent or designee shall notify the district liaison for foster youth of the need to invite the student's attorney and a representative of the appropriate county child welfare agency to attend the meeting. (Education Code 48853.5, 48911, 48918.1)

(cf. 6173.1 - Education for Foster Youth)

Note: Pursuant to Education Code 48918.1, ~~as amended by AB 1806 (Ch. 767, Statutes of 2014)~~, the district's liaison for homeless students must be notified when the student being considered for expulsion is a homeless student. See the section below titled "Additional Notice of Expulsion Hearing for Foster Youth and Homeless Students."

- d. If the student involved is a homeless child or youth, the Superintendent or designee shall notify the district liaison for homeless students. (Education Code 48918.1)

(cf. 6173 - Education for Homeless Children)

Note: The following **optional** paragraph may be revised to reflect district practice. Since Education Code 48900 and 48900.5 require a district, under certain circumstances, to use alternative disciplinary measures prior to imposing suspension, including supervised suspension, the district may, as necessary, provide services that would address the student's specific misbehavior along with the suspension program. For example, the district may require the student to enroll in a program that teaches prosocial behavior or anger management even while the student is suspended.

In lieu of or in addition to suspending a student, the Superintendent, principal, or designee may provide services or require the student to participate in an alternative disciplinary program designed to correct his/her behavior and keep him/her in school.

Suspension by the Board

Note: The following **optional** section reflects the Board's authority to suspend students from school pursuant to Education Code 48912. In practice, it is impractical for boards to directly exercise this authority since circumstances warranting suspension usually require quick and sometimes immediate action which may not be possible for a board due to legal requirements for taking board actions, such as having a meeting.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

The Board may suspend a student for any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12" above and within the limits specified under "Suspension by Superintendent, Principal, or Designee" above. (Education Code 48912)

The Board may suspend a student enrolled in a continuation school or class for a period not longer than the remainder of the semester. The suspension shall meet the requirements of Education Code 48915. (Education Code 48912.5)

When the Board is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it shall hold a closed session if a public hearing would lead to disclosure of information **that would violate** ~~violating~~ a student's right to privacy under Education Code 49073-49079. (Education Code 35146, 48912)

(cf. 9321 - Closed Session Purposes and Agendas)

The Board shall provide the student and his/her parent/guardian with written notice of the closed session by registered or certified mail or personal service. Upon receiving this notice, the student or parent/guardian may request a public meeting, and this request shall be granted if made in writing within 48 hours after receipt of the Board's notice. However, any discussion that conflicts with any other student's right to privacy still shall be held in closed session. (Education Code 35146, 48912)

On-Campus Suspension

Note: The following **optional** section is for use by any district establishing an on-campus suspension program pursuant to Education Code 48911.1. However, pursuant to Education Code 48900.5, such a district is required to use other means of correcting a student's behavior before imposing a supervised suspension, unless such a supervised suspension is otherwise permitted by law for a student's first offense. Use of a supervised suspension classroom program does not in any way limit the district's ability to transfer a student to an opportunity school or class or a continuation education school or class in accordance with law.

A student for whom an expulsion action has not been initiated and who poses no imminent danger or threat to the school, students, or staff may be assigned to on-campus suspension in a separate classroom, building, or site for the entire period of suspension. The following conditions shall apply: (Education Code 48911.1)

1. The on-campus suspension classroom shall be staffed in accordance with law.
2. The student shall have access to appropriate counseling services.
3. The on-campus suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

4. The student shall be responsible for contacting his/her teacher(s) to receive assignments to be completed in the supervised suspension classroom. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no such work is assigned, the person supervising the suspension classroom shall assign schoolwork.

At the time a student is assigned to an on-campus suspension classroom, the principal or designee shall notify the student's parent/guardian in person or by telephone. When the assignment is for longer than one class period, this notification may be made in writing. (Education Code 48911.1)

Superintendent or Principal's Authority to Recommend Expulsion

Unless the Superintendent or principal determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct, he/she shall recommend a student's expulsion for any of the following acts: (Education Code 48915)

1. Causing serious physical injury to another person, except in self-defense
2. Possession of any knife or other dangerous object of no reasonable use to the student
3. Unlawful possession of any controlled substance as listed in Health and Safety Code 11053-11058, except for (a) the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis, or (b) the student's possession of over-the-counter medication for his/her use or other medication prescribed for him/her by a physician
4. Robbery or extortion
5. Assault or battery, as defined in Penal Code 240 and 242, upon any school employee

In determining whether or not to recommend the expulsion of a student, the Superintendent, principal, or designee shall act as quickly as possible to ensure that the student does not lose instructional time. (Education Code 48915)

Student's Right to Expulsion Hearing

<p>Note: Education Code 48918 mandates that the Board establish rules and regulations governing procedures for the expulsion of students. The timelines of Education Code 48918 must be strictly followed; failure to do so may result in loss of the district's power to act (<u>Garcia v. Los Angeles Board of Education</u>). In calculating timelines, the district should also be aware of the difference between the calculation of "school days" and "calendar days" under Education Code 48918.</p>
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SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Any student recommended for expulsion shall be entitled to a hearing to determine whether he/she should be expelled. The hearing shall be held within 30 school days after the Superintendent, principal, or designee determines that the student has committed the act(s) that form the basis for the expulsion recommendation. (Education Code 48918(a))

The student is entitled to at least one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion. (Education Code 48918(a))

If the Board finds it impractical during the regular school year to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held. (Education Code 48918(a))

If the Board finds it impractical to comply with the time requirements of the expulsion hearing due to a summer recess of Board meetings of more than two weeks, the days during the recess shall not be counted as school days. The days not counted during the recess may not exceed 20 school days, as defined in Education Code 48925. Unless the student requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days prior to the first day of the next school year. (Education Code 48918(a))

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay. (Education Code 48918(a))

Stipulated Expulsion

<p>Note: The following section is optional and may be revised to reflect district practice. "Stipulated expulsion" is for districts that have adopted an expedited procedure which allows a student to waive his/her right to a pre-expulsion hearing in exchange for an agreement as to the terms of the expulsion. Such waivers are not specifically addressed in law and districts should ensure that the due process rights of students are included in the stipulated agreement and are clearly explained to them before the agreement is signed. Districts should consult legal counsel as appropriate.</p>
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After a determination that a student has committed an expellable offense, the Superintendent, principal, or designee shall offer the student and his/her parent/guardian the option to waive a hearing and stipulate to the expulsion or to a suspension of the expulsion under certain conditions. The offer shall be made only after the student or his/her parent/guardian has been given written notice of the expulsion hearing pursuant to Education Code 48918.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

The stipulation agreement shall be in writing and shall be signed by the student and his/her parent/guardian. The stipulation agreement shall include notice of all the rights that the student is waiving, including the waiving of his/her right to have a full hearing, to appeal the expulsion to the County Board of Education, and to consult legal counsel.

A stipulated expulsion agreed to by the student and his/her parent/guardian shall be effective upon approval by the Board.

Rights of Complaining Witness

Note: Education Code 48918.5 **mandates** the following rights related to the treatment of witnesses alleging acts of sexual assault or sexual battery. Other procedures related to complaining witnesses also may be added as desired by the district. Additional mandated procedures related to the rights and treatment of complaining witnesses are included where appropriate throughout this regulation.

An expulsion hearing involving allegations of sexual assault or sexual battery may be postponed for one school day in order to accommodate the special physical, mental, or emotional needs of a student who is the complaining witness. (Education Code 48918.5)

Whenever the Superintendent or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, he/she shall give the complaining witness a copy of the district's suspension and expulsion policy and regulation and shall advise the witness of his/her right to: (Education Code 48918.5)

1. Receive five days' notice of his/her scheduled testimony at the hearing
2. Have up to two adult support persons of his/her choosing present at the hearing at the time he/she testifies
3. Have a closed hearing during the time he/she testifies

Whenever any allegation of sexual assault or sexual battery is made, the Superintendent or designee shall immediately advise complaining witnesses and accused students to refrain from personal or telephone contact with each other during the time when an expulsion process is pending. (Education Code 48918.5)

Written Notice of the Expulsion Hearing

Note: Education Code 48918 **mandates** the Board to adopt procedures that include the following items.

Written notice of the expulsion hearing shall be forwarded to the student and the student's parent/guardian at least 10 calendar days before the date of the hearing. The notice shall include: (Education Code 48900.8, 48918(b))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

1. The date and place of the hearing
2. A statement of the specific facts, charges, and offense upon which the proposed expulsion is based
3. A copy of district disciplinary rules which relate to the alleged violation
4. Notification of the student's or parent/guardian's obligation, pursuant to Education Code 48915.1, to provide information about the student's status in the district to any other district in which the student seeks enrollment

This obligation applies when a student is expelled for acts other than those described in Education Code 48915(a) or (c).

(cf. 5119 - Students Expelled from Other Districts)

5. The opportunity for the student or the student's parent/guardian to appear in person or be represented by legal counsel or by a nonattorney adviser

Legal counsel means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California.

Nonattorney adviser means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case and has been selected by the student or student's parent/guardian to provide assistance at the hearing.

6. The right to inspect and obtain copies of all documents to be used at the hearing
7. The opportunity to confront and question all witnesses who testify at the hearing
8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses

Additional Notice of Expulsion Hearing for Foster Youth and Homeless Students

Note: Prior to conducting an expulsion hearing to determine whether a foster youth should be expelled, Education Code 48918.1 requires the district to notify the student's attorney and a representative of an appropriate county child welfare agency, provided that the violation does not require a mandatory recommendation for expulsion. Pursuant to Education Code 48918.1, as amended by AB 1806 (Ch. 767, Statutes of 2014), such additional notice must be given to the district liaison for homeless students when the student involved is a homeless child or youth and the violation does not require a mandatory recommendation for expulsion. While such a notice is not required if the offense requires a mandatory recommendation for expulsion, it is nonetheless recommended and the following section reflects this recommendation.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

If the student facing expulsion is a foster student, the Superintendent or designee shall also send notice of the hearing to the student's attorney and a representative of an appropriate child welfare agency at least 10 days prior to the hearing. (Education Code 48918.1)

If the student facing expulsion is a homeless student, the Superintendent or designee shall also send notice of the hearing to the district liaison for homeless students at least 10 days prior to the hearing. (Education Code 48918.1)

Any notice for these purposes may be provided by the most cost-effective method possible, including by email or a telephone call. (Education Code 48918.1)

Conduct of Expulsion Hearing

Note: Education Code 48918 **mandates** that the Board adopt procedures that include the following items.

Instead of the Board conducting an expulsion hearing, it may appoint a hearing officer or an impartial administrative panel to conduct the hearing; see section "Alternative Expulsion Hearing: Hearing Officer or Administrative Panel" below. Even if the district conducts all expulsion hearings in this manner, the requirements of Education Code 48918 pertaining to the conduct of the hearing must be met.

1. **Closed Session:** Notwithstanding Education Code 35145, the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public meeting. If such a request is made, the meeting shall be public to the extent that privacy rights of other students are not violated. (Education Code 48918)

Note: For the purpose of Board deliberations during the closed session described below, the presence of any person other than the Board members, including the Superintendent, necessitates allowing the presence of the parent/guardian, student, and student's counsel.

Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to deliberate and determine whether or not the student should be expelled. If the Board admits any other person to this closed session, the parent/guardian, the student, and the counsel of the student also shall be allowed to attend the closed session. (Education Code 48918(c))

If a hearing that involves a charge of sexual assault or sexual battery is to be conducted in public, a complaining witness shall have the right to have his/her testimony heard in closed session when testifying in public would threaten serious psychological harm to the witness and when there are no alternative procedures to avoid the threatened harm, including, but not limited to, videotaped deposition or contemporaneous examination in another place communicated to the hearing room by closed-circuit television. (Education Code 48918(c))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

2. **Record of Hearing:** A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made. (Education Code 48918(g))

Note: Education Code 48918 authorizes the Board to issue subpoenas for the personal appearance of percipient witnesses at an expulsion hearing. In Woodbury v. Dempsey, the court held that a district's authority to determine whether to issue subpoenas is discretionary, but a district could not have a blanket policy denying the issuance of subpoenas in all cases.

In accordance with Code of Civil Procedure 1987, the subpoena must be served at least 10 days before the time required for attendance unless the court prescribes a shorter time. Unless they are parties to the hearing or are district or government employees, witnesses who appear pursuant to a subpoena receive fees equal to those prescribed for witnesses in civil actions in a superior court, and all witnesses other than the parties to the hearing receive mileage. These fees and mileage must be paid by the party requesting the subpoena.

3. **Subpoenas:** Before commencing a student expulsion hearing, the Board may issue subpoenas, at the request of either the student or the Superintendent or designee, for the personal appearance at the hearing of any person who actually witnessed the action that gave rise to the recommendation for expulsion. After the hearing has commenced, the Board or the hearing officer or administrative panel may issue such subpoenas at the request of the student or the County Superintendent of Schools or designee. All subpoenas shall be issued in accordance with Code of Civil Procedure 1985-1985.2 and enforced in accordance with Government Code 11455.20. (Education Code 48918(i))

Any objection raised by the student or the Superintendent or designee to the issuance of subpoenas may be considered by the Board in closed session, or in open session if so requested by the student, before the meeting. The Board's decision in response to such an objection shall be final and binding. (Education Code 48918(i))

If the Board determines, or if the hearing officer or administrative panel finds and submits to the Board, that a witness would be subject to unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as described in item #4 below. (Education Code 48918(i))

4. **Presentation of Evidence:** Technical rules of evidence shall not apply to the expulsion hearing, but relevant evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Board to expel shall be supported by substantial evidence that the student committed any of the acts pursuant to Education Code 48900 and

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

listed in "Grounds for Suspension and Expulsion: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12" above. (Education Code 48918(h))

Note: Findings of fact made by the Board or a hearing panel must not be based on hearsay alone. "Hearsay" is evidence of an oral or written statement made by a person who is not present at the hearing which is offered to establish a fact as being true. Some exceptions to the hearsay rule exist under the Evidence Code and Education Code. The district should consult legal counsel as appropriate.

Findings of fact shall be based solely on the evidence at the hearing. Although no finding shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm. (Education Code 48918(f))

In cases where a search of a student's person or property has occurred, evidence describing the reasonableness of the search shall be included in the hearing record.

Note: Education Code 48918.6 provides that testimony by a student witness at an expulsion hearing is privileged and thus protected from liability for defamation pursuant to Civil Code 47(b).

5. **Testimony by Complaining Witnesses:** The following procedures shall be observed when a hearing involves allegations of sexual assault or sexual battery by a student: (Education Code 48918, 48918.5)
- a. Any complaining witness shall be given five days' notice before being called to testify.
 - b. Any complaining witness shall be entitled to have up to two adult support persons, including, but not limited to, a parent/guardian or legal counsel, present during his/her testimony.
 - c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.
 - d. The person presiding over the hearing may remove a support person whom he/she finds is disrupting the hearing.
 - e. If one or both support persons are also witnesses, the hearing shall be conducted in accordance with Penal Code 868.5.
 - f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

person conducting the hearing determines that extraordinary circumstances require the evidence to be heard. Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.

- g. In order to facilitate a free and accurate statement of the experiences of the complaining witness and to prevent discouragement of complaints, the district shall provide a nonthreatening environment.
 - (1) The district shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.
 - (2) At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which he/she may leave the hearing room.
 - (3) The person conducting the hearing may:
 - (a) Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining witness
 - (b) Limit the time for taking the testimony of a complaining witness to the hours he/she is normally in school, if there is no good cause to take the testimony during other hours
 - (c) Permit one of the support persons to accompany the complaining witness to the witness stand
- 6. **Decision:** The Board's decision as to whether to expel a student shall be made within 40 school days after the student is removed from his/her school of attendance, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

Alternative Expulsion Hearing: Hearing Officer or Administrative Panel

Note: For districts that use a hearing officer or administrative panel, Education Code 48918 **mandates** that the Board adopt procedures that include the following section.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Instead of conducting an expulsion hearing itself, the Board may contract with the county hearing officer or with the Office of Administrative Hearings of the State of California for a hearing officer. The Board may also appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or on the staff of the school in which the student is enrolled. (Education Code 48918)

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures applicable to a hearing conducted by the Board as specified above in "Conduct of Expulsion Hearing," including the requirement to issue a decision within 40 school days of the student's removal from school, unless the student requests that the decision be postponed. (Education Code 48918(a) and (d))

Note: Pursuant to Education Code 48918, ~~as amended by SB 1111 (Ch. 837, Statutes of 2014)~~, if the hearing officer or administrative panel does not recommend expulsion, a student must be permitted to return to the classroom instructional program from which the expulsion referral was made, unless the student's parent/guardian requests a different placement. ~~As amended~~, Education Code 48918 also states that a student who is found to have committed any of the violations listed in "Authority to Expel" in the accompanying Board policy but for whom expulsion is not recommended may be referred to his/her prior school. However, the hearing officer or administrative panel, like the Board, must recommend expulsion or a suspended expulsion under Education Code 48915, if it finds that a student committed any such violation that mandates expulsion. District should consult legal counsel to resolve this apparent discrepancy.

The hearing officer or administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the expulsion proceeding shall be terminated and the student shall be immediately reinstated and permitted to return to the classroom instructional program from which the referral was made, unless another placement is requested in writing by the student's parent/guardian. Before the student's placement decision is made by his/her parent/guardian, the Superintendent or designee shall consult with the parent/guardian and district staff, including the student's teachers, regarding other placement options for the student in addition to the option to return to the classroom instructional program from which the student's expulsion referral was made. The decision to not recommend expulsion shall be final. (Education Code 48918(e))

If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The Board may accept the recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the Board may order. (Education Code 48918(f))

In accordance with Board policy, the hearing officer or administrative panel may recommend that the Board suspend the enforcement of the expulsion. If the hearing officer or administrative panel recommends that the Board expel a student but suspend the enforcement

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

of the expulsion, the student shall not be reinstated and permitted to return to the classroom instructional program from which the referral was made until the Board has ruled on the recommendation. (Education Code 48917, 48918)

Final Action by the Board

Note: Education Code 48918 **mandates** that the Board adopt procedures that include the following paragraph.

Whether the expulsion hearing is conducted in closed or public session by the Board, a hearing officer, or an administrative panel or is waived through the signing of a stipulated expulsion agreement, the final action to expel shall be taken by the Board in public. (Education Code 48918(j))

(cf. 9321.1 - Closed Session Actions and Reports)

The Board's decision is final. If the decision is to not expel, the student shall be reinstated immediately. If the decision is to suspend the enforcement of the expulsion, the student shall be reinstated under the conditions of the suspended expulsion.

Note: ~~The Gun-Free Schools Act, 20 USC 7151, requires that information in the following paragraph be sent to the California Department of Education (CDE) for assurances of compliance with federal and state law. For other language that must be submitted to the CDE, see section below entitled "Notifications to Law Enforcement Authorities."~~ **20 USC 7961 requires the district, in the consolidated application for federal funding, to provide an assurance that it will comply with the state requirement to expel, for a period not less than one year, any student who brings a firearm to school or possesses a firearm at school.**

Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within the district. For a student expelled for any **"mandatory recommendation and mandatory expulsion"** act listed ~~under "Mandatory Recommendation and Mandatory Expulsion" above~~ **in the section "Authority to Expel" in the accompanying Board policy**, this date shall be one year from the date the expulsion occurred, except that the Board may set an earlier date on a case-by-case basis. For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred. If an expulsion is ordered during summer session or the intersession period of a year-round program, the Board shall set a date when the student shall be reviewed for readmission not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred. (Education Code 48916)

At the time of the expulsion order, the Board shall recommend a plan for the student's rehabilitation, which may include: (Education Code 48916)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

1. Periodic review, as well as assessment at the time of review, for readmission
2. Recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs

Note: The following paragraph is optional . Education Code 48916.5 authorizes, but does not mandate, the Board to make the following requirement of certain expelled students.

With parent/guardian consent, students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in a county-sponsored drug rehabilitation program before returning to school. (Education Code 48916.5)

Written Notice to Expel

The Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. This notice shall include the following:

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed above under "Grounds for Suspension and Expulsion: Grades K-12" or "Additional Grounds for Suspension and Expulsion: Grades 4-12" (Education Code 48900.8)
2. The fact that a description of readmission procedures will be made available to the student and his/her parent/guardian (Education Code 48916)
3. Notice of the right to appeal the expulsion to the County Board (Education Code 48918)
4. Notice of the alternative educational placement to be provided to the student during the time of expulsion (Education Code 48918)
5. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1 (Education Code 48918)

Decision to Suspend Expulsion Order

Note: Pursuant to Education Code 48917, the Board's criteria for suspending the enforcement of expulsions must be applied uniformly to all students. Items #1-3 below are optional and should be revised to reflect district criteria.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

In accordance with Board policy, when deciding whether to suspend the enforcement of an expulsion order, the Board shall take into account the following criteria:

1. The student's pattern of behavior
2. The seriousness of the misconduct
3. The student's attitude toward the misconduct and his/her willingness to follow a rehabilitation program

The suspension of the enforcement of an expulsion shall be governed by the following:

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class, or program appropriate for the student's rehabilitation. This rehabilitation program may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program. (Education Code 48917)
2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status. (Education Code 48917)
3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12" or "Additional Grounds for Suspension and Expulsion: Grades 4-12" above or violates any of the district's rules and regulations governing student conduct. (Education Code 48917)
4. When the suspension of enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order. (Education Code 48917)
5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a district school. Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings. (Education Code 48917)
6. The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall inform the parent/guardian of the right to appeal the expulsion to the County Board, the alternative educational placement to be provided

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

- to the student during the period of expulsion, and the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of his/her status with the expelling district, pursuant to Education Code 48915.1(b). (Education Code 48918(j))
7. Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board. (Education Code 48917)

Appeal

The student or parent/guardian is entitled to file an appeal of the Board's decision with the County Board. The appeal must be filed within 30 days of the Board's decision to expel, even if the expulsion order is suspended and the student is placed on probation. (Education Code 48919)

If the student submits a written request for a copy of the written transcripts and supporting documents from the district simultaneously with the filing of the notice of appeal with the County Board, the district shall provide the student with these documents within 10 school days following the student's written request. (Education Code 48919)

Notification to Law Enforcement Authorities

Note: ~~The Gun-Free Schools Act (20 USC 7151) requires that information in the following two paragraphs be sent to the CDE for assurances of compliance with federal and state law.~~

~~In addition,~~ Education Code 48902 requires the principal or designee to notify law enforcement authorities when a student ~~or nonstudent~~ possesses a firearm or explosive or sells or furnishes a firearm at school. However, when the student involved in such a case is a student with a disability, Education Code 49076 requires any law enforcement authority to which student information is disclosed to certify that those records will not be disclosed to another party without the prior written consent of the student's parent/guardian or other person invested with the student's educational right; see AR 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities).

~~When submitting the consolidated application for federal funding, the district must provide assurance that it has adopted a policy requiring referral to the criminal justice system or juvenile delinquency system of any student who brings a firearm or weapon to a school. The following section fulfills this requirement.~~

Prior to the suspension or expulsion of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code 245. (Education Code 48902)

The principal or designee ~~also~~ shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

controlled substance, **or of any student acts involving** ~~. In addition, law enforcement authorities shall be notified regarding any acts by students regarding~~ the possession, sale, or furnishing of firearms, explosives, or other dangerous weapons in violation of Education Code 48915(c)(1) or (5) or Penal Code 626.9 and 626.10. (Education Code 48902)

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate ~~city or~~ county **or district** law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code 48900(c) or (d), relating to the possession, use, offering, or sale of controlled substances, alcohol, or intoxicants of any kind. (Education Code 48902)

Placement During Expulsion

Note: Education Code 48915 requires the Board to refer all expelled students to a program of study that is prepared to accommodate students with discipline problems and that is not located at the school the student currently attends or at any regular elementary, middle, junior, or senior high school. However, students expelled for the acts described in Education Code 48900(f) through (m) or Education Code 48900.2, 48900.3, or 48900.4 may be referred to a program of study that is at another elementary, middle, junior, or senior high school if the County Superintendent of Schools certifies that an alternative program is not available at a site away from such a school.

Education Code 48915.01 states that if the Board has established a community day school pursuant to Education Code 48661 on the same site as an elementary, middle, junior, or senior high school, expelled students may be referred to the community day school at that site. Although Education Code 48663 prohibits the use of independent study in community day schools, Education Code 48916.1 does not in any way restrict the district from offering independent study as a voluntary alternative placement option for expelled students.

The Board shall refer expelled students to a program of study that is: (Education Code 48915, 48915.01)

1. Appropriately prepared to accommodate students who exhibit discipline problems
2. Not provided at a comprehensive middle, junior, or senior high school or at any elementary school, unless the program is offered at a community day school established at any of these
3. Not housed at the school site attended by the student at the time of suspension

(cf. 6158 - Independent Study)

(cf. 6185 - Community Day School)

When the placement described above is not available and when the County Superintendent so certifies, students expelled for only acts described in items #6-12 under "Grounds for Suspension and Expulsion: Grades K-12" and items #1-3 under "Additional Grounds for

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Suspension and Expulsion: Grades 4-12" above may be referred to a program of study that is provided at another comprehensive middle, junior, or senior high school or at an elementary school. (Education Code 48915)

The program for a student expelled from any of grades K-6 shall not be combined or merged with programs offered to students in any of grades 7-12. (Education Code 48916.1)

Readmission After Expulsion

Note: Education Code 48916 **mandates** that the Board adopt rules and regulations establishing a procedure for filing and processing requests for readmission and a process for Board review of all expelled students for readmission. Items #1-2 below should be revised to reflect district practice.

Prior to the date set by the Board for the student's readmission:

1. The Superintendent or designee shall hold a conference with the parent/guardian and the student. At the conference, the student's rehabilitation plan shall be reviewed and the Superintendent or designee shall verify that the provisions of this plan have been met. School regulations shall be reviewed and the student and parent/guardian shall be asked to indicate in writing their willingness to comply with these regulations.
2. The Superintendent or designee shall transmit to the Board his/her recommendation regarding readmission. The Board shall consider this recommendation in closed session. If a written request for open session is received from the parent/guardian or adult student, it shall be honored to the extent that privacy rights of other students are not violated.
3. If the readmission is granted, the Superintendent or designee shall notify the student and parent/guardian, by registered mail, of the Board's decision regarding readmission.
4. The Board may deny readmission only if it finds that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to campus safety or to other district students or employees. (Education Code 48916)
5. If the Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school.
6. The Board shall provide written notice to the expelled student and parent/guardian describing the reasons for denying readmittance into the regular program. This notice

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

shall indicate the Board's determination of the educational program which the Board has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district. (Education Code 48916)

No student shall be denied readmission into the district based solely on the student's 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 such contact with the juvenile justice system. (Education Code 48645.5)

Maintenance of Records

The district shall maintain a record of each suspension and expulsion, including its specific cause(s). (Education Code 48900.8)

Expulsion records of any student shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls upon written request by that school. (Education Code 48918(k))

Note: Education Code 48915.1 requires that, when an expelled student asks to enroll in another district, the receiving district must hold a hearing to determine whether the student poses a danger to its students or staff. The receiving district then may either deny or permit the enrollment. Upon request from another district, the expelling district must provide information about the expulsion within five days.

The Superintendent or designee shall, within five working days, honor any other district's request for information about an expulsion from this district. (Education Code 48915.1)

(cf. 5119 - Students Expelled from Other Districts)

(4/14 12/14) 10/18

CSBA Sample Board Policy

Students

BP 5148.3(a)

PRESCHOOL/EARLY CHILDHOOD EDUCATION

Note: The following **optional** policy may be used by districts that operate their own preschool/early childhood education programs and/or collaborate to provide preschool opportunities within the community; ~~see the appropriate sections below.~~ CSBA's publication ~~Expanding Access to High Quality Preschool Programs~~ **What Boards of Education Can Do about Kindergarten Readiness** provides information about characteristics of effective preschool programs and actions that the district and Governing Board can take to encourage and/or provide high-quality preschool education, ~~including a worksheet to assist districts in the development of policy pertaining to preschool and early childhood education.~~ **Education Code 8492, as added by AB 1808 (Ch. 32, Statutes of 2018), establishes the Early Education Expansion Program to provide grants for the purpose of increasing access to inclusive early care and education programs for children with and without disabilities.**

The Governing Board recognizes ~~that~~ **the value of** high-quality preschool experiences ~~help children ages 3-4 years to develop~~ **to enhance children's social-emotional development,** knowledge, skills, abilities, and attributes necessary for a successful transition into the elementary education program. ~~Early education programs should provide~~ **The Board desires to provide children ages 3-4 years access to** developmentally appropriate activities in a safe, adequately supervised, and cognitively rich environment.

Collaboration with Community Programs

Note: The following **optional** ~~section~~ **paragraphs** may be used by all districts, regardless of whether they provide their own preschool programs, and may be revised to reflect district practice.

Education Code 8499-8499.7 establish county-level child care and development planning councils, with members selected by the County Board of Supervisors and County Superintendent of Schools, to identify local priorities for child care, including preschool programs, and to develop policies to meet identified needs; see BP 5148 - Child Care and Development. Such councils ~~also~~ may **also** develop centralized student eligibility lists; see section on "Eligibility and Enrollment" in the accompanying administrative regulation.

The Superintendent or designee shall collaborate with the local child care and development planning council, **the county office of education,** other public agencies, organizations, ~~the county office of education,~~ and/or private preschool providers to assess the availability of preschool programs in the community and the extent to which the community's preschool needs are being met. The Board encourages the development of a comprehensive districtwide and/or countywide plan to increase children's access to high-quality preschool programs.

(cf. 1020 - Youth Services)

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)

(cf. 1700 - Relations Between Private Industry and the Schools)

(cf. 5148 - Child Care and Development)

The Superintendent or designee shall provide information about preschool options in the community to parents/guardians upon request.

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)**District Preschool Programs**

Note: The following **optional** section is for use by districts that choose to provide preschool/early childhood education programs for children ages 3-4 years and should be revised to reflect district practice.

The district may contract with the California Department of Education (CDE) to offer a program through the California State Preschool Program (CSPP) pursuant to Education Code 8235-8239.1. The CSPP consolidates a number of state programs that serve children ages 3-4, including state preschool programs (Education Code 8235-8237), family literacy programs (Education Code 8238-8238.4), and general child care and development programs to the extent that they serve children ages 3-4 (Education Code 8240-8244). Children ages 3-4 years from low-income or otherwise disadvantaged families may be eligible for subsidized services. See the accompanying administrative regulation for major program requirements for CSPP.

Preschool programs **also** may **also** receive funding through the state migrant child care and development program (Education Code 8230-8233), **state child care and development services for children with special needs** program **for severely disabled children** (Education Code 8250-8252), federal Head Start program (42 USC 9831-9852), Title I preschool program (20 USC 6311-6322), or other funding sources available to the district.

When the Board determines that it is feasible, the district may contract with the California Department of Education (CDE) to provide preschool services in facilities at or near district schools, **either directly or through a subcontract with a public or private provider.**

Note: Beginning July 1, 2019 or upon the adoption of emergency regulations, whichever comes first, Health and Safety Code 1596.792, as amended by AB 99 (Ch. 15, Statutes of 2017) and AB 1808 (Ch. 32, Statutes of 2018), exempts CSPP programs from specified licensure and regulation requirements if they are operated in a school building by a school district under contract with CDE. However, such CSPP programs are required to comply with other specified health and safety requirements.

District preschool programs shall comply with all health and safety laws and regulations, including, when applicable, licensure requirements pursuant to 22 CCR 101156.

Note: 5 CCR 18130 specifies the state regulations for child care and development programs that are applicable to CSPP programs, including the requirement in 5 CCR 18271 that the Board approve a written philosophical statement, goals, and objectives addressing each program component specified in 5 CCR 18272-18281. See the accompanying administrative regulation and AR 5148 - Child Care and Development for further information about these required program components.

The Board shall approve, for the district's preschool program, a written philosophical statement, goals, and objectives that reflect the cultural and linguistic characteristics of the families to be served and address the program components specified in 5 CCR 18272-18281 and the accompanying administrative regulation. (5 CCR 18271)

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)

The Board shall set priorities for establishing or expanding services as resources become available, giving consideration to the benefits of providing early education programs for at-risk children and/or children residing in the attendance areas of the lowest performing district schools.

(cf. 6171 - Title I Programs)

Note: Pursuant to Education Code 8236, districts have the authority to subcontract with an appropriate public or private agency to operate a district CSPP program.

On a case by case basis, the Board shall determine whether the district shall directly administer a preschool program or contract with a public or private provider to offer such a program.

Facilities for preschool classrooms **needs** shall be addressed in the district's facilities master plan, including an assessment as to whether adequate and appropriate space exists on school sites. As necessary, the Superintendent or designee shall provide information to the Board regarding facilities financing options for preschool classrooms and/or facilities available through partnering organizations or agencies.

(cf. 1330.1 - Joint Use Agreements)

(cf. 7110 - Facilities Master Plan)

(cf. 7210 - Facilities Financing)

Because parents/guardians are essential partners in supporting the development of their children, the Superintendent or designee shall involve them in program planning.

(cf. 5020 - Parent Rights and Responsibilities)

(cf. 6020 - Parent Involvement)

Note: The following **optional** paragraph provides for coordination of the preschool program with the **transitional kindergarten (TK)** program and may be revised to reflect district practice. Pursuant to Education Code 48000, children whose fifth birthday is between September 2 and December 2 must be offered a **transitional kindergarten (TK)** program which operates as the first year of a two-year kindergarten program; see BP 6170.1 - Transitional Kindergarten. The following **optional** paragraph provides for coordination of the preschool program with the TK program and may be revised to reflect district practice.

The Superintendent or designee shall coordinate **planning efforts for** the district's preschool program, transitional kindergarten program **(TK)**, and elementary education program to provide a developmental continuum that builds upon children's growing skills and knowledge.

(cf. 6011 - Academic Standards)

(cf. 6170.1 - Transitional Kindergarten)

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)

Note: CDE has developed voluntary "preschool learning foundations" which describe the knowledge, skills, and competencies that children are expected to exhibit as they complete their first or second year of preschool. These standards address essential skills in the subject areas listed below. The standards and companion preschool curriculum frameworks are available on CDE's web site.

The district's program shall be aligned with preschool learning foundations and curriculum frameworks developed by ~~the~~ CDE which identify the knowledge, skills, and competencies that children typically attain as they complete their first or second year of preschool. The program shall be designed to facilitate children's development in essential skills ~~related to~~ **in the areas of** language and literacy, mathematics, physical development, health, visual and performing arts, science, history-social science, English language development, and social-emotional development.

The district's preschool program shall provide appropriate services to support the needs of ~~English learners and children with disabilities~~ **at-risk children**.

(cf. 0415 - Equity)

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

(cf. 6173 - Education for Homeless Children)

(cf. 6173.1 - Education for Foster Youth)

(cf. 6173.2 - Education of Children of Military Families)

(cf. 6174 - Education for English Learners)

(cf. 6175 - Migrant Education Program)

~~The district shall encourage volunteerism in the program and shall communicate frequently with parents/guardians of enrolled children regarding their child's progress.~~

~~*(cf. 1240 - Volunteer Assistance)*~~

To maximize the ability of children to succeed in the preschool program, the program shall support children's health through proper nutrition and physical activity and shall provide or make referrals to available health and social services as needed.

(cf. 3550 - Food Services/Child Nutrition Program)

(cf. 5030 - Student Wellness)

(cf. 5141.31 - Immunizations)

(cf. 5141.32 - Health Screening for School Entry)

(cf. 5141.6 - School Health Services)

The district shall encourage volunteerism in the program and shall communicate frequently with parents/guardians of enrolled children regarding their child's progress.

(cf. 1240 - Volunteer Assistance)

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)

Note: The Commission on Teacher Credentialing issues permits for child development program directors, site supervisors, master teachers, teachers, associate teachers, and assistants pursuant to criteria established in Education Code 8360-8370 and 5 CCR 80105-80125. The district may request from CDE a waiver of the qualification requirements for a site supervisor upon demonstration of a compelling need, in accordance with Education Code 8208(aa) and 5 CCR 18295.

Health and Safety Code 1596.7995, ~~as added by SB 792 (Ch. 807, Statutes of 2015)~~, requires that employees and volunteers at a day care center be immunized against influenza, pertussis, and measles, with specified exemptions. In addition, Health and Safety Code 1597.055, ~~as amended by SB 792~~, requires that teachers in a day care center obtain a tuberculosis clearance. See the accompanying administrative regulation.

Education Code 8450 authorizes the district to create a reserve fund and use 10 percent of it for purposes of professional development for CSPP instructional staff. Professional development resources pertaining to preschool/early childhood education are available through CDE **and organizations such as the** California Preschool Instructional Network, ~~and others. See the management resources below.~~

~~Education Code 8450 authorizes the district to create a reserve fund and use 10 percent of it for purposes of professional development for CSPP instructional staff.~~

The Superintendent or designee shall ensure that administrators, teachers, and paraprofessionals in district preschool programs possess the appropriate permit(s) issued by the Commission on Teacher Credentialing, meet any additional qualifications established by the Board, and participate in professional development opportunities designed to continually enhance their knowledge and skills.

(cf. 4112.2 - Certification)

(cf. 4112.4/4212.4/4312.4 - Health Examinations)

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

(cf. 4131 - Staff Development)

(cf. 4222 - Teacher Aides/Paraprofessionals)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Note: Pursuant to 5 CCR 18130, CSPP programs are subject to the requirements of 5 CCR 18105. 5 CCR 18105 **mandates** that districts offering a CSPP program develop written admissions policies and procedures that conform to the requirements of 22 CCR 101218, as provided in the following paragraph. See the accompanying administrative regulation for additional language that fulfills this mandate.

Preschool admissions policies and procedures shall be in writing and available to the public. Such policies and procedures shall include criteria designating those children whose needs can be met by the program and services, the ages of children who will be accepted, program activities, any supplementary services provided, any field trip provisions, any transportation arrangements, food service provisions, and a health examination requirement. (CCR 18105; 22 CCR 101218)

Note: Education Code 8263 and 5 CCR 18106 establish eligibility criteria and priorities for subsidized preschool services, as provided below and in the accompanying administrative regulation

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)

Eligibility is generally limited to children who reside within district boundaries. However, Education Code 8322 and 5 CCR 18107 authorize the Board to enter into an agreement with the boards of other districts to serve children who reside within those districts. The district may revise the following paragraph to reflect any such agreement approved by the Board.

The Superintendent or designee shall ensure that subsidized preschool is provided to eligible families to the extent that state and/or federal funding is available and shall establish enrollment priorities in accordance with Education Code 8263 and 5 CCR 18106.

Note: The following paragraph is **optional**. Pursuant to Education Code 8235, programs operated under the CSPP are part-day programs only. Education Code 8239 encourages the provision of "wraparound child care services" which combine part-day preschool and general child care services to provide a full day of services for qualifying families. See the accompanying administrative regulation for program requirements.

The Superintendent or designee shall recommend strategies to link the district's preschool program with other available child care and development programs in the district or community in order to assist families whose child care needs extend beyond the length of time that the district's part-day preschool program is offered.

Note: 5 CCR 18279-18281 require an annual evaluation using **the CDE's** standardized "Desired Results for Children and Families" system ~~developed by the CDE~~. The system requires a self-evaluation that includes, but is not limited to, an assessment of the program by staff and the Board, a parent survey, and an environment rating scale using forms selected by CDE. In addition, every three years, CDE conducts a Federal Program Monitoring/Contract Monitoring Review (FPM/CMR) process with each contract agency which reviews compliance with program requirements. The FPM/CMR instrument is available on the CDE's web site.

Education Code 8203.1, ~~as added by SB 858 (Ch. 32, Statutes of 2014)~~, establishes the early learning quality rating and improvement system (QRIS) block grant to support continuous local improvement efforts that increase the number of low-income children in high-quality preschool programs. Grant funds may be awarded to eligible local consortia, which then allocate funds to districts and other agencies contracting to provide CSPP programs. Pursuant to Education Code 8203.1, QRIS is based on a tiered rating structure with progressively higher quality standards for each tier. It is designed to (1) provide supports and incentives for programs, teachers, and administrators to reach higher levels of quality; (2) monitor and evaluate program impacts on child outcomes; and (3) disseminate information to parents/guardians and the public about program quality. For further information about the QRIS block grant, see CDE's web site and its publication Dream Big for Our Youngest Children.

The Superintendent or designee shall develop and implement an annual plan of evaluation which conforms to state requirements. (5 CCR 18279)

Note: The following paragraph may be revised to reflect programs offered by the district. Education Code 8235.5, as added by AB 1808 (Ch. 32, Statutes of 2018), requires CSPP programs that are exempt from licensing pursuant to Health and Safety Code 1596.792 to utilize district complaint procedures, with modifications as necessary, to resolve any deficiencies related to the CSPP health and safety requirements of Health and Safety Code 1596.7925. The bill summary clarifies that the Williams uniform complaint procedures established pursuant to 5 CCR 4680-4687 are the applicable procedures. See BP/AR 1312.4 - Williams Uniform Complaint Procedures.

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)

The district's Williams uniform complaint procedures, with modifications as necessary, shall be used to investigate and resolve complaints alleging violation of applicable health or safety requirements for license-exempt programs operating under the California State Preschool Program. However, licensed programs shall refer complaints alleging health and safety violations to the California Department of Social Services. (Education Code 8235.5; 5 CCR 4610, 4611)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

The Superintendent or designee shall regularly report to the Board regarding enrollment in district preschool programs and the effectiveness of the programs in preparing preschoolers for transition into the elementary education program.

(cf. 0500 - Accountability)

Legal Reference:

EDUCATION CODE

8200-8499.10 *Child Care and Development Services Act, especially:*

8200-8209 *General provisions for child care and development services*

8230-8233 *Migrant child care and development program*

8235-8239.1 *California State Preschool Program*

8240-8244 *General child care and development programs*

8250-8252 *Programs for children with special needs*

8263 *Eligibility and priorities for subsidized child development services*

8263.3 *Disenrollment of families due to reduced funding levels*

8264.8 *Center-based child care programs, staffing ratios*

8273.1 *Family fees*

~~8300-8303 *Early Learning Quality Improvement System Advisory Committee*~~

8360-8370 *Personnel qualifications*

8400-8409 *Contracts, **administrative appeal procedure***

8493-8498 *Facilities, **capital outlay***

8499.3-8499.7 *Local child care and development planning councils*

44065 *Interchange between certificated and classified positions*

44256 *Credential types*

48000 *Transitional kindergarten*

48985 *Notification, primary language other than English*

HEALTH AND SAFETY CODE

1596.70-1596.895 *California Child Day Care Act*

1596.90-1597.21 *Day care centers*

120325-120380 *Immunization requirements*

Legal Reference continued: (see next page)

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)

Legal Reference: (continued)

CODE OF REGULATIONS, TITLE 5

4680-4687 Williams uniform complaint procedures

18000-18434 Child care and development programs, especially:

18130-18136 California State Preschool Program

18295 Waiver of qualifications for site supervisor

80105-80125 Permits authorizing service in child development programs

CODE OF FEDERAL REGULATIONS, TITLE 22

101151-101239.2 General requirements, licensed child care centers, especially:

101151-101163 Licensing and application procedures

101212-101231 Continuing requirements

101237-101239.2 Facilities and equipment

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act

6311-6322 Title I, relative to preschool

6371-6376 Early Reading First

6381-6381k Even Start family literacy programs

6391-6399 Education of migratory children

UNITED STATES CODE, TITLE 42

9831-9852c Head Start programs

~~9858-9858q~~ **9857-9858r** Child Care and Development Block Grant

CODE OF FEDERAL REGULATIONS, TITLE 22

101151-101239.2 General requirements, licensed child care centers, including:

101151-101163 Licensing and application procedures

101212-101231 Continuing requirements

101237-101239.2 Facilities and equipment

CODE OF FEDERAL REGULATIONS, TITLE 45

~~1301-1310~~ **1301.1-1305.2** Head Start

Management Resources:

CSBA PUBLICATIONS

What Boards of Education Can Do About Kindergarten Readiness, Governance Brief, May 2016

~~Expanding Access to High-Quality Preschool Programs, 2008~~

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

California Preschool Learning Foundations

~~14-02 Enrolling and Reporting Children in California State Preschool Programs, April 2014~~

Dream Big for Our Youngest Children: Final Report of the California Early Learning Quality Improvement System Advisory Committee, 2010

Preschool English Learners: Principles and Practices to Promote Language, Literacy, and Learning, 2nd ed., 2009

Prekindergarten Learning Development Guidelines, 2000

First Class: A Guide for Early Primary Education, 1999

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Policy Statement on Expulsion and Suspension Policies in Early Childhood Settings, 2016

Good Start, Grow Smart, April 2002

Management Resources continued: (see next page)

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)

Management Resources: (continued)

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

California Association for the Education of Young Children: <http://www.caeyc.org>

~~California Children and Families Commission: <http://www.ccfca.org>~~

California County Superintendents Educational Services Association: <http://www.ccsesa.org>

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

California Head Start Association: <http://caheadstart.org>

California Preschool Instructional Network: <http://www.cpin.us>

Child Development Policy Institute: <http://www.cdpi.net>

Cities, Counties, and Schools Partnership: <http://www.ccspartnership.org>

First 5 Association of California: ~~<http://www.f5ac.org>~~ <http://www.ccfc.ca.gov>

National Institute for Early Education Research: <http://nieer.org>

~~National School Boards Association: <http://www.nsba.org>~~

~~Preschool California: <http://www.preschoolcalifornia.org>~~

U.S. Department of Education: <http://www.ed.gov>

CSBA Sample

Administrative Regulation

Students

AR 5148.3(a)

PRESCHOOL/EARLY CHILDHOOD EDUCATION

Note: The following administrative regulation reflects the major requirements of the California State Preschool Program (CSPP) pursuant to Education Code 8235-8239.1. The CSPP consolidates state preschool programs (Education Code 8235-8237), family literacy programs (Education Code 8238-8238.4), and general child care and development programs to the extent that they serve children 3-4 years of age (Education Code 8240-8244).

The following administrative regulation does not reflect all requirements for other state and federally funded preschool program(s). The district may revise this administrative regulation to reflect other preschool program(s) it offers, such as the state migrant child care and development program (Education Code 8230-8233), **state child care and development services for children with special needs** program ~~for severely disabled children~~ (Education Code 8250-8252), federal Head Start program (42 USC 9831-9852), Title I preschool program (20 USC 6311-6322), or preschool program developed and funded by the district.

In addition to the program requirements described below, preschool programs may be subject to other policies contained throughout the district's policy manual (e.g., **BP/AR 1240 - Volunteer Assistance, AR 3514.2 - Integrated Pest Management, BP/AR 3550 - Food Service/Child Nutrition Program, and BP/AR 5148 - Child Care and Development, AR 3514.2 - Integrated Pest Management, BP/AR 1240 - Volunteer Assistance, and food safety standards and nutrition requirements in BP/AR 3550 - Food Service/Child Nutrition Program**). Districts should consult legal counsel if they have questions regarding the applicability of other laws to the district's preschool program.

When approved by the California Department of Education (CDE) under the California State Preschool Program (**CSPP**), the district may operate one or more part-day preschool programs in accordance with law and the terms of its contract with **the** CDE.

(cf. 5148 - Child Care and Development)

Note: 5 CCR 18130 specifies the state regulations for child care and development programs that are applicable to CSPP programs. These requirements include, but are not limited to, the program components listed in 5 CCR 18272-18281. See AR 5148 - Child Care and Development for details regarding these required program components.

The district's preschool program shall include all required program components, as described in 5 CCR 18272-18281 and AR 5148 - Child Care and Development, for the educational program, the creation of a developmental profile for each child, staff development, parent involvement and education, community involvement, health and social services, nutrition, and program evaluation. (5 CCR 18271-28281)

Minimum Hours/Days of Operation

The district's part-day preschool program shall operate a minimum of three hours per day, excluding time for home-to-school transportation, and for a minimum of 175 days per year unless otherwise specified in the program's contract. (Education Code 8235; 5 CCR 18136)

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)**Staffing**

The preschool program shall maintain an adult-child ratio of at least one adult for every eight children and a teacher-child ratio of at least one teacher for every 24 children. If the district cannot recruit a sufficient number of parents/guardians or volunteers to meet the required adult-child ratio, teacher aides shall be hired as necessary. (5 CCR 18135, 18290)

(cf. 1240 - Volunteer Assistance)

(cf. 6020 - Parent Involvement)

Note: Health and Safety Code 1596.7995, as added by SB 792 (Ch. 807, Statutes of 2015), requires employees and volunteers at a day care center to be immunized against influenza, pertussis, and measles, with specified exemptions. Health and Safety Code 1597.055, as amended by SB 792, incorporates the immunization requirements into the qualifications of day care teachers and adds a requirement for such teachers to obtain a tuberculosis clearance. Pursuant to Health and Safety Code 1596.76, a day care center includes a preschool. See AR 5148 - Child Care and Development for further information regarding immunization requirements for staff and volunteers. Districts that do not offer child care and development programs and/or have not adopted AR 5148 - Child Care and Development may revise the following paragraph accordingly and expand it to include the exemptions specified in Health and Safety Code 1596.7996 1596.7995.

Any person employed at a district preschool and any volunteer who provides care and supervision to children at a preschool shall, unless exempted by law, be immunized against influenza, pertussis, and measles in accordance with Health and Safety Code 1596.7995 and AR 5148 - Child Care and Development. Documentation of required immunizations, or applicable exemptions, shall be maintained in the employee's personnel file. (Health and Safety Code 1596.7995)

(cf. 4112.4/4212.4/4312.4 - Health Examinations)

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

In addition, preschool teachers shall present evidence of a current tuberculosis clearance and meet other requirements as specified in Health and Safety Code 1597.055.

Wraparound Child Care Services

Note: The following section is **optional**. Because preschool programs operated under the CSPP are part-day programs only, Education Code 8329 encourages districts to contract with the **California Department of Education (CDE)** to offer "wraparound child care services" which combine preschool and general child care services to provide a full day of services for eligible families. Such programs must be consistent with requirements for general child care and development programs offered pursuant to Education Code 8240-8244; see BP/AR 5148 - Child Care and Development.

In accordance with its contract with the CDE, the district may offer full-day services to meet the needs of eligible families through a combination of part-day preschool and wraparound child care services that are offered for the remaining portion of the day or year following

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)

completion of the preschool services. Child care and development services offered through this program shall meet the requirements of general child care and development programs pursuant to Education Code 8240-8244. (Education Code 8239)

Wraparound services shall operate a minimum of 246 days per year unless otherwise specified in the contract. Within this period of time, the part-day preschool program shall operate 175-180 days. After the completion of the preschool program, a part-time general child care and development program may operate a full day for the remainder of the year. (Education Code 8239)

Family Literacy Services

Note: The following section is **optional**. Contingent upon funding in the state Budget Act, Education Code 8238 and 8238.4 provide for the Superintendent of Public Instruction (~~SPI~~) to distribute family literacy supplemental grant funds to qualifying CSPP contractors for the purposes described below.

When any district preschool program receives funding for family literacy services pursuant to Education Code 8238.4, the Superintendent or designee shall coordinate the provision of: (Education Code 8238)

1. Opportunities for parents/guardians to work with their children on interactive literacy activities, including activities in which parents/guardians actively participate in facilitating their children's acquisition of prereading skills through guided activities such as shared reading, learning the alphabet, and basic vocabulary development
2. Parenting education for parents/guardians of **children in** participating **children classrooms** to support their child's development of literacy skills, including, but not limited to, parent education in:
 - a. Providing support for the educational growth and success of their children
 - b. Improving parent-school communications and parental understanding of school structures and expectations
 - c. Becoming active partners with teachers in the education of their children
 - d. Improving parental knowledge of local resources for the identification of and services for developmental disabilities, including, but not limited to, contact information for the district special education referral
3. Referrals to providers of adult education and instruction in English as a second language as necessary to improve **parents/guardians'** academic skills **of parents/guardians**

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)

(cf. 6200 - Adult Education)

4. Staff development for teachers in participating classrooms that includes, but is not limited to:
 - a. Development of a pedagogical knowledge, including, but not limited to, improved instructional **and behavioral** strategies
 - b. Knowledge and application of developmentally appropriate assessments of the prereading skills of children in participating classrooms
 - c. Information on working with families, including the use of on-site coaching, for guided practice in interactive literacy activities
 - d. Providing targeted interventions for all young children to improve kindergarten readiness upon program completion

(cf. 4131 - Staff Development)

Eligibility and Enrollment

Note: The following section reflects eligibility criteria and enrollment priorities for the CSPP pursuant to state law and regulations. 5 CCR 18105 **mandates** that a district operating a CSPP program develop written admissions policies and procedures that conform to the requirements of 22 CCR 101218, including, **but not limited to**, criteria designating those children whose needs can be met by the program and services and the ages of children who will be accepted. **AB 2626 (Ch. 945, Statutes of 2018) amended Education Code 8208 to change the birthdate by which children are eligible for CSPP, as provided below.**

Children eligible for the district's **CSPP preschool** program include those who will have their third or fourth birthday on or before **September December** 1 of the fiscal year that they are being served. **Children who have their third birthday on or after December 2 may be enrolled on or after their third birthday.** (Education Code 8208, 8235, 8236)

~~Note: The following paragraph reflects guidance in CDE's Management Bulletin 14-02. See BP 6170.1 Transitional Kindergarten for eligibility requirements pertaining to the transitional kindergarten program pursuant to Education Code 48000.~~

~~When a child is eligible for both the preschool program and the district's transitional kindergarten program, the family may choose the most appropriate program for the child. In accordance with the enrollment priorities described below, the child may be enrolled in both programs provided that the child is not enrolled in both programs for the same time period on the same day.~~

~~*(cf. 5111 - Admission)*~~

~~*(cf. 6170.1 - Transitional Kindergarten)*~~

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)

Note: Pursuant to 5 CCR 18082-18083, the parent/guardian must submit an application for services which contains specified information and documentation. The application form is available on CDE's web site. Upon receiving an application, a person designated by the district must certify the family's or child's eligibility.

Eligibility for ~~subsidized preschool~~ **the CSPP program** shall be as follows:

1. Children shall be eligible for subsidized preschool services if their family is a current aid recipient, income eligible, or homeless and/or the children are recipients of protective services or have been identified as being, or at risk of being, abused, neglected, or exploited. (Education Code 8235, 8263, 8263.1; **5 CCR 18131, 18134**)
2. Children shall be eligible for subsidized wraparound preschool and child care services if their family meets at least one of the criteria specified in item #1 above and needs child care services due to either of the following circumstances: (Education Code 8239, 8263)

~~Note: AB 982 (Ch. 567, Statutes of 2015) amended Education Code 8263 to expand the list of entities that can identify a child in need of subsidized services to include a local educational agency liaison for homeless children and youth, a Head Start program, or a transitional shelter and to expand the list of children to be identified to include a homeless child.~~

- a. The child is identified by a legal, medical, or social services agency, the district liaison for homeless students, a Head Start program, or an emergency or transitional shelter as being a recipient of protective services, as being or at risk of being neglected, abused, or exploited, or as being homeless.

(cf. 6173 - Education for Homeless Children)

Note: Education Code 8263, as amended by AB 273 (Ch. 689, Statutes of 2017), provides that eligibility for child care and development programs may be established by parent/guardian engagement in an educational program for English learners or for attainment of a high school diploma or general educational development certificate.

- b. The parents/guardians are engaged in vocational training leading directly to a recognized trade, paraprofession, or profession; **are engaged in an educational program for English language learners or for the attainment of a high school diploma or general educational development certificate;** are employed or seeking employment; are seeking permanent housing for family stability; or are incapacitated.

Note: The following paragraph may be revised to reflect district practice. Unless state funding is allocated to support the "centralized eligibility list" established in each county pursuant to Education Code 8499.5, such lists will be maintained only if locally funded. In situations where there is no locally funded centralized eligibility list or the district elects not to participate in the local list, the district must establish its own waiting list in accordance with admission priorities pursuant to 5 CCR 18106.

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)

The Superintendent or designee shall consult the county's centralized eligibility list, when available, or shall maintain a district waiting list in accordance with admission priorities. As vacancies occur, applicants shall be contacted in order of their priority. (5 CCR 18106)

First priority for enrollment in a preschool program shall be given to neglected or abused children **3 or 4 years of age** **ages 3-4** who are recipients of child protective services or who, based upon written referral from a legal, medical, or social service agency, are at risk of being neglected, abused, or exploited. If unable to enroll a child in this category, the district shall refer the child's parent/guardian to local resource and referral services so that services for the child can be located. (Education Code 8236; 5 CCR 18131)

(cf. 1020 - Youth Services)

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)

(cf. 1700 - Relations Between Private Industry and the Schools)

Note: Pursuant to Education Code 8236, second priority for enrollment must be granted to children 4 years of age who are not enrolled in a **transitional kindergarten (TK)** program, as provided in the following paragraph.

~~In any CSPP program operating with funding that was initially allocated in a prior fiscal year, at least one-half of the children enrolled at a preschool site must be children who are 4 years of age unless an exception is granted by the SPI. Education Code 8236, as amended by AB 2626 (Ch. 945, Statutes of 2018), eliminates the requirement, for CSPP programs operating with funding that was initially allocated in a prior fiscal year, that at least one-half of the children enrolled at a preschool must be children who are age 4 years.~~

After all children with first priority are enrolled, the district shall give second priority to eligible children 4 years of age who are not enrolled in a transitional kindergarten **(TK)** program prior to enrolling eligible children 3 years of age. (Education Code 8236)

Note: Education Code 8235, as amended by AB 99 (Ch. 15, Statutes of 2017), allows CSPP programs to provide services to children with disabilities whose family income is above the income eligibility threshold. Such children do not count towards the 10 percent limitation for otherwise ineligible children as described below.

After all otherwise eligible children have been enrolled, the program may provide services to children with disabilities who are ages 3-4 and whose family income is above the income eligibility threshold. (Education Code 8235)

In addition, aAfter enrolling all eligible children ~~who meet the criteria for subsidized services~~, up to 10 percent of the program's enrollment, calculated throughout the entire contract, may be filled with children who exceed the age limitations and children whose family income **exceeds** ~~is no more than 15 percent above~~ the income eligibility threshold **by no more than 15 percent**. (Education Code 8235; 5 CCR 18133)

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)

The district may certify eligibility and enrollment up to 120 calendar days prior to the first day of the beginning of the preschool year. After establishing eligibility at the time of initial enrollment, a child shall remain eligible for the remainder of the program year. (Education Code 8237; 5 CCR 18082)

Note: Pursuant to 5 CCR 18130, CSPP programs are subject to 5 CCR 18094 and 18118, which require the district to provide written notification to parents/guardians as to whether their application for subsidized services has been approved or denied. For this purpose, the district should use the Notice of Action form available on the CDE's web site. If the services are denied, the parent/guardian may appeal the decision in accordance with 5 CCR 18120-18122; see section "Parent Hearing" below.

The district's decision to approve or deny a child's enrollment shall be communicated to the family through a written Notice of Action mailed or delivered within 30 days from the date the application is signed by the parent/guardian. (5 CCR 18094, 18095, 18118)

(cf. 5145.6 - Parental Notifications)

Note: 5 CCR 18095 and 18119 require the district to notify a parent/guardian of any change in services or fees as described below. For such notification, the district should use the Notice of Action form available on the CDE's web site. Parents/guardians may appeal such actions pursuant to 5 CCR 18120-18122; see section "Parent Hearing" below.

Subsequently, the Superintendent or designee shall mail or deliver a Notice of Action to a parent/guardian at least 14 calendar days before any intended change in services, including, but not limited to, an increase or decrease in fees, an increase or decrease in the amount of services, or termination of services, due to any of the following circumstances: (5 CCR 18095, 18119)

1. A determination during recertification or update of the application that the need or eligibility requirements are no longer being met or the fee or amount of service needs to be modified
2. Failure of the parent/guardian to document the family's need or eligibility after the district requested such documentation in writing
3. An indication by the parent/guardian that he/she no longer wants the service
4. The death of a parent/guardian or child
5. The conclusion of a limited-term agreement, provided that the parent/guardian has been informed in writing of the date that the services would terminate

For each child enrolled in the district's preschool program, the Superintendent or designee shall maintain a family data file **containing including, but not limited to,** a completed and

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)

signed application for services, documentation of income eligibility, and a copy of all Notices of Action. For each child not receiving subsidized services, the family data file shall also include records of the specific reason(s) for enrolling each child, the child's family income, and evidence that the district has made a diligent search for children eligible for subsidized services. (5 CCR 18130, 18133, 18081, 18084)

(cf. 1340 - Access to District Records)

(cf. 3580 - District Records)

(cf. 5125 - Student Records)

Fees and Charges

Fees for participation in the district's preschool program shall be assessed and collected in accordance with the fee schedule established by the Superintendent of Public Instruction **(SPI)**. (Education Code 8273, **8273.2**; 5 CCR 18078)

(cf. 3260 - Fees and Charges)

However, no fee shall be charged to an income-eligible family whose child is enrolled in a part-day preschool program, **or** a family that is receiving CalWORKs cash aid, **or a family that is otherwise exempted pursuant to Education Code 8273.1**. (Education Code 8273.1; 5 CCR 18110)

Note: Education Code 8273.1, as amended by AB 99 (Ch. 15, Statutes of 2017), extends the length of time, from three months to 12 months, for which a family who establishes preschool eligibility on the basis of abuse or neglect may be exempt from family fees.

~~In addition, any family qualifying for subsidized preschool on the basis of having a child who is a recipient of child protective services, or having a certification by a county child welfare agency that services continue to be necessary, may be exempt from these fees for up to 12 months. Any family whose child is receiving subsidized preschool on the basis of being at risk of abuse, neglect, or exploitation may be exempt from these fees for up to three months, unless the family becomes eligible based on receipt of child protective services or certification of need by a county child welfare agency. The cumulative period of exemption for these purposes shall not exceed 12 months. A family may be exempt from the fees for up to 12 months if the child qualifies for preschool on the basis of being the recipient of child protective services or as being, or at risk of being, abused or neglected.~~ (Education Code 8273.1)

Note: Education Code 8273.3 authorizes a district offering a CSPP program to charge a fee for field trips and/or to require parents/guardians to provide diapers, but **mandates** that the district adopt policy to include parents/guardians in the decision-making about such fees, as provided below. Pursuant to Education Code 8273.3, the fees cannot exceed \$25 per child in the contract year. The following paragraph may be modified to delete diapers as appropriate for the age of the children served.

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)

The Superintendent or designee shall establish a process that involves parents/guardians in determining whether to require parents/guardians to provide diapers. ~~This process shall also be used to determine~~ **and/or** whether and how much to charge parents/guardians for field trip expenses, within the limit specified in law. A child shall not be denied participation in a field trip due to the parent/guardian's inability or refusal to pay the fee, and no adverse action shall be taken against a parent/guardian for that inability or refusal. (Education Code 8273.3)

Disenrollment Based on Reduced Funding

Note: Education Code 8263.3 specifies the order by which families will be disenrolled from child care and development services when funding levels are reduced. The following list applies that order of disenrollment to CSPP programs but takes into account the priority specified in Education Code 8236 to enroll children 4 years of age before enrolling children 3 years of age.

When necessary due to a reduction in state reimbursements, families shall be disenrolled in the following order: (Education Code 8236, 8263.3)

1. Children 3 years of age whose families have the highest income in relation to family size shall be disenrolled first, followed by children 4 years of age whose families have the highest income in relation to family size.

At each age level, if two or more families have the same income ranking, the child with disabilities shall be disenrolled last. If there are no families that have a child with disabilities, the child who has received services the longest shall be disenrolled first.

2. Families of children 3 or 4 years of age who are receiving child protective services or who have been documented to be at risk of being neglected, **or** abused, ~~or exploited,~~ regardless of income, shall be disenrolled last.

Expulsion/Unenrollment Based on Behavior

Note: Education Code 8239.1, as added by AB 752 (Ch. 708, Statutes of 2017), prohibits the expulsion or unenrollment of a child from a CSPP program because of the child's behavior unless the district has followed the steps specified below.

A district preschool program shall not expel or unenroll a child based on the child's behavior, unless the district first takes the following actions to address the child's behavior: (Education Code 8239.1)

1. **Inform the parents/guardians of the child's persistent and serious challenging behaviors and consult with the parents/guardians and teacher in an effort to maintain the child's safe participation in the program**

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)

- 2. If the child has an individualized family service plan (IFSP) or individualized education program (IEP), with written parent/guardian consent, contact the agency or district employee responsible for such plan or program to seek consultation in regard to serving the child**

(cf. 6159 - Individualized Education Program)

- 3. If the child does not have an IFSP or IEP, consider if it is appropriate to complete a universal screening of the child, including, but not limited to, screening the child's social and emotional development, referring the parents/guardians to community resources, implementing behavior supports within the program, and considering an IEP for the child**

If the district has taken the actions specified in items #1-3 above and the child's continued enrollment would present a serious safety threat to the child or other enrolled children, the district shall refer the parents/guardians to other potentially appropriate placements, the local child care resource and referral agency, or any other referral service available in the local community. Within 180 days of the start of the process, the district may unenroll the child. (Education Code 8239.1)

Note: A joint statement by the U.S. Department of Education and U.S. Department of Health and Human Services, Policy Statement on Expulsion and Suspension Policies in Early Childhood Settings, clarifies that preschool children with disabilities who are eligible for services under the Individuals with Disabilities Education Act (IDEA) (20 USC 1400-1482) are entitled to the same disciplinary protections that apply to all other IDEA-eligible students with disabilities, may not be subjected to impermissible disciplinary changes of placement for misconduct that is caused by or related to their disability, and must continue to receive educational services consistent with their right to a free appropriate public education. The statement indicates the need for the child's individualized education program (IEP) team to consider the use of positive behavioral interventions and supports when developing or modifying the IEP to reduce the need for discipline of a child with disabilities and avoid suspension or expulsion from a preschool program.

Children with disabilities may only be suspended or expelled in conformance with the procedures and limitations of the Individuals with Disabilities Education Act.

Parent Hearing

Note: Pursuant to 5 CCR 18130, districts are subject to the requirements of 5 CCR 18120-18122 to provide due process to parents/guardians who disagree with certain district actions, such as when services are denied, there is a change in services or fees, or their child is disenrolled.

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)

If a parent/guardian disagrees with any district action to deny his/her child's eligibility for subsidized preschool services, disenroll the child due to a funding shortage, increase or decrease fees, increase or decrease the amount of services, terminate services, or otherwise change the level of services, he/she may file a request for a hearing with the Superintendent or designee within 14 calendar days of the date the Notice of Action was received. Within 10 calendar days of receiving the request for a hearing, the Superintendent or designee shall notify the parent/guardian of the time and place of the hearing, which, to the extent possible, shall be convenient for the parent/guardian. (5 CCR 18120)

The hearing shall be conducted in accordance with the procedures specified in 5 CCR 18120 by a district administrator who is at a staff level higher in authority than the staff person who made the contested decision. Within 10 calendar days after the hearing, the district administrator shall mail or deliver a written decision to the parent/guardian. If the parent/guardian disagrees with the written decision, he/she may, within 14 calendar days, appeal the decision to the CDE. (5 CCR 18120-18122)

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