

POLICY GUIDE SHEET

March 2019

Page 1 of 7

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/AR 0420 - School Plans/Site Councils

(BP/AR revised)

Policy updated to reflect **NEW LAW (AB 716)** which renames the single plan for student achievement as the school plan for student achievement (SPSA), authorizes the use of uniform complaint procedures for complaints alleging noncompliance with requirements related to the establishment of school site councils or the development of the SPSA, and authorizes the use of the SPSA to satisfy the requirement for a school improvement plan when a school is identified for targeted or comprehensive support. Regulation updated to reflect AB 716 which eliminates the authority to use a school advisory committee other than a school site council to develop the SPSA, allows certain small schools to share a school site council, requires a needs assessment to identify school goals, and, if applicable, requires consultation with the school's English learner advisory committee on review of the SPSA.

BP/E 0420.41 - Charter School Oversight

(BP/E revised)

Policy updated to include the California School Dashboard as a means for monitoring charter school performance and identifying the need for technical assistance. Policy also deletes material related to the identification of schools for federal Program Improvement, which is no longer operational. Exhibit reorganized and subheads added for clarity. Exhibit also reflects **NEW LAW (SB 126, 2019)** and **NEW ATTORNEY GENERAL OPINION** which clarify that charter schools are subject to the Brown Act, California Public Records Act, Political Reform Act, and conflict of interest laws, and **NEW LAWS** which (1) prohibit the operation of a charter school as a for-profit corporation or organization (**AB 406**); (2) provide that a student who is receiving individual instruction at home or a hospital due to a temporary disability must be allowed to return to the charter school when well enough to do so (**AB 2109**); (3) require specified accommodations for pregnant and parenting students (**AB 2289**); (4) prohibit taking negative action against a student or former student for a debt owed to the school (**AB 1974**); (5) require development of a local control funding formula (LCFF) budget overview for parents/guardians in conjunction with the local control and accountability plan (LCAP) (**AB 1808**); (6) require charter schools applying for certain categorical funding to adopt a school plan for student achievement (**AB 716**); (7) require charter schools to adopt a comprehensive safety plan (**AB 1747**); (8) require each bus to be equipped with a child safety alert system (**AB 1840**); (9) require charter schools serving grades 7-12 to offer comprehensive sexual health and HIV prevention education (**AB 2601**); (10) require parental notification regarding human trafficking resources (**SB 1104**); (11) require charter schools to exempt certain students transferring in grades 11-12 from locally established graduation requirements (**AB 2121**); (12) allow students to wear cultural or religious adornments at graduation ceremonies (**AB 1248**); (13) require charter schools to provide eligible students with a free or reduced-price meal each day (**AB 1871**); (14) require charter schools to review their suicide prevention policy at least once every five years (**AB 2639**); (15) require that the suicide prevention hotline number be printed on student identification cards (**SB 972**); (16) require notification of how to access school or community mental health services (**AB 2022**); (17) require an automated external defibrillator to be accessible at athletic events (**AB 2009**); (18) mandate the adoption of policy on bullying and cyberbullying prevention (**AB 2291**); (19) prohibit the use of seclusion and restraint for disciplinary purposes (**AB 2657**); (20) prohibit the inclusion of a student's or parent/guardian's personal information in board minutes when so requested (**SB 1036**); and (21) require charter schools receiving state facilities funding to provide an annual report of facilities expenditures and submit an audit within one year of project completion (**AB 99, 2017; AB 1808**).

POLICY GUIDE SHEET

March 2019

Page 2 of 7

BP/AR 0460 - Local Control and Accountability Plan

(BP/AR revised)

Policy and regulation updated to reflect **NEW LAW (AB 2878)** which expands the state priority on parent involvement that must be addressed in the local control and accountability plan (LCAP) to include family engagement. Policy also reflects **NEW LAW (AB 1808)** which requires consultation on plan development with special education local plan administrator(s) and, by July 1, 2019, requires districts to develop a local control funding formula budget overview for parents/guardians in conjunction with the LCAP. Policy reflects **NEW LAW (AB 1840)** which requires the State Board of Education to expand the LCAP template by January 31, 2020 to include specified information. Section on "Technical Assistance/Intervention" updated to reflect AB 1808 which establishes a single statewide system of support for districts and schools, and AB 1840 which provides that a district receiving an emergency apportionment will be deemed to have been referred to the California Collaborative for Educational Excellence. Regulation updated to reflect AB 1840 which requires data in the LCAP to be reported in a manner consistent with the California School Dashboard and requires districts to post their LCAP prominently on the homepage of their web site. Section on "Annual Updates" deleted since the annual updates follow the same process and adhere to the same template as the initial LCAP.

BP/AR 1312.3 - Uniform Complaint Procedures

(BP/AR revised)

Policy and regulation updated to reflect **NEW LAWS** authorizing the use of uniform complaint procedures (UCP) to resolve allegations of noncompliance with accommodations for pregnant and parenting students (**AB 2289**), and specified educational rights of migrant students and immigrant students enrolled in a newcomer program (**AB 2121**).

AR/E 1312.4 - Williams Uniform Complaint Procedures

(AR, E(1), and E(2) revised;

Regulation updated to reflect **NEW LAW (AB 1808)** which authorizes the use of Williams UCP to resolve allegations of health and safety violations in license-exempt California State Preschool Programs. Regulation also adds optional paragraph authorizing the use of Williams UCP for complaints alleging that a school that serves grades 6-12 and meets a 40 percent student poverty threshold fails to comply with the requirements to stock at least 50 percent of the school's restrooms with feminine hygiene products and to not charge students for such products. Exhibit 1 revised to add the applicable complaint procedure for the types of complaints listed in the notice. Exhibit 2 expands the applicability of the complaint form to include complaints alleging the failure to provide feminine hygiene products

AR 1340 - Access to District Records

(AR revised)

Regulation updated to revise section on "Public Records" to delete legal cite which was repealed pursuant to **NEW LAW (AB 716)** and to include any district or school plan, unless otherwise prohibited by law, as a public record to which members of the public have access. Regulation also updated to reflect the prohibition against disclosing an individual's citizenship or immigration status or religious beliefs, practices, or affiliation to federal government authorities.

POLICY GUIDE SHEET

March 2019

Page 3 of 7

BP/AR 3100 - Budget

(BP/AR revised)

Policy updated to reflect **NEW LAW (AB 1808)** which requires districts to annually develop, adopt, and post an LCFF budget overview for parents/guardians and to file the budget overview with the county superintendent of schools. Section on "Long-Term Financial Obligations" revised to reflect **NEW LAW (SB 1413)** which establishes the California Employers' Pension Prefunding Trust Program to allow districts to prefund required contributions to the California Public Employees' Retirement System. Regulation updated to emphasize that any recommendations by the budget advisory committee should be consistent with the district's vision, goals, priorities, LCAP, and other comprehensive plans and to clarify that a regional budget review committee convened by the county superintendent of schools requires approval of the Superintendent of Public Instruction as well as the district board.

BP/AR 3260 - Fees and Charges

(BP/AR revised)

Policy and regulation updated to add new section on "Collection of Debt," reflecting **NEW LAW (AB 1974)** which prohibits negative action against a student or former student for a debt owed to the school and requires districts to provide parents/guardians with an itemized invoice that references applicable district policies. Regulation also revised to more directly reflect the most recent CDE fiscal advisory regarding student fees.

BP/AR 3515.4 - Recovery for Property Loss or Damage

(BP/AR revised)

Policy updated to reflect the 2019 limits for parent/guardian liability for property loss or damage caused by a child's willful misconduct and for any reward paid for information leading to the identification of persons responsible for property damage. Policy also reflects **NEW LAW (AB 1974)** which prohibits the collection of debt owed by a current or former homeless or foster youth. Regulation updated to reflect the requirement to offer an option for a student to provide work in lieu of payment when the parents/guardians are unable to pay, and AB 1974 which allows the district, at its discretion, to offer any student, regardless of ability to pay, a nonmonetary means to settle debt. Regulation also adds a paragraph allowing the district to withhold a student's grades, diplomas, or transcripts until the damages have been recovered. Section on "Payment of Reward" deleted and key concepts moved to BP.

BP/AR 4030 - Nondiscrimination in Employment

(BP/AR revised)

Policy and regulation updated to clarify applicability of the policy to nonemployees providing services to the district pursuant to a contract. Policy reflects **NEW STATE REGULATIONS (Register 2018, No. 20)** which add a definition of national origin and make it an unlawful employment practice to inquire into or discriminate against an employee on the basis of immigration status. Policy also reflects **NEW LAW (SB 1300)** which (1) prohibits districts from requiring an employee, in exchange for a raise or bonus or as a condition of employment or continued employment, to sign a nondisparagement agreement or release the right to file a claim against the district for unlawful acts in the workplace, including sexual harassment, and (2) provides that a district may be responsible for any harassment (not just sexual harassment) of employees by nonemployees if the district knows or should have known of the conduct and failed to take action. Regulation revises section on "Measures to Prevent Discrimination" to reflect a requirement, formerly in BP, to post the California Department of Fair Employment and Housing (DFEH) poster on workplace discrimination and harassment and to add the requirement to post the DFEH poster on the rights of transgender employees. Regulation also reflects **NEW LAW (SB 1300)** which authorizes training on bystander intervention.

POLICY GUIDE SHEET

March 2019

Page 4 of 7

AR 4161.1/4361.1 - Personal Illness/Injury Leave

(AR revised)

Regulation updated to revise section on "Continued Absence After Available Sick Leave Is Exhausted/Differential Pay" to clarify that, for districts choosing Option 2, employees must receive "at least" 50 percent of their regular salary during the additional period of absence. Section on "Parental Leave" updated to reflect **NEW LAW (AB 2012)** which requires that, regardless of the type of differential pay system used by the district, employees must receive at least 50 percent of their regular salary for any portion of the 12-week parental leave that remains following the exhaustion of sick leave.

AR 4261.1 - Personal Illness/Injury Leave

(AR revised)

Regulation updated to revise section on "Continued Absence After Available Sick Leave Is Exhausted/Differential Pay" to clarify that, for districts choosing Option 2, employees must receive "at least" 50 percent of their regular salary during the additional period of absence. Section on "Parental Leave" updated to reflect **NEW LAW (AB 2012)** which requires that, regardless of the type of differential pay system used by the district, employees must receive at least 50 percent of their regular salary for any portion of the 12-week parental leave that remains following the exhaustion of sick leave.

AR 5113 - Absences and Excuses

(AR revised)

Regulation updated to reflect **NEW LAW (AB 2289)** which (1) amends the definition of "immediate family" for the purpose of authorizing certain excused absences, (2) prohibits a district from requiring a physician's note for an absence by a parenting student to care for a sick child, and (3) clarifies that students may be excused from school, under specified conditions, for work in the entertainment or allied industry, participation with a nonprofit performing arts organization in a performance for a public school audience, or other reasons at the discretion of school administrators.

BP/AR 5117 - Interdistrict Attendance

(BP/AR revised)

Policy updated to delete references to the Open Enrollment Act since schools are not currently being identified as low achieving based on the Academic Performance Index, update legal cites, and clarify the continuing requirement to register as a school district of choice with the Superintendent of Public Instruction and county board of education before enrolling students under that program. Regulation updated to reflect **NEW LAW (AB 2826)** which adds a requirement, applicable to districts that have entered into interdistrict attendance agreements, to post on their web site the procedures and timelines for requests for interdistrict transfer permits. Regulation also reflects timelines added by AB 2826 for notifying parents/guardians of the district's granting or denial of the transfer request, which differ for current-year and future-year transfer requests, and for the parent/guardian's appeal of the district's decision to the county office of education. In section on "School District of Choice Program," material deleted regarding the denial of a transfer into the district based on a negative impact on a desegregation plan or the racial/ethnic balance of the district, as such grounds are only applicable to transfers out of the district.

AR 5131.41 - Use of Seclusion and Restraint

(AR added)

New regulation reflects **NEW LAW (AB 2657)** which prohibits seclusion and behavioral restraint of students as a means of discipline, and provides that seclusion and restraint may be used only to control behavior that poses a clear and present danger of serious physical harm to a student or others if that behavior cannot be immediately prevented by a less restrictive response. Regulation specifies the conditions for such use, reporting requirements, and a list of seclusion and behavioral techniques that are always prohibited.

POLICY GUIDE SHEET

March 2019

Page 5 of 7

BP/AR 5141.52 - Suicide Prevention

(BP/AR revised)

Policy updated to reflect **NEW LAW (AB 2639)** which requires boards of districts that serve grades 7-12 to review the district's suicide prevention policy at least every five years and update it as necessary. Regulation updated to reflect **NEW LAW (SB 972)** which requires districts that issue student identification cards to print specified suicide prevention hotline numbers on the cards effective July 1, 2019. Regulation also reflects **NEW LAW (AB 1808)** which requires CDE to identify online training programs that districts can use to train students and staff regarding suicide awareness and prevention.

BP 5144 - Discipline

(BP revised)

Policy updated to reflect **NEW LAW (AB 2657)** which prohibits seclusion and behavioral restraint of students as a means of discipline, and to encourage staff development regarding equitable implementation of discipline. Regulation updated to revise section on "Detention After School" to more directly reflect state regulations and delete a specific timeline for advance notice to parents/guardians of a student's detention.

E 5145.6 - Parental Notifications

(E revised)

Exhibit reflects **NEW LAWS** requiring parental notice of the rights of pregnant and parenting students (**AB 2289**), mental health services available in the school and community (**AB 2022**), risks and effects of lead exposure when child enrolls in a licensed child care center or preschool (**AB 2370**), and specified educational rights of migrant students and newly arrived immigrant students in grades 11-12 (**AB 2121**). Exhibit also deletes two items related to Open Enrollment Act transfers since schools are not currently being identified as low achieving under this program. Section V updated to add legal cite pursuant to **NEW LAW (AB 1808)** which requires classroom notice on Williams UCP to include health and safety issues in license-exempt California State Preschool Programs.

AR 5148 - Child Care and Development

(AR revised)

Regulation updated to reflect **NEW LAW (AB 605)** which establishes a new child care center license and requires all centers to be licensed by January 1, 2024. Section on "Eligibility and Enrollment" updated to reflect **NEW LAW (AB 2626)** which raises the income eligibility threshold for subsidized services from 70 to 85 percent of the state median income and provides that a family that establishes eligibility for services, regardless of the basis of eligibility, is generally entitled to receive services for at least 12 months before being recertified for eligibility. Regulation also reflects **NEW LAW (AB 2370)** which requires licensed child care programs to provide parents/guardians with information regarding lead exposure and blood testing.

BP 6142.3 - Civic Education

(BP revised)

Policy updated to add new section on "Student Voter Registration" containing material formerly in BP 1400 - Relations Between Governmental Agencies and the Schools. Policy also reflects **NEW LAW (AB 24, 2017)** which establishes the State Seal of Civic Engagement to recognize high school graduates who have demonstrated excellence in civic education and participation based on criteria to be approved by the State Board of Education by January 31, 2021. Examples of activities that link civic knowledge to practical experience expanded to reflect additional concepts in the state curriculum framework.

POLICY GUIDE SHEET

March 2019

Page 6 of 7

BP/AR 6145.2 - Athletic Competition

(BP/AR revised)

Policy updated to reflect **NEW LAW (AB 2009)** which requires any district that offers an interscholastic athletic program to develop a written emergency action plan to be followed in the event of sudden cardiac arrest or other medical emergency. Regulation updated to reflect requirement of AB 2009 to make an automated external defibrillator available at athletic events. Regulation also includes new section on "Heat Illness" reflecting **NEW LAW (AB 2800)** which requires coaching education programs to include training on the signs and symptoms of, and appropriate response to, heat illness.

BP/AR 6152.1 - Placement in Mathematics Courses

(BP revised; AR added)

Policy updated to clarify which policy components are mandated and to expand program evaluation to include a report on the percentage of students who have successfully completed mathematics courses that satisfy the requirements for entrance to the University of California and California State University. New regulation includes material formerly in BP, including the appeals process, the requirement to post the policy on the district's web site, and circumstances under which staff recommendations may be considered in course placement. Regulation also includes examples of objective academic measures that may be used to place students in mathematics courses.

BP 6170.1 - Transitional Kindergarten

(BP revised)

Policy updated to reflect **NEW LAW (AB 1808)** which allows districts to place 4-year-old children enrolled in a CSPP program into a TK program and to commingle children from both programs into the same classroom under specified conditions.

AR 6173.2 - Education of Children of Military Families

(AR revised)

Regulation updated to reflect **NEW LAW (AB 2949)** which allows a child of a military family to continue attending the school of origin regardless of any change of residence of the family. Regulation also adds new section on "Transportation" reflecting AB 2949, which authorizes, but does not require, districts to provide transportation to enable a child of a military family to attend the school or district of origin.

BP/AR 6178 - Career Technical Education

(BP/AR revised)

Policy updated to reflect **NEW FEDERAL LAW (P.L. 115-224)** which reauthorizes the Carl D. Perkins Career and Technical Education Act, retitled as the Strengthening Career and Technical Education for the 21st Century Act, and **NEW LAW (AB 1808)** which amends the California Career Technical Education Incentive Grant Program. Material regarding activities for special populations and consultation with private school representatives moved to AR. Material on program evaluation revised to add requirement to review measures of career technical education pathway completion as part of the annual review of progress toward the goals in the local control and accountability plan (LCAP). Regulation revises section on "Federal Grants for Career Technical Education (Perkins)" to reflect P.L. 115-224, including streamlining the uses of grant funds, adding a requirement for a needs assessment, and changing the definition of "special needs populations." Regulation also deletes section on "Tech Prep Programs" as those programs are no longer funded and are repealed by P.L. 115-224. Section on "Linked Learning Programs" deletes Note regarding linked learning pilot program which repealed on its own terms.

POLICY GUIDE SHEET

March 2019

Page 7 of 7

AR 6183 - Home and Hospital Instruction

(AR revised)

Regulation reorganized and updated to reflect **NEW LAW (AB 2109)** which expands the parental notification to include information regarding student eligibility for individual instruction and the duration of such instruction, requires that individual instruction in a student's home begin within five days of determining a student's eligibility, provides that students receiving individual instruction in a hospital for a partial week are eligible to attend school on days that they are not at the hospital, and provides that the absences of a temporarily disabled student must be excused until the student is able to return to the regular school program.

BP 6190 - Evaluation of the Instructional Program

(BP revised)

Policy updated to delete references to the obsolete API and add the California School Dashboard as a source for multiple state and local indicators of strengths and areas in need of improvement in each priority area addressed by the LCAP. Section on "Federal Program Monitoring" deleted as the focus of the policy is on program effectiveness rather than compliance with program requirements.

BB/E 9323.2 - Actions by the Board

(BB/E(1)/E(2) revised)

Bylaw updated to reference the timelines by which a civil action may be filed to determine the applicability of the Brown Act to past board actions, and to clarify the circumstances under which a board action cannot be invalidated. Exhibit 1 updated to consolidate several items related to siting a community day school on an existing school site, add board action to respond to an emergency facilities condition without giving notice for bids to let contracts (requiring two-thirds vote for three-member boards, or four-fifths vote for five-member and seven-member boards), and reflect **NEW LAW (AB 2249)** which amends the threshold requirements for public works projects bid pursuant to the Uniform Public Construction Cost Accounting Act. Section on "Actions Requiring a Unanimous Vote of the Board" updated to further explain the ability to authorize the use of day labor or force account and/or waive the competitive bid process when the board determines that an emergency exists. Exhibit 2 contains minor revision for clarity.

CSBA Sample

Board Policy

Philosophy, Goals, Objectives, and Comprehensive Plans

BP 0420(a)

SCHOOL PLANS/SITE COUNCILS

Note: The following **optional** policy may be revised to reflect district practice. **Each school that participates in specified state and/or federal categorical programs must establish a school site council for the purpose of developing a single plan for student achievement (SPSA), pursuant to Education Code 64001.**

The Governing Board believes that comprehensive planning **that is aligned with the district's local control and accountability plan (LCAP)** is necessary at each school, in order to focus school improvement efforts on student academic achievement and facilitate the effective use of available resources. The Superintendent or designee shall ensure that school plans provide clear direction and identify cohesive strategies aligned with school and district goals.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

(cf. 0400 - Comprehensive Plans)

(cf. 0415 - Equity)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 0460 - Local Control and Accountability Plan)

Note: ~~The following optional paragraph may be revised to reflect district practice. Education Code 64001 requires the composition of a school site council or schoolwide advisory group to meet the requirements of Education Code 52852, as specified in the accompanying administrative regulation. Pursuant to Education Code 64000, the district may submit a consolidated application to the California Department of Education (CDE) to apply for federal categorical funds and/or state categorical programs that are not funded through the local control funding formula. As a condition of receiving such funds, Education Code 64001, as amended by AB 716 (Ch. 471, Statutes of 2018), requires each school to consolidate all of the plans that are required by these programs into a school plan for student achievement (SPSA), unless otherwise prohibited by law. If these programs do not require a plan, the Governing Board may require a school that participates in any program included on the consolidated application to develop an SPSA.~~

Pursuant to Education Code 64001, each school preparing an SPSA must have the SPSA developed and approved by a school site council. Education Code 65000-65001, as added by AB 716, contain requirements for the establishment and membership of school site councils; see the accompanying administrative regulation.

For additional information regarding the development and content of the SPSA, see the accompanying administrative regulation and CDE's publication A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council, available on its web site. Education Code 64001 provides that, although SPSAs are not required to be submitted as part of the consolidated application, they will be reviewed by CDE during the Federal Program Monitoring process.

Pursuant to Education Code 64001, districts with a single school may instead utilize the local control and accountability plan (LCAP) to serve as the SPSA if the LCAP meets certain federal planning and stakeholder requirements.

SCHOOL PLANS/SITE COUNCILS (continued)

Each district school that participates in specified **one or more state and/or federal and/or state** categorical programs **funded through the state's consolidated application process pursuant to Education Code 64000** shall establish a school site council in accordance with Education Code ~~52852~~ **65000-65001**, and the accompanying administrative regulation to develop, review, and approve school plans. For any school that participates in specified state and/or federal categorical programs, the school site council or other schoolwide advisory committee shall consolidate the plans required for those categorical programs into a single plan for student achievement (SPSA). **The school site council shall develop, approve, and annually review and update a school plan for student achievement (SPSA) which consolidates the plans required for those categorical programs into a single plan, unless otherwise prohibited by law.** (Education Code 64001)

Note: School site councils or other schoolwide advisory committees are required to develop the SPSA to consolidate the school plans required for the state and federal categorical programs included in the state's consolidated application (Education Code 64000-64001).

For additional information regarding the development and content of the SPSA, see the accompanying administrative regulation and the California Department of Education's (CDE) publication *A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council*, available on its web site.

For any school that participates in specified state and/or federal categorical programs, the school site council or other schoolwide advisory committee shall consolidate the plans required for those categorical programs into a single plan for student achievement (SPSA). (Education Code 64001)

(cf. 1220 - Citizen Advisory Committees)

(cf. 1431 - Waivers)

(cf. 6020 - Parent Involvement)

(cf. 6171 - Title I Programs)

(cf. 6174 - Education for English Learners)

(cf. 6190 - Evaluation of the Instructional Program)

~~As appropriate, a school may incorporate any other school program into the SPSA.~~
(Education Code 64001)

Note: The following **optional** paragraph may be revised to reflect district practice. Pursuant to Education Code 52062, there must be consistency between a school's SPSA and specific actions included in the district's ~~local control and accountability plan (LCAP)~~. For more detailed requirements of the LCAP, see BP/AR 0460 - Local Control and Accountability Plan.

The Superintendent or designee shall review each school's SPSA to ensure that it meets the content requirements for all **applicable** programs **included**, is based on an analysis of current practices and student academic performance, and reasonably links improvement strategies to identified needs of the school and its students. ~~He/she~~ **The Superintendent or designee** shall

SCHOOL PLANS/SITE COUNCILS (continued)

also ensure ~~that specific actions included in the district's LCAP are consistent~~ **consistency between the specific actions included in the district's local control and accountability plan and with** the strategies identified in each school's SPSA.

Note: Education Code 64001, as amended by AB 716, requires the Board to review and approve a school's SPSA whenever there are material revisions affecting the academic programs for students participating in the categorical programs. Although not explicitly required by law, it is recommended that the Board also review the initial plan.

The Board shall, at a regularly scheduled Board meeting, review and approve each school's SPSA **and whenever there are** any **subsequent** material revisions affecting the academic programs for students participating in the categorical programs addressed in the SPSA. **The Board shall certify that, to the extent allowable under federal law, the SPSA is consistent with district local improvement plans required as a condition of receiving federal funding.** (Education Code 64001)

Note: Pursuant to Education Code 52855 and as indicated in the CDE's publication *A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council*, the Board must communicate its reasons to the school site council any time it does not approve the SPSA.

~~Whenever~~ **If** the Board does not approve a school's SPSA, it shall communicate its specific reasons for disapproval of the plan to the school site council ~~or committee~~. The school site council ~~or committee~~ shall then revise and resubmit the SPSA to the Board for its approval. (Education Code ~~52855~~ **64001**)

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

The Superintendent or designee shall ensure that school administrators and school site council members receive training on the roles and responsibilities of the **school** site council.

Note: Education Code 64001, as amended by AB 716, authorizes a school identified for targeted or comprehensive support pursuant to 20 USC 6303 to use its SPSA to satisfy the requirement for a school improvement plan.

The SPSA may serve as the school improvement plan required when a school is identified for targeted or comprehensive support pursuant to 20 USC 6303. (Education Code 64001)

(cf. 0500 - Accountability)

Note: Education Code 64001, as amended by AB 716, provides that complaints alleging noncompliance with requirements pertaining to school site councils or the SPSA may be addressed through the district's uniform complaint procedures pursuant to 5 CCR 4600-4670.

SCHOOL PLANS/SITE COUNCILS (continued)

Any complaint alleging noncompliance with requirements related to the establishment of school site councils or the development of the SPSA may be filed with the district in accordance with the district's uniform complaint procedures pursuant to 5 CCR 4600-4670 and BP/AR 1312.3 - Uniform Complaint Procedures. (Education Code 64001)

(cf. 1312.3 - Uniform Complaint Procedures)

Legal Reference: (see next page)

SCHOOL PLANS/SITE COUNCILS (continued)

Legal Reference:

EDUCATION CODE

52-53 Designation of schools

33133 Information guide for school site councils

35147 Open meeting laws exceptions

~~41540-41544 Targeted instructional improvement block grants~~

52060-52077 Local control and accountability plan

52176 ~~English learner~~ advisory committees

~~52852 School site councils~~

~~54000-54028 Educationally Disadvantaged Youth Programs~~

~~54425 Advisory committees (compensatory education)~~

56000-56867 Special education

64000 Categorical programs included in consolidated application

64001 ~~Single~~ School plan for student achievement, consolidated application programs

65000-65001 School site councils

CODE OF REGULATIONS, TITLE 5

3930-3937 Compliance plans

4600-4670 Uniform complaint procedures

11308 English learner advisory committees

UNITED STATES CODE, TITLE 20

6303 School improvement

6311 State plan

~~6312 Title I local educational agency plans~~

6314 Schoolwide programs; schoolwide program plan

6421-6472 Programs for neglected, delinquent, and at-risk children and youth

6601-6651 Teacher and Principal Training and Recruitment program

6801-7014 Limited English proficient and immigrant students

7101-7122 Student Support and Academic Enrichment Grants

7341-7355c Rural Education Initiative

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council, February 2014

WEST ED PUBLICATIONS

California Healthy Kids Survey

California School Climate Survey

WEB SITES

California Department of Education, ~~Single Plan for Student Achievement:~~

~~<http://www.cde.ca.gov/nclb/sr/le/singleplan.asp>~~

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

WestEd: <http://www.wested.org>

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Policy Reference UPDATE Service

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CSBA Sample Administrative Regulation

Philosophy, Goals, Objectives, and Comprehensive Plans

AR 0420(a)

SCHOOL PLANS/SITE COUNCILS

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

School Site Councils

Note: Pursuant to Education Code 64001, each school **participating in a federal or state categorical program which is funded through the state's consolidated application and requires a school plan for student achievement (SPSA)** must ~~have establish~~ a school site council, ~~or other advisory committee that~~ meets the requirements of Education Code ~~52852~~ **65000-65001**, as added by AB 716 (Ch. 471, Statutes of 2018). **The school site council is responsible for developing and reviewing the school's single SPSA for categorical programs included in the state's consolidated application process; see section "Single School Plan for Student Achievement" below. AB 716 eliminated the authority for another school advisory committee or school group to serve as the school site council for a school that operates a program requiring an SPSA. The same school site council composition may be adopted for other school programs as necessary.**

Pursuant to Education Code 65000, a school site council must generally include members from all of the categories listed in items #1-5 below, as applicable. However, pursuant to Education Code 65001, a school with a student population of less than 300 may operate a school site council which includes at least one representative from items #1-3 and at least one from items #4-5, provided there is parity between staff and non-staff members and the Governing Board has obtained approval from its local bargaining unit. Education Code 65001 also provides that schools with a common site administration may operate a shared school site council if the school has a student population of less than 300, and up to three schools with a combined student population of less than 1,000 may operate a shared school site council if the schools either share a campus or have geographic proximity to one another with similar student populations. Any shared school site council must meet the requirements of Education Code 65000 with regard to the composition of the council. **Districts with any schools meeting these criteria may revise the following section accordingly.**

For information about the organization of the school site council, including sample school site council bylaws that address duties, membership, officers, subcommittees, and meetings, see the California Department of Education's (CDE) publication [A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council](#), available on ~~the~~ CDE's web site.

Each school **that operates a program requiring the development of a school plan for student achievement (SPSA) pursuant to Education Code 64001** shall have a school site council composed of the following: (Education Code ~~52852~~ **65000**)

1. The principal **or designee**
2. **Classroom teachers at the school**, selected by the **school's classroom teachers at the school**
3. Other school personnel **who are not teachers**, selected by the **school's** other personnel **at the school who are not teachers**

SCHOOL PLANS/SITE COUNCILS (continued)

4. ~~Parent/guardian representatives, who may include~~ Parents/guardians of students attending the school and/or **other members of the** community **members**, selected by **the** parents/guardians of students attending the school

Note: Education Code ~~52852~~ **65000** requires that secondary schools include students on their school site council. Pursuant to Education Code 52 and 53, secondary schools include high schools and junior high schools. ~~The~~ CDE's publication A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council advises that middle schools may include student representation on the school site council at the district's discretion. If the district decides to include middle school or K-8 students on the school site council, then such councils must meet the composition required of secondary schools.

5. If the school is a secondary school, students attending the school selected by other ~~such~~ **secondary** students

(cf. 0450 - Comprehensive Safety Plan)

Half of the school site council membership shall consist of school staff **in the categories listed in items #1-3 above**, the majority of whom shall be classroom teachers. For an elementary school site council, the remaining half shall be parents/guardians **and/or community members** ~~representatives~~. For a secondary school site council, the remaining half shall be ~~equal numbers of~~ parents/guardians, **community members, and/or representatives and** students. (Education Code ~~52852~~ **65000**)

A district employee may serve as a parent/guardian representative on the school site council of the school his/her child attends, provided the employee does not work at that school. (Education Code ~~52852~~ **65000**)

Note: The method of selecting members of school site councils is not specified in law, except that members must be chosen by peers as noted above. No additional membership qualifications may be required. ~~The~~ CDE's publication A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council suggests that the selection process may be addressed in Board policy or in bylaws of the school site council. The following **optional** paragraph may be revised to reflect district practice.

The bylaws of each school site council shall include the method of selecting members and officers, terms of office, responsibilities of council members, time commitment, and a policy of nondiscrimination **and equity**.

(cf. 0415 - Equity)

~~School site councils may function on behalf of other committees in accordance with law.~~
(Education Code 52176, 54425; 5 CCR 3932)

Note: Pursuant to Education Code 35147, school site councils **and some advisory committees** are exempt from open meeting law requirements (the Brown Act), but must comply with other, less complex procedural

SCHOOL PLANS/SITE COUNCILS (continued)

requirements as specified; see AR 1220 - Citizen Advisory Committees. **Education Code 35147 has not yet been amended for consistency with AB 716, which repealed Education Code 52852 and moved the requirements related to school site councils to Education Code 65000-65001.**

School site councils shall operate in accordance with procedural meeting requirements established in Education Code 35147.

(cf. 1220 - Citizen Advisory Committees)

Single School Plan for Student Achievement

Note: The following section reflects requirements pertaining to the development of the SPSA required for the state and federal categorical programs included in the consolidated application ~~process (Education Code 64000-64001).~~ **The** CDE has developed a template for the SPSA, available on its web site, to help schools meet plan requirements.

~~Any district school that shall participate in any state or federal categorical program specified in Education Code 64000, on an ongoing basis shall have a~~ **The** school site council which shall ~~develop~~ **approve** and annually review and update ~~a single plan for student achievement (SPSA)~~ **an SPSA that addresses all federal and/or state categorical programs in which the school participates pursuant to Education Code 64000.** If the school does not have a school site council, these responsibilities shall be fulfilled by a schoolwide advisory group or school support group conforming to the composition requirements of the school site council listed in the section "School Site Councils" above. (Education Code 64001)

(cf. 1431 - Waivers)

(cf. 6020 - Parent Involvement)

(cf. 6171 - Title I Programs)

~~(cf. 6174 - Education for English Learners)~~

~~(cf. 6184 - Continuation Education)~~

Note: Pursuant to Education Code 64001, as amended by AB 716, the SPSA must be developed with the review and advice of the school English learner advisory committee, if required. Education Code 52176 and 5 CCR 11308 require each school with more than 20 English learners to establish a school-level advisory committee on which parents/guardians of such students constitute membership in at least the same percentage as their children represent of the total number of students in the school. See AR 6174 - Education for English Learners.

The SPSA shall be developed with the review, ~~advice, and~~ **certification, and advice of the school English learner advisory committee, if required.** ~~any applicable school advisory committees.~~ (Education Code 64001)

(cf. 6174 - Education for English Learners)

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

SCHOOL PLANS/SITE COUNCILS (continued)

~~Such groups may include,~~ **Other school and district committees, including,** but ~~are~~ not limited to, a parent advisory committee established to review and comment on the district's local control and accountability plan (LCAP);, advisory committees established for **English learner and** special education programs;, **and** Western Association of Schools and Colleges leadership teams, **may also be consulted on the content of the plan.;** ~~district or school liaison teams for schools identified for program improvement; and other committees established by the school or district.~~

(cf. 0460 - Local Control and Accountability Plan)

(cf. 6190 - Evaluation of the Instructional Program)

Note: Pursuant to Education Code 64001, the SPSA must be based upon an analysis of verifiable state data and may include other district data on student achievement. The CDE's publication A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council recommends that such data could include results of state assessments and local benchmark and curriculum embedded assessments. The following paragraph may be revised to include any additional measures required by the district. As amended by AB 716, Education Code 64001 requires the school site council to administer a comprehensive needs assessment that forms the basis of the goals in the SPSA. If any district schools are not participating in any state or federal categorical program that requires a plan but the Board requires them to develop an SPSA, the Board may determine the extent to which the needs assessment is applicable and the following paragraph may be revised accordingly.

~~The SPSA shall be aligned with the district's LCAP and school goals for improving student achievement. School goals shall be based on an analysis~~ **Before developing the content of the SPSA, the school site council shall conduct a comprehensive needs assessment pursuant to 20 USC 6314, including an analysis of verifiable state data identified pursuant to law, and consistent with the state priorities specified in Education Code 52060 and the indicators in the state accountability system. The school** may consider any other data developed by the district to measure student **achievement outcomes.** (Education Code **52062,** 64001)

(cf. 0500 - Accountability)

(cf. 6162.5 - Student Assessment)

(cf. 6162.51 - State Academic Achievement Tests)

The SPSA shall, ~~at a minimum~~ **include all of the following:** (Education Code 64001)

1. ~~Address how funds provided to the school through specified categorical programs will be used to improve the academic performance of all students to the level of the performance goals established by law~~
2. ~~Identify the means of evaluating the school's progress toward accomplishing those goals~~

SCHOOL PLANS/SITE COUNCILS (continued)

~~3. Identify how state and federal law governing the categorical programs will be implemented~~

1. Goals to improve student outcomes, including goals that address the needs of student groups as identified through the needs assessment

2. Evidence-based strategies, actions, or services

3. Proposed expenditures based on the projected resource allocation from the district to address the findings of the needs assessment, including identifying resource inequities, which may include a review of the district's budgeting, the LCAP, and school-level budgeting, if applicable

Note: ~~The~~ CDE's publication A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council clarifies that the SPSA must address all plan components required for individual categorical programs covered by the SPSA.

In addition to meeting the requirements common to all applicable school plans, the SPSA shall address any content required by law for each individual categorical program in which the school participates.

Note: ~~The remainder of this section reflects steps recommended in the CDE's publication A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council and may be revised to reflect district practice.~~

~~In developing or revising the SPSA, the school site council or other schoolwide advisory group or school support group shall:~~

~~1. Analyze student achievement data. Using measures of student academic performance, the school shall identify significant patterns of low performance in particular content areas, student groups, and/or individual students and determine which data summaries to include in the plan as most informative and relevant to school goals.~~

Note: ~~To measure the effectiveness of the school's current instructional program, as provided in item #2 below, the CDE's publication A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council recommends a number of state tools available on the CDE web site, including, but not limited to, the Academic Program Survey, District Assistance Survey, Inventory for School Services, and English Learner Subgroup Self-Assessment. In addition, the California School Climate Survey and California Healthy Kids Survey, available on WestEd's web site, are recommended to help assess the need for support services.~~

~~2. Assess the effectiveness of the school's instructional program in relation to the analysis of student data.~~

SCHOOL PLANS/SITE COUNCILS (continued)

3. Identify a limited number of achievement goals and key improvement strategies to achieve the goals. School goals shall reflect the needs identified at the school site while aligning with goals identified in federally required district plans. The school shall specify the student group(s) on which each goal is focused, the methods or practices that will be used to reach the goal, and the criteria that will be used to determine if the goal is achieved.

Note: The CDE has developed a budget planning tool to assist schools with projecting the estimated expenditures of their SPSA goals against the school's allocations from the consolidated application. The budget planning tool is available on the CDE's web site and is included in the publication A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council.

4. Define timelines, personnel responsible, proposed expenditures, and funding sources to implement the SPSA.

The school site council or other schoolwide group shall approve the proposed SPSA at a meeting for which public notice has been posted. **Whenever there are material revisions to the SPSA which affect the academic programs for students participating in applicable programs, the SPSA shall be submitted and then submit the SPSA to the Governing Board for review and approval at a regularly scheduled Board meeting.** (Education Code 35147, 64001)

Note: The CDE's publication A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council states that it is the responsibility of the school site council to monitor the effectiveness of the SPSA and modify activities when needed Pursuant to Education Code 64001, as amended by AB 716, the SPSA must include a process for evaluating and monitoring the implementation of the SPSA and progress toward accomplishing the goals set forth in the SPSA. The guide CDE's publication A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council contains an annual evaluation tool to assist school site councils in assessing the effectiveness of the plan.

The school site council or other schoolwide group shall regularly monitor the implementation and effectiveness of the SPSA and modify any activities that prove ineffective. At least once per year, the principal or designee shall evaluate results of improvement efforts and report to the Board, school site council, advisory committees, and other interested parties regarding progress toward school goals.

The school site council or other schoolwide group may amend the SPSA at any time **through the same process required for the annual update of the plan.** Any revisions that would substantively change the academic programs funded through the consolidated application shall be submitted to the Board for approval.

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CSBA Sample Board Policy

Philosophy, Goals, Objectives, and Comprehensive Plans

BP 0420.41(a)

CHARTER SCHOOL OVERSIGHT

Note: The following **optional** policy may be revised to reflect district practice. The Governing Board is obligated to monitor the performance of any charter school it authorizes in order to ensure the school's compliance with legal requirements and progress toward meeting measurable outcomes specified in the charter. Information about the school's performance is necessary when determining whether to grant a renewal of the charter or whether a revocation of the charter is warranted; see BP 0420.42 - Charter School Renewal and BP 0420.43 - Charter School Revocation. In addition, pursuant to Education Code 47604, if the district complies with all oversight responsibilities required by law, it will not be liable for the debts or obligations of any charter school that operates as or is operated by a nonprofit public benefit corporation pursuant to Corporations Code 5110-6910.

Pursuant to Education Code 47605, if the State Board of Education (SBE) approves a petition upon appeal after the Board and County Board of Education have denied the petition, the SBE may, by mutual agreement, designate its supervisory and oversight responsibilities to the Board or to any local educational agency in the county in which the charter school is located.

The Governing Board recognizes its ongoing responsibility to oversee that any charter school **authorized by** the Board ~~has authorized~~ is successfully fulfilling the terms of its charter and is providing a high-quality educational program for students enrolled in the charter school.

(cf. 0420.4 - Charter School Authorization)

(cf. 0500 - Accountability)

The Superintendent or designee shall identify at least one staff member to serve as a contact person for each charter school authorized by the Board. (Education Code 47604.32)

Note: Education Code 47604.32 requires the district to visit each charter school at least once every year. CSBA's publication Charter Schools: A Guide for Governance Teams recommends more frequent visits, perhaps two or three times during the school year, in order to monitor school operations more closely and develop relationships with the staff at the charter school.

The ~~Board and~~ Superintendent or designee ~~may inspect or observe any part of the charter school at any time. The Superintendent or designee~~ shall visit each charter school at least annually **and may inspect or observe any part of the charter school at any time.** (Education Code 47604.32, 47607)

Note: The following **optional** paragraph may be revised to reflect district practice. Pursuant to Education Code 47604, if a charter school operates as or is operated by a nonprofit public benefit corporation, the Board is entitled to a single representative on the board of directors of the nonprofit public benefit corporation. CSBA's publication Charter Schools: A Guide for Governance Teams recommends that the district consult with legal counsel and consider any potential conflict of interest that may arise from having an individual Board member vote as a member of the charter board of directors on issues on which the Board will need to provide oversight. CSBA's guide suggests that an alternative approach may be for the district to designate its charter school contact, appointed pursuant to Education Code 47604.32, to attend meetings of the charter school board.

CHARTER SCHOOL OVERSIGHT (continued)

The Superintendent or designee shall attend meetings of the charter school **board governing body** whenever possible and shall periodically meet with a representative of the charter school.

Waivers

Note: A charter school is not authorized to submit general waiver requests to the SBE on its own behalf. Rather, the district must submit the waiver request for the charter school. A general waiver request form is available on the California Department of Education's (CDE) web site. Exceptions for which the charter school may directly apply for a waiver include a waiver of the federal Strengthening Career and Technical Education for the 21st Century Act and a specific waiver of instructional time penalties.

If the charter school wishes to request a general waiver of any state law or regulation applicable to it, it shall request that the district submit a general waiver request to the State Board of Education (SBE) on its behalf. Upon approval of the Board, the Superintendent or designee shall submit such a waiver request to the SBE on behalf of the charter school.

(cf. 1431 - Waivers)

Provision of District Services

Note: The following **optional** section may be revised to reflect district practice. A charter school may elect to receive its funding directly from the County Superintendent of Schools pursuant to Education Code 47651 and be directly responsible for the provision of payroll, human resources, maintenance and operations, legal services, and other administrative operations. Alternatively, a charter school may receive its funding through the district that granted its charter, **as is the case with most "dependent" charter schools**. CSBA's publication Charter Schools: A Guide for Governance Teams recommends one or more memoranda of understanding to clarify the financial and operational agreements between the district and the charter school, including any services that will be provided by the district; see BP 0420.4 - Charter School Authorization.

The charter school may purchase administrative or other services from the district or any other source. (Education Code 47613)

Whenever the district agrees to provide administrative or support services, the district and charter school shall develop a memorandum of understanding which clarifies the financial and operational agreements between the district and charter school.

At the request of a charter school, the Superintendent or designee shall create and submit any reports required by the State Teachers' Retirement System or Public Employees' Retirement System on behalf of the charter school. The district may charge the charter school for the actual costs of the reporting services, but shall not require the charter school to purchase payroll processing services from the district as a condition for creating and submitting these reports. (Education Code 47611.3)

CHARTER SCHOOL OVERSIGHT (continued)

Material Revisions to Charter

Material revisions to a charter may only be made with Board approval. Material revisions shall be governed by the same standards and criteria that apply to new charter petitions as set forth in Education Code 47605 and shall include, but not be limited to, a reasonably comprehensive description of any new requirement for charter schools enacted into law after the charter was originally granted or last renewed. (Education Code 47607)

If an approved charter school proposes to establish or move operations to one or more additional sites, the charter school shall request a material revision to its charter and shall notify the Board of those additional locations. The Board shall consider approval of the additional locations at an open meeting. (Education Code 47605)

The Board shall have the authority to determine whether a proposed change in charter school operations constitutes a material revision of the approved charter.

Monitoring Charter School Performance

Note: The district has a responsibility to oversee that the charter school complies with all applicable legal requirements. Violation of any law may subject the school to revocation pursuant to Education Code 47607. See the accompanying Exhibit for a list of legal requirements pertaining to the operation of charter schools.

The Superintendent or designee shall monitor the charter school to determine whether it complies with all legal requirements applicable to charter schools, including making all reports required of charter schools in accordance with Education Code 47604.32. Any violations of law shall be reported to the Board.

Note: Education Code 47605 requires that measurable student outcomes for "all groups of students served by the charter school" be included in the school's charter petition and that these outcomes be aligned with the state priorities for the local control and accountability plan (LCAP) as stated in Education Code 52060; see AR 0420.4 - Charter School Authorization. Pursuant to Education Code 47607, "all groups of students served by the charter school" means all numerically significant subgroups of students served by the charter school, as defined in Education Code 52052. Pursuant to Education Code 52052, defines a numerically significant subgroups include as a subgroup with at least 30 students (or at least 15 foster youth or homeless students) in the school, including ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students, when the subgroup consists of at least 30 students (or 15 foster youth or homeless students). For schools with 11-99 students, numerically significant student subgroups are defined by the Superintendent of Public Instruction (SPI) with approval by the SBE.

Education Code 47605 requires that the charter petition include methods for measuring the charter school's progress toward achieving student outcomes. Although the measures of the school's progress may vary, Education Code 47605 requires that charter schools conduct any statewide assessments applicable to other public schools. In addition, Education Code 47604.32 and 47604.33, as amended by SB 828 (Ch. 29, Statutes of 2016), require the district to ensure that the charter school submits an annual update of its LCAP as required by Education Code 47606.5. Education Code 47606.5 requires that the charter school's LCAP include a review

CHARTER SCHOOL OVERSIGHT (continued)

of progress toward its goals, an assessment of the effectiveness of the specific actions described in the charter toward achieving the goals, and a description of changes in the specific actions that the charter school will make as a result of the review and assessment. **In addition, charter schools are included in the California School Dashboard, which reports the status of school performance on multiple state and local indicators and is intended to assist schools and districts in identifying strengths and areas in need of improvement in each priority area addressed by the LCAP. Charter schools that serve high-risk students may qualify for the state's Dashboard Alternative School Status (DASS) program, which uses modified methods of measurement for accountability indicators when appropriate.**

The Board shall monitor **each the** charter school to determine whether it is achieving, **both schoolwide and for all groups of students served by the school**, the measurable student outcomes set forth in the charter, **both schoolwide and for each numerically significant student subgroup served by the school, as defined in Education Code 52052.** This determination shall be based on the measures specified in the approved charter **petition and any applicable memorandum of understanding**, and on the charter school's annual review and assessment of its progress toward the goals and actions identified in its local control and accountability plan (LCAP), **as reported in the California School Dashboard.**

The Board shall monitor the fiscal condition of the charter school based on any financial information obtained from the charter school, including, but not limited to, the charter school's preliminary budget, annual update of the **charter** school's LCAP, first and second interim financial reports, and final unaudited report for the full prior year. (Education Code 47604.32, 47604.33, 47606.5)

Note: Education Code 47613 authorizes the district to charge the charter school, within specified limits, for the costs of supervisory oversight of the school. Education Code 47613 provides that the costs of supervisory oversight include, but are not limited to, costs incurred for technical assistance or intervention pursuant to Education Code 47607.3; see the section "Technical Assistance/Intervention" below. CSBA's publication Charter Schools: A Guide for Governance Teams suggests that supervisory oversight activities also might include site visits, reviews of performance data and financial reports, and legal auditing. The actual provision of administrative or support services would not be considered supervisory oversight for purposes of charging supervisory oversight costs to the charter school. Those services may be purchased separately by the charter school.

The district may charge up to one percent of a charter school's revenue for the actual costs of supervisory oversight of the school. However, if the district is able to provide substantially rent-free facilities to the charter school, the district may charge up to three percent of the charter school's revenue for actual costs of supervisory oversight or, if the facility is provided under Education Code 47614, the pro-rata share facilities costs calculated pursuant to 5 CCR 11969.7. If the district charges the pro-rata share, it may also charge one percent of the charter school's revenue in oversight fees. (Education Code 47613)

(cf. 7160 - Charter School Facilities)

CHARTER SCHOOL OVERSIGHT (continued)**Technical Assistance/Intervention**

If, in three out of four consecutive school years, a charter school fails to improve outcomes for three or more **numerically significant** student subgroups ~~identified in Education Code 52052~~, or for all of the student subgroups if the school has fewer than three **subgroups**, in regard to one or more state or school priorities identified in the charter, the district: (Education Code 47607.3)

1. Shall provide technical assistance to the charter school ~~using an evaluation rubric adopted by the SBE pursuant to Education Code 52064.5~~ **based on the California School Dashboard**
2. May request that the Superintendent of Public Instruction (SPI), with SBE approval, assign the California Collaborative for Educational Excellence to provide advice and assistance to the charter school pursuant to Education Code 52074

~~Note: As amended by the Every Student Succeeds Act (P.L. 114-95), 20 USC 6311 provides for a new system of school support and improvement for Title I schools beginning in the 2017-18 school year. Until then, charter schools that have been identified for program improvement (PI) for failure to make "adequate yearly progress" for two or more consecutive years must continue to implement their improvement plans. However, because of the repeal of 20 USC 6316 by P.L. 114-95, schools in the second year of PI or beyond are no longer required to arrange for supplemental educational services from an approved service provider. Instead, the CDE has elected to require the provision of alternative supports, defined and administered by the school, to eligible students beginning with the 2016-17 school year; see the CDE's Every Student Succeeds Act 2016-17 School Year Transition Plan (April 2016).~~

~~If a charter school receiving federal Title I funding has been identified for program improvement, it shall implement improvement strategies in accordance with its existing school improvement plan.~~

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

Note: Education Code 47607 requires the Board to consider specified criteria of academic performance when determining whether to deny a petition for charter renewal or to revoke a charter, with achievement of all student subgroups served by the charter school being the most important factor; see BP 0420.42 - Charter School Renewal and BP 0420.43 - Charter School Revocation. In addition, Education Code 47607.3 requires the Board to consider revocation of a charter whenever it finds that the charter school has failed, or is unable, to implement the recommendations of the California Collaborative for Educational Excellence or continues to demonstrate persistent or acute inadequate performance.

In accordance with law, the Board may deny a charter school's renewal petition or may revoke a charter based on the charter school's poor performance, especially with regard to the academic achievement of all numerically significant subgroups of students served by the charter school.

(cf. 0420.42 - Charter School Renewal)

CHARTER SCHOOL OVERSIGHT (continued)

(cf. 0420.43 - Charter School Revocation)

Complaints

Note: Pursuant to Education Code 52075, charter schools are required to establish policies and procedures for addressing complaints of noncompliance with Education Code 47606.5 (annual update of school goals, actions, and related expenditures) or 47607.3 (technical assistance or intervention based on the school's failure to improve student outcomes). See AR 1312.3 - Uniform Complaint Procedures for applicable procedures.

Each charter school shall establish and maintain policies and procedures to enable any person to file a complaint, in accordance with the uniform complaint procedures as specified in 5 CCR 4600-46874670, alleging the school's noncompliance with Education Code 47606.5 or 47607.3. (Education Code 52075)

(cf. 1312.3 - Uniform Complaint Procedures)

A complainant who is not satisfied with the decision may appeal the decision to the SPI. (Education Code 52075)

If the charter school finds merit in the complaint or the SPI finds merit in an appeal, a remedy shall be provided to all affected students and parents/guardians. (Education Code 52075)

School Closure

Note: The following **optional** section may be revised to reflect district practice. Pursuant to Education Code 47605, procedures to be followed in the event a charter school ceases operation for any reason must be specified in the charter; see AR 0420.4 - Charter School Authorization. 5 CCR 11962 lists components that must be included in these procedures, including (1) designation of a responsible entity to conduct closure-related activities; (2) notifications to specified persons and entities; (3) provision of information about students' grade level, course completion, and district of residence; (4) transfer and maintenance of student and personnel records; (5) completion of an independent final audit; and (6) disposal of any net assets remaining after all liabilities of the charter school have been paid or otherwise addressed.

Depending on the terms of the charter, these duties may be performed by the charter school, the district, or another specified entity. However, Education Code 47604.32 specifies that it is the responsibility of the district to notify the CDE when a charter school ceases operation for any reason. The CDE's web site also recommends that, in addition to the notifications required by 5 CCR 11962, either the district or the charter school should announce the closure to any school districts that may be responsible for providing education services to the former students of the charter school.

The CDE's web site recommends that charter school closures occur at the end of a school year if it is feasible to maintain a legally compliant program until then.

CHARTER SCHOOL OVERSIGHT (continued)

In the event that the Board revokes or denies renewal of a charter or the **charter** school ceases operation for any reason, the Superintendent or designee shall, when applicable in accordance with the charter and/or a memorandum of understanding, provide assistance to facilitate the transfer of the charter school's former students and to finalize financial reporting and close-out.

The Superintendent or designee shall provide notification to the California Department of Education, within 10 calendar days of the Board's action, if renewal of the charter is denied, the charter is revoked, or the charter school will cease operation for any reason.

Such notification shall include, but not be limited to, a description of the circumstances of the closure, the effective date of the closure, and the location of student and personnel records. (Education Code 47604.32; 5 CCR 11962.1)

*Legal Reference:***EDUCATION CODE**

215 Suicide prevention policy

215.5 Suicide prevention hotline contact information on student identification cards

220 Nondiscrimination

221.61 Posting of Title IX information on web site

221.9 Sex equity in competitive athletics

222 Lactation accommodations for students

222.5 Pregnant and parenting students, notification of rights**234.4 Mandated policy on bullying prevention**

234.7 Student protections relating to immigration and citizenship status

17070.10-17079.30 Leroy F. Greene School Facilities Act

17280-17317 Field Act

17365-17374 Field Act, fitness for occupancy

32282 Comprehensive safety plan**32283.5 Online training on bullying prevention**

33479-33479.9 The Eric Parades Sudden Cardiac Arrest Prevention Act

35179.4-35179.6 Interscholastic athletic programs, safety**35183.1 Graduation ceremonies; tribal regalia or recognized object of religious/cultural significance**

35330 Field trips and excursions; student fees

38080-38086 School meals

39831.3 Transportation safety plan

39843 Disciplinary action against bus driver; report to Department of Motor Vehicles

41024 Report of expenditure of state facility funds

42100 Annual statement of receipts and expenditures

44030.5 Reporting change in employment status due to alleged misconduct

44237 Criminal record summary

44691 Information on detection of child abuse

CHARTER SCHOOL OVERSIGHT (continued)

Legal Reference: (continued)

EDUCATION CODE (continued)

44830.1 Certificated employees, conviction of a violent or serious felony

45122.1 Classified employees, conviction of a violent or serious felony

45125.1 Fingerprinting; employees of contracting entity

46015 Accommodations for pregnant and parenting students; parental leave

47600-47616.7 Charter Schools Act of 1992

47634.2 Nonclassroom-based instruction

47640-47647 Special education funding for charter schools

47651 Apportionment of funds, charter schools

48000 Minimum age of admission for kindergarten; transitional kindergarten

48010-48011 Minimum age of admission (first grade)

48206.3-48208 Students with temporary disabilities; individual instruction

48850-48859 Educational placement of foster youth and homeless students

48907 Students' exercise of free expression; rules and regulations

48950 Student speech and other communication

49005-49006.4 Seclusion and restraint

49011 Student fees

49014 Public School Fair Debt Collection Act

49061 Student records

49073.2 Privacy of student and parent/guardian personal information

49076.7 Student records; data privacy; Social Security numbers

49110 Authority to ~~to~~ **of** issue work permits

49381 Human trafficking prevention

49414 Epinephrine auto-injectors

49414.3 Administration of opioid antagonist

49428 Notification of mental health services

49430-49434 The Pupil Nutrition, Health, and Achievement Act of 2001, especially:

49431.9 Advertisement of non-nutritious foods

49475 Health and safety, concussions and head injuries

49557.5 Child Hunger Prevention and Fair Treatment Act of 2017

49564 Meals for needy students

51224.7 Mathematics placement policy

51225.1-51225.2 Exemption from local graduation requirements; acceptance of coursework

51225.6 Instruction in cardiopulmonary resuscitation

51513 Diploma of graduation, without passage of high school exit examination

51745-51749.3-6 Independent study

51930-51939 California Healthy Youth Act

52052 Accountability; numerically significant student subgroups

52060-52077 Local control and accountability plans

52075 Uniform complaint procedures

56026 Special education

56145-56146 Special education services in charter schools

60600-60649 Assessment of academic achievement

64000 Categorical programs included in consolidated application

64001 School plan for student achievement, consolidated application programs

65000-65001 School site councils

69432.9-69432.92 Cal Grant program; notification of grade point average and high school graduation

Legal Reference continued: (see next page)

CHARTER SCHOOL OVERSIGHT (continued)

Legal Reference: (continued)

CORPORATIONS CODE

5110-6910 Nonprofit public benefit corporations

GOVERNMENT CODE

1090-1099 Prohibitions applicable to specified officers

3540-3549.3 Educational Employment Relations Act

6250-6270 California Public Records Act

54950-54963 Ralph M. Brown Act

81000-91014 Political Reform Act of 1974

HEALTH AND SAFETY CODE

104420 Tobacco Use Prevention Education grant program

104559 Tobacco-free schools

LABOR CODE

1198.5 Personnel records related to performance and grievance

PENAL CODE

667.5 Definition of violent felony

1192.7 Definition of serious felony

VEHICLE CODE

28160 Child safety alert system

CALIFORNIA CONSTITUTION

Article 9, Section 5 Common school system

Article 16, Section 8.5 Public finance; school accountability report card

CODE OF REGULATIONS, TITLE 5

4600-4687 Uniform complaint procedures

11700.1-11705 Independent study

11960-11969 Charter schools

CODE OF REGULATIONS, TITLE 24

101 et seq. California Building Standards Code

UNITED STATES CODE, TITLE 20

1681-1688 Title IX of the Education Amendments of 1972; discrimination based on sex

6311 State plan

7221-7221j Charter schools

UNITED STATES CODE, TITLE 42

11431-11435 McKinney-Vento Homeless Assistance Act

CODE OF FEDERAL REGULATIONS, TITLE 34

200.1-200.78 Accountability

COURT DECISIONS

Ridgecrest Charter School v. Sierra Sands Unified School District, (2005) 130 Cal.App.4th 986

ATTORNEY GENERAL OPINIONS

Opinion No. 11-201 (2018)

89 Ops.Cal.Atty.Gen. 166 (2006)

80 Ops.Cal.Atty.Gen. 52 (1997)

78 Ops.Cal.Atty.Gen. 297 (1995)

CALIFORNIA OFFICE OF ADMINISTRATIVE HEARINGS DECISIONS

Student v. Horizon Instructional Systems Charter School, (2012) OAH Case No. 2011060763

Management Resources: (see next page)

CHARTER SCHOOL OVERSIGHT (continued)

Management Resources:

CSBA PUBLICATIONS

Uncharted Waters: Recommendations for Prioritizing Student Achievement and Effective Governance in California's Charter Schools, September 2018

Charter Schools in Focus, Issue 2: Ensuring Effective Oversight, Governance Brief, October 2017

Charter Schools: A Guide for Governance Teams, rev. 2016

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Model Youth Suicide Prevention Policy, May 2017

Every Student Succeeds Act 2016-17 School Year Transition Plan, April 2016

California School Accounting Manual

Sample Copy of a Memorandum of Understanding

Pupil Fees, Deposits, and Other Charges, Fiscal Management Advisory 12-02, April 24, 201317-01, July 28, 2017

Special Education and Charter Schools: Questions and Answers, September 10, 2002

U.S. DEPARTMENT OF EDUCATION GUIDANCE

Charter Schools Program: Title V, Part B of the ESEA, April 2014January 2014

WEB SITES

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

California Charter Schools Association: <http://www.calcharters.org>

California Department of Education, Charter Schools: <http://www.cde.ca.gov/sp/cs>

National Association of Charter School Authorizers: <http://www.qualitycharters.org>

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

CSBA Sample

Exhibit

Philosophy, Goals, Objectives, and Comprehensive Plans

E 0420.41(a)

CHARTER SCHOOL OVERSIGHT

REQUIREMENTS FOR CHARTER SCHOOLS

Note: Pursuant to Education Code 47610, charter schools are exempt from Education Code provisions governing school districts unless otherwise specified in law. **However, charter schools, like other public schools, are subject to the state and federal constitutions, applicable federal laws, state laws that apply to governmental agencies in general, and state laws that are expressly applicable to charter schools.**

The following Exhibit lists some, but not necessarily all, legal requirements that apply to charter schools and may be used by districts to monitor a charter school's compliance with law. Violation of any law may subject the charter school to revocation pursuant to Education Code 47607; see BP 0420.43 - Charter School Revocation.

A charter schools shall be subject to the terms of their its charters; any memorandum of understanding between the school and the district Governing Board with their chartering authority; the state and federal constitutions; applicable federal laws; and state laws that apply to governmental agencies in general; such as the Brown Act requirements in Government Code 54950-54963 and the conflict of interest laws in Government Code 1090-1099 and 87100-91014 and other legal requirements that are expressly applicable to charter schools, including, but not limited to, requirements that each charter school or the entity managing the charter school:

Governance

Note: Pursuant to Education Code 47604.1, as added by SB 126 (Ch. 3, Statutes of 2019), charter schools are subject to the Ralph M. Brown Act, the California Public Records Act, the Political Reform Act of 1974, and conflict of interest laws, as provided in item #1 below. Although Education Code 47604.1 is not effective until January 1, 2020, a 2018 Attorney General opinion also concluded that, under current law, those statutes govern all local agencies including charter schools.

- 1. Comply with the Ralph M. Brown Act (Government Code 54950-54963), California Public Records Act (Government Code 6250-6270), conflict of interest laws (Government Code 1090-1099), and Political Reform Act (Government Code 81000-91014), including the adoption of a conflict of interest code pursuant to Government Code 87300 (Education Code 47604.1)**
- 2. Except as otherwise authorized by Government Code 54954, hold the meetings of its governing body within the physical boundaries of the county in which the charter school is located or, if a nonclassroom-based charter school that does not have a facility or operates one or more resource centers, hold governing body meetings within the physical boundaries of the county in which the greatest number of students enrolled in the charter school reside. In addition, a two-way teleconference location shall be established at the school site and/or resource center, as applicable. (Education Code 47604.1)**

CHARTER SCHOOL OVERSIGHT (continued)

Operations

3. Not be operated as, or be operated by, a for-profit corporation, a for-profit educational management organization, or a for-profit charter management organization (Education Code 47604)
4. Be nonsectarian in its programs, admission policies, employment practices, and all other operations (Education Code 47605)

Admission/Enrollment

5. Adhere to all laws establishing the minimum age for public school attendance (Education Code 47610)
6. Serve students who are California residents and who, if over 19 years of age, are continuously enrolled in a public school and making "satisfactory progress" toward a high school diploma as defined in 5 CCR 11965 (Education Code 47612)

Note: Education Code 56145 requires charter schools to serve students with disabilities in the same manner as other public schools. Pursuant to Education Code 47646, districts must ensure that each charter school that is deemed to be a public school of the district, and is not its own local educational agency (LEA) for special education purposes, receives an equitable share of special education funding and services for students with disabilities who are enrolled in the charter school.

If a charter school is operating as a public school of the district for purposes of special education, the district retains responsibility and must determine how to ensure that students with disabilities receive a free appropriate public education (FAPE). However, as indicated in the California Office of Administrative Hearings ruling in Student v. Horizon Instructional Systems Charter School, a charter school operating as its own LEA for purposes of special education, including a charter school offering an independent study program, is the entity responsible for providing FAPE.

7. Serve students with disabilities in the same manner as such students are served in other district schools (Education Code 47646, 56145)
8. Admit all students who wish to attend the **charter** school, according to the following criteria and procedures:
 - a. Admission to the charter school shall not be determined according to the student's or parent/guardian's place of residence within the state, except that any existing public school converting partially or entirely to a charter school shall adopt and maintain a policy giving admission preference to students who reside within **the that** school's former attendance area. (Education Code 47605)

CHARTER SCHOOL OVERSIGHT (continued)

If a charter school will be physically located in a public elementary school attendance area in which 50 percent or more of the student enrollment is eligible for free or reduced-price meals, it may also establish an admission preference for students who are currently enrolled in **the that** public elementary school and for students who reside in the public school attendance area. (Education Code 47605.3)

- b. If the number of students who wish to attend the charter school exceeds the school's capacity, attendance shall be determined by a public random drawing, with preference extended to students currently attending the charter school and students who reside in the district, except as provided for in Education Code 47614.5. (Education Code 47605)
 - c. Other admission preferences may be permitted by the **Governing** Board of the district on an individual school basis consistent with law. (Education Code 47605)
- 9. Immediately enroll a homeless student, except where such enrollment would conflict with Education Code 47605(d) (Education Code 48850; 42 USC 11431-11435)
 - 10. Comply with the requirements of Education Code 48850-48859 regarding the enrollment and placement of foster youth (Education Code 48853.5, 48859)
 - 11. Allow a student who is enrolled in the charter school but receiving individual instruction at home or a hospital due to a temporary disability to return to the charter school when well enough to do so, provided the student returns during the school year in which the individual instruction was initiated (Education Code 48207.3)**

Nondiscrimination

- 2.12.** Not discriminate against any student on the basis of the characteristics listed in Education Code 220 (Education Code 47605)
- 30.13.** Adopt policy that is consistent with the model policy developed by the California Attorney General addressing the **charter** school's response to immigration enforcement, notify parents/guardians of their children's right to a free public education regardless of immigration status or religious beliefs, prohibit the collection of information or documents regarding the immigration status of students or their family members, and fulfill other requirements of Education Code 234.7

CHARTER SCHOOL OVERSIGHT (continued)

45.14. Post specified information related to the prohibition against discrimination under Title IX of the Education Amendments of 1972 in a prominent and conspicuous location on the school web site or on the web site of the charter operator (Education Code 221.61)

25.15. If the **charter** school offers competitive athletics, annually post on the school's web site or on the web site of the charter operator the total enrollment of the school classified by gender, the number of students who participate in competitive athletics classified by gender, and the number of boys' and girls' teams classified by sport and by competition level (Education Code 221.9)

37.16. Provide **specified accommodations to pregnant and parenting students, including, but not limited to, the provision of parental leave and** reasonable accommodations on campus to a lactating student to express breast milk, breastfeed an infant child, or address other needs related to breastfeeding. **The charter school shall notify pregnant and parenting students and parents/guardians of the rights and options available to pregnant and parenting students.** (Education Code 222, 222.5, 46015)

46.17. If a direct-funded charter school, adopt and implement uniform complaint procedures to resolve complaints of unlawful discrimination or alleged violation of a state or federal law or regulation governing educational programs, in accordance with 5 CCR 4600-4670 (5 CCR 4600)

Tuition and Fees

3.18. Not charge tuition (Education Code 47605)

Note: Education Code 47605 specifically prohibits a charter school from charging tuition, but does not mention fees or other charges. As clarified in the California Department of Education's (CDE) advisory Pupil Fees, Deposits, and Other Charges, because charter schools are subject to the California Constitution, the free school guarantee of the California Constitution, Article 9, Section 5, applies to charter schools. Charter schools may only charge fees which are explicitly authorized by law for charter schools. For example, charter schools may charge fees for meals and field trips pursuant to Education Code 35330, 38082, and 38084 because those provisions apply to charter schools, but charter schools may not necessarily charge other fees authorized by law for school districts.

4.19. Not charge student fees for any activity that is an integral component of the educational program, except as authorized by those Education Code provisions that explicitly apply to charter schools

20. **Not bill, nor take any negative action against, a student or former student for a debt owed to the charter school. The school shall provide an itemized invoice for**

CHARTER SCHOOL OVERSIGHT (continued)

any amount owed by the parent/guardian on behalf of a student or former student before pursuing payment of the debt and shall provide a receipt to the parent/guardian for each payment made to the school. (Education Code 49014)

School Plans

21. **Adopt a local control and accountability plan (LCAP) and update the plan by July 1 each year, an update of the school's goals and the actions to achieve those goals as identified in the charter, developed using the local control and accountability plan in consultation with specified stakeholders and using the template adopted by the State Board of Education (SBE). To the extent practicable, data shall be reported in a manner consistent with how information is reported on a school accountability report card the California School Dashboard. As part of the LCAP adoption and annual update to the LCAP, the governing body of the charter school shall separately adopt a local control funding formula budget overview for parents/guardians, based on the template developed by the SBE, which includes specified information relating to the school's budget. (Education Code 47604.33, 47606.5, 52064, 52064.1)**
22. **If the charter school applies for federal and/or state categorical program funding through the state's consolidated application, establish a school site council to develop and annually review a school plan for student achievement, unless the school chooses to use its LCAP for this purpose (Education Code 64000-64001, 65000-65001)**
23. **Develop a comprehensive safety plan in accordance with Education Code 32282 and review and update the plan by March 1 each year (Education Code 47605)**
- 35-24. **Develop a transportation safety plan that includes procedures to ensure that a student is not left unattended on a school bus, student activity bus, youth bus, or child care motor vehicle and procedures and standards for designating an adult chaperone, other than the driver, to accompany students on a school activity bus. In addition, ensure that each school bus, student activity bus, youth bus, or child care motor vehicle is equipped with a child safety alert system that requires the driver to either manually contact or scan the device, thereby prompting the driver to inspect the entirety of the interior of the vehicle before exiting, unless the student activity bus is exempted by law. (Education Code 39831.3; Vehicle Code 28160)**

Curriculum and Instruction

Note: Education Code 47612.5 specifies, by grade level, the minimum number of instructional minutes that must be offered each fiscal year. Any charter school that fails to meet this requirement will have its state apportionment reduced in proportion to the percentage of instructional minutes that the school fails to offer. Education Code 47612.5 and 47612.6 provide that neither the State Board of Education nor the Superintendent of Public Instruction may waive the required number of instructional minutes but may waive the fiscal penalties under specified conditions.

CHARTER SCHOOL OVERSIGHT (continued)

22.25. Offer at least the number of instructional minutes required by law for the grade levels provided by the charter school (Education Code 47612.5)

11.26. If the **charter** school offers a kindergarten program, ~~it (Education Code 48000) a. O~~ **also offer a transitional kindergarten (TK) program to students whose fifth birthday is from September 2 through December 2 (Education Code 48000)**

~~b. Ensure that any credentialed teacher first assigned to teach a TK class after July 1, 2015 meets the qualifications specified in Education Code 48000 by August 1, 2020~~

19.27. If the **charter** school serves students in grade 9, adopt a fair, objective, and transparent mathematics placement policy with specified components (Education Code 51224.7)

28. **If the charter school serves students in any of grades 7-12, provide comprehensive sexual health education and human immunodeficiency virus (HIV) prevention education at least once in junior high or middle school and once in high school, beginning in the 2019-2020 school year (Education Code 51931, 51934)**

29. **If the charter school serves students in any of grades 6-12, identify and implement methods of informing parents/guardians of human trafficking prevention resources by January 1, 2020 (Education Code 49381)**

Note: Education Code 47612.5 provides that charter schools offering independent study are subject to Education Code 51745-51749.**36.** Education Code 51745 requires that no course included among the courses required for graduation may be offered solely through independent study. However, pursuant to 5 CCR 11705, a charter school offering grades 9-12 shall be deemed to be an "alternative school" for purposes of independent study and thus, according to the CDE, would comply with this provision because students in such alternative schools are enrolled voluntarily and, if they wished, could attend any other district high school in which the courses were offered via classroom instruction.

23.30. If the **charter** school provides independent study, meet the requirements of Education Code 51745-51749.**36.** except that the school may be allowed to offer courses required for graduation solely through independent study as an exception to Education Code 51745(e) (Education Code 47612.5, 51747.3; 5 CCR 11705)

20.31. Meet all statewide standards and conduct any statewide assessments applicable to noncharter public schools (Education Code 47605, 47612.5, 60605)

High School Graduation

32. **Exempt a foster youth, homeless student, former juvenile court school student, child of a military family, or migrant student who transfers between schools**

CHARTER SCHOOL OVERSIGHT (continued)

- after the second year of high school, or a student participating in a newcomer program for newly immigrant students in grades 11-12, from any graduation requirements established by the charter school that exceed state requirements, unless the school determines that the student is reasonably able to complete the requirements by the end of the fourth year of high school (Education Code 51225.1, 51225.2)
- ~~21.33.~~ Grant a high school diploma to any student who completed grade 12 in the 2003-04 through 2014-15 school year and met all applicable graduation requirements other than the passage of the high school exit examination (Education Code 51413)
- 34.** Allow a student to wear traditional tribal regalia or recognized objects of religious or cultural significance as an adornment at school graduation ceremonies, unless the charter school determines that an item is likely to cause a substantial disruption of, or material interference with, the ceremony (Education Code 35183.1)

Student Expression

Note: Education Code 48907 requires charter schools to establish a written "publications code" related to students' rights to freedom of speech and of the press. These written rules and regulations must include reasonable provisions for the time, place, and manner in which free expression may take place within the charter school's jurisdiction.

- ~~29.35.~~ Provide students the right to exercise freedom of speech and of the press including, but not limited to, the use of bulletin boards; the distribution of printed materials or petitions; the wearing of buttons, badges, and other insignia; and the right of expression in official publications (Education Code 48907, 48950)

Staffing

- ~~12.36.~~ Require its teachers to hold a certificate, permit, or other document issued by the Commission on Teacher Credentialing (CTC) equivalent to that which a teacher in other public schools would be required to hold (Education Code 47605)
- 14.37.** Not hire any person who has been convicted of a violent or serious felony except as otherwise provided by law, and, if the **charter** school contracts with an entity for specified services, verify that any employee of that entity who will have contact with students has had a criminal background check (Education Code 44830.1, 45122.1, 45125.1)

CHARTER SCHOOL OVERSIGHT (continued)

- 15.38.** Report to the CTC any change in a certificated employee's employment status (dismissal, nonreelection, resignation, suspension, unpaid administrative leave for more than 10 days, retirement, or other decision not to employ or reemploy) as a result of an allegation of misconduct or while an allegation of misconduct is pending (Education Code 44030.5)
- 16.39.** Meet the requirements of Education Code 47611 regarding the State Teachers' Retirement System (Education Code 47610)
- 17.40.** Meet the requirements of Government Code 3540-3549.3 related to collective bargaining in public education employment (Education Code 47611.5)

Parent/Guardian Involvement

- 27.41.** On a regular basis, consult with parents/guardians and teachers regarding the **charter** school's educational programs (Education Code 47605)
- 28.42.** Notify parents/guardians of applicant students and currently enrolled students that parental involvement is not a requirement for acceptance to, or continued enrollment at, the charter school (Education Code 47605)

Nutrition

- 43.** **Beginning with the 2019-2020 school year, provide each eligible student with one nutritionally adequate free or reduced-price meal during each school day, except as provided for a charter school that offers nonclassroom-based instruction (Education Code 47613.5)**
- 40.44.** If the **charter** school participates in the National School Lunch and/or Breakfast program, not promote any food or beverage during the school day that does not comply with state nutritional standards pursuant to Education Code 49430-49434, and not participate in a corporate incentive program that offers free or discounted non-nutritious foods or beverages as rewards for students who reach certain academic goals (Education Code 49431.9)
- 41.45.** If the **charter** school participates in the National School Lunch and/or Breakfast program, notify parents/guardians within 10 days of their child's meal account reaching a negative balance; ensure that a student with unpaid school meal fees is not shamed, treated differently, or served a meal that differs from other students; and prohibit student discipline from resulting in the denial or delay of a nutritionally adequate meal (Education Code 49557.5)

CHARTER SCHOOL OVERSIGHT (continued)

42.46. If the **charter** school participates in the National School Lunch and/or Breakfast program and is a very high poverty school, as defined, apply to the California Department of Education (CDE) to provide lunch and/or breakfast free of charge to all students under a federal universal service provision (Education Code 49564)

Student Health

18.47. If the **charter** school serves students in grades 7-12, adopt a policy on suicide prevention, intervention, and postvention with specified components, **review the policy at least every five years, and, if the school issues student identification cards, print the telephone number of the National Suicide Prevention Lifeline on those cards** (Education Code 215, **215.5**)

48. **Notify students and parents/guardians at least twice during the school year on how to initiate access to available student mental health services on campus or in the community (Education Code 49428)**

13.49. Provide annual training on child abuse and neglect reporting requirements to employees and persons working on the **charter** school's behalf who are mandated reporters, within the first six weeks of each school year or within six weeks of employment (Education Code 44691)

Note: Education Code 33479.1, 33479.3, and 49475 require charter schools that elect to conduct athletic activities to provide student athletes and their parents/guardians with information on the nature and warning signs of concussions/head injuries and sudden cardiac arrest. Such information is available on the web site of the California Interscholastic Federation.

26.50. If the **charter** school offers an athletic program, annually provide information sheets about concussions/head injuries and sudden cardiac arrest to athletes and their parents/guardians, which must be signed and returned to the school before the athlete initiates practice or competition. In the event that an athlete is suspected of sustaining a concussion or head injury, passes out, or faints during or immediately after participation in an athletic activity, **he/she the student** shall be immediately removed from the activity for the remainder of the day and shall not be permitted to return to the activity until **he/she the student** is evaluated by a licensed health care provider and receives written clearance to do so. (Education Code 33479-33479.5, 49475)

51. **If the charter school offers an interscholastic athletic program, develop and post a written emergency action plan that describes procedures to be followed in the event of sudden cardiac arrest and other medical emergencies, acquire at least one automated external defibrillator (AED) for the school, and make the AED available at on-campus athletic activities or events (Education Code 35179.4, 35179.6)**

CHARTER SCHOOL OVERSIGHT (continued)

38.52. ~~Ensure the availability and proper use of~~ **Provide school nurses or other voluntary, trained personnel with** emergency epinephrine auto-injectors **of the type required pursuant to Education Code 49414** ~~by:~~ (Education Code 49414)

a. ~~Providing school nurses or other voluntary, trained personnel with at least one regular and one junior device for elementary schools and, for secondary schools, one regular device if there are no students who require a junior device~~

b. ~~Distributing a notice at least once per school year to all staff requesting volunteers and describing the training that volunteers will receive~~

c. ~~Providing defense and indemnification to volunteers for any and all civil liability from such administration~~

39.53. If the **charter** school chooses to make an opioid antagonist available to persons suffering, or reasonably believed to be suffering, from an opioid overdose, comply with the requirements of Education Code 49414.3, including, but not limited to, providing training to personnel who volunteer to administer the opioid antagonist

Student Conduct/Discipline

54. **Adopt a policy on bullying and cyberbullying prevention by December 31, 2019, and annually make CDE's online training module on bullying prevention available to school site certificated employees and other employees who have regular interaction with students (Education Code 234.4, 32283.5)**

55. **Prohibit seclusion and behavioral restraint of students as a means of discipline, and only use such methods to control student behavior that poses a clear and present danger of serious physical harm to a student or others that cannot be immediately prevented by a less restrictive response (Education Code 49005-49006.4)**

Student and Parent/Guardian Records

34.56. ~~Not collect or solicit social security numbers or the last four digits of social security numbers from students or their parents/guardians unless otherwise required to do so by state or federal law (Education Code 49076.7)~~

57. **Upon written request, not include the directory information of a student or the personal information of a parent/guardian, as defined, in the minutes of a meeting of the governing body (Education Code 49073.2)**

CHARTER SCHOOL OVERSIGHT (continued)

33.58. If a student subject to compulsory full-time education is expelled or leaves the charter school without graduating or completing the school year for any reason, notify the Superintendent of the school district of the student's last known address within 30 days and, upon request, provide that district with a copy of the student's cumulative record, including a transcript of grades or report card, and health information (Education Code 47605)

34.59. If the **charter** school serves high school students, submit to the Student Aid Commission, for use in the Cal Grant program, the grade point average (GPA) of all students in grade 12 and verification of high school graduation or its equivalent for students who graduated in the prior academic year. However, such information shall not be submitted when students opt out or are permitted by the rules of the Student Aid Commission to provide test scores in lieu of the GPA. (Education Code 69432.9, 69432.92)

Facilities

36.60. Comply with the California Building Standards Code as adopted and enforced by the local building enforcement agency with jurisdiction over the area in which the charter school is located, unless the charter school facility meets either of the following conditions: (Education Code 47610, 47610.5)

- a. The facility complies with the Field Act pursuant to Education Code 17280-17317 and 17365-17374.
- b. The facility is exclusively owned or controlled by an entity that is not subject to the California Building Standards Code, including, but not limited to, the federal government.

Finance

43.61. Promptly respond to all reasonable inquiries from the district, the county office of education, or the **Superintendent of Public Instruction (SPI)**, including, but not limited to, inquiries regarding the **charter** school's financial records (Education Code 47604.3)

32.62. Maintain written contemporaneous records that document all student attendance and make these records available for audit and inspection (Education Code 47612.5)

24.63. Identify and report to the **Superintendent of Public Instruction (SPI)** any portion of **its the charter school's** average daily attendance that is generated through

CHARTER SCHOOL OVERSIGHT (continued)

nonclassroom-based instruction, including, but not limited to, independent study, home study, work study, and distance and computer-based education (Education Code 47612.5, 47634.2; 5 CCR 11963.2)

44.64. Annually prepare and submit financial reports to the district **Governing** Board and the County Superintendent of Schools in accordance with the following reporting cycle:

a. By July 1, a preliminary budget for the current fiscal year. For a charter school in its first year of operation, financial statements submitted with the charter petition pursuant to Education Code 47605(g) will satisfy this requirement. (Education Code 47604.33)

~~b. By July 1, an update of the school's goals and the actions to achieve those goals as identified in the charter, developed using the local control and accountability plan template adopted by the State Board of Education. This report shall include a review of the progress toward the goals, an assessment of the effectiveness of the specific actions toward achieving the goals, a description of changes the school will make to the specific actions as a result of the review and assessment, and a listing and description of expenditures for the fiscal year implementing the specific actions. (Education Code 47604.33, 47606.5, 52064)~~

~~When conducting this review, the governing body of the school may consider qualitative information including, but not limited to, findings that result from any school quality reviews conducted pursuant to Education Code 52052 or any other reviews. To the extent practicable, data shall be reported in a manner consistent with how information is reported on a school accountability report card. The update shall be developed in consultation with teachers, principals, administrators, other school personnel, parents/guardians and students. (Education Code 47606.5)~~

e.b. By December 15, an interim financial report for the current fiscal year reflecting changes through October 31. (Education Code 47604.33)

~~d.c.~~ **e.c.** By March 15, a second interim financial report for the current fiscal year reflecting changes through January 31. (Education Code 47604.33)

e.d. By September 15, a final unaudited report for the full prior year. The report submitted to the Board shall include an annual statement of all the charter school's receipts and expenditures for the preceding fiscal year. (Education Code 42100, 47604.33)

CHARTER SCHOOL OVERSIGHT (continued)

- f.e.** By December 15, a copy of the charter school's annual, independent financial audit report for the preceding fiscal year, unless the charter school's audit is encompassed in the district's audit. The audit report shall also be submitted to the State Controller and **CDE** ~~the California Department of Education~~. (Education Code 47605)
- 65. If the charter school receives state facilities funding pursuant to the Leroy F. Greene School Facilities Act (Education Code 17070.10-17079.30), annually report a detailed list of all expenditures of state funds and of the school's matching funds for completed projects, and submit an audit of completed facilities projects within one year of project completion (Education Code 41024)**

Accountability

- 47.66.** Annually adopt a school accountability report card (Education Code 47612; California Constitution, Article 16, Section 8.5)

~~Note: Districts should consult with legal counsel regarding the applicability of any state law other than the Education Code to charter schools.~~

~~In addition, charter schools shall comply with the state and federal constitutions, applicable federal laws, and state laws that apply to governmental agencies in general, such as the Brown Act requirements in Government Code 54950-54963 and the conflict of interest laws in Government Code 1090-1099 and 87100-91014.~~

(7/17 5/18) 3/19

CSBA Sample

Board Policy

Philosophy, Goals, Objectives, and Comprehensive Plans

BP 0460(a)

LOCAL CONTROL AND ACCOUNTABILITY PLAN

Note: ~~The following policy is optional.~~ Education Code 52060-52077 require the Governing Board to adopt and annually update, on or before July 1, a local control and accountability plan (LCAP). Pursuant to Education Code 52060, **as amended by AB 2878 (Ch. 826, Statutes of 2018)**, the LCAP must include goals and actions aligned with eight state priorities related to (1) the degree to which teachers are appropriately assigned and fully credentialed, students have sufficient access to standards-based instructional materials, and facilities are maintained in good repair; (2) implementation of and student access to state academic content and performance standards; (3) parent/guardian involvement **and family engagement**; (4) student achievement; (5) student engagement; (6) school climate; (7) student access to and enrollment in a broad course of study, including programs and services provided to benefit low-income students, English learners, and/or foster youth (i.e., "unduplicated students" for purposes of supplemental and concentration grants under the local control funding formula **(LCFF)**); and (8) student outcomes in the specified course of study. Education Code 52060 provides that, in addition to addressing the state priorities in the LCAP, the district may establish and address local priorities **and goals**. Examples include priorities for student wellness and other conditions of children, professional development, community involvement, and effective governance and leadership. See the accompanying administrative regulation for further information about the required content of the LCAP.

The Governing Board desires to ensure the most effective use of available funding to improve outcomes for all students. A comprehensive, data-driven planning process shall be used to identify annual goals and specific actions **which are aligned with the district budget** and ~~to~~ facilitate continuous improvement of district practices.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

(cf. 0415 - Equity)

Note: Pursuant to Education Code 52064, the State Board of Education (SBE) has adopted a template that districts must use to complete the LCAP. An electronic version of the template is available on the California Department of Education's (CDE) web site.

As amended by AB 1840 (Ch. 426, Statutes of 2018), Education Code 52064 requires the SBE, by January 31, 2020, to expand the template to include more specific information about the goals, actions, expenditures, and services for all students and subgroups of students, as well as information about the district, highlights of the LCAP, and annual performance as indicated by the California School Dashboard.

The Board shall adopt a districtwide local control and accountability plan (LCAP), based on the template adopted by the State Board of Education, that addresses the state priorities in Education Code 52060 and any local priorities adopted by the Board. The LCAP shall be updated on or before July 1 of each year and, like the district budget, shall cover the next fiscal year and **two** subsequent **two** fiscal years. (Education Code 52060, 52064; 5 CCR 15494-15497)

(cf. 3100 - Budget)

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

Note: Education Code 52060 requires that the LCAP include annual goals to be achieved for all students and for each numerically significant student subgroup as defined in Education Code 52052. ~~For schools with 11-99 students, numerically significant student subgroups are defined by the Superintendent of Public Instruction (SPI) with approval by the SBE.~~ In addition, several state priorities address programs and services for "unduplicated students," as defined in Education Code 42238.01-42238.02.

The LCAP shall focus on improving outcomes for all students, particularly those who are "unduplicated students" or are part of any numerically significant student subgroup that is at risk of or is underperforming.

Note: Pursuant to Education Code 42238.01, as amended by AB 1962 (Ch. 748, Statutes of 2018), no later than the 2020-21 fiscal year, the definition of "foster youth" for the purpose of identifying unduplicated students will include a dependent child of the court of an Indian tribe, consortium of tribes, or tribal organization who is the subject of a petition filed in the tribal court in accordance with the tribe's law, provided the child would also meet one of the descriptions in Welfare and Institutions Code 300 describing when a child may be adjudged a dependent child of the juvenile court.

Unduplicated students include students who are eligible for free or reduced-price meals, English learners, and foster youth, as defined in Education Code 42238.01 for purposes of the local control funding formula **(LCFF)**. (Education Code 42238.02)

(cf. 3553 - Free and Reduced Price Meals)
 (cf. 6173.1 - Education for Foster Youth)
 (cf. 6174 - Education for English Learners)

Numerically significant student 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, ~~or as otherwise defined by the Superintendent of Public Instruction (SPI).~~ (Education Code 52052)

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)
 (cf. 6173 - Education for Homeless Children)

The Superintendent or designee shall review the **single school** plan for student achievement (SPSA) submitted by each district school pursuant to Education Code 64001 to ensure that the specific actions included in the LCAP are consistent with strategies included in the SPSA. (Education Code 52062)

(cf. 0420 - School Plans/Site Councils)

The LCAP shall also be aligned with other district and school plans to the extent possible in order to minimize duplication of effort and provide clear direction for program implementation.

(cf. 0400 - Comprehensive Plans)

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

(cf. 0440 - District Technology Plan)
(cf. 0450 - Comprehensive Safety Plan)
(cf. 5030 - Student Wellness)
(cf. 6171 - Title I Programs)
(cf. 7110 - Facilities Master Plan)

Note: Pursuant to Education Code 52064.1, as added by AB 1808 (Ch. 32, Statutes of 2018), districts are required, by July 1, 2019, to develop an LCFF budget overview for parents/guardians with specified information. The budget overview must be developed in conjunction with, and attached as a cover to, the LCAP and annual update to the LCAP. The budget overview is subject to the requirements of Education Code 52062 and 52070 pertaining to the adoption, review, and approval of the LCAP. The Superintendent of Public Instruction (SPI) is required to develop, before December 31, 2018, a template for the budget overview.

As part of the LCAP adoption and annual update to the LCAP, the Board shall adopt an LCFF budget overview for parents/guardians, based on the template developed by the SBE, which includes specified information relating to the district's budget. The budget overview shall be adopted, reviewed, and approved in the same manner as the LCAP and the annual update. (Education Code 52064.1)

Any complaint that the district has not complied with legal requirements pertaining to the LCAP may be filed pursuant to AR 1312.3 - Uniform Complaint Procedures. (Education Code 52075)

(cf. 1312.3 - Uniform Complaint Procedures)

Plan Development

The Superintendent or designee shall gather data and information needed for effective and meaningful plan development and present it to the Board and community. Such data and information shall include, but not be limited to, data regarding the number of students in student subgroups, disaggregated data on student achievement levels, and information about current programs and expenditures.

Note: Education Code 52060 requires consultation on plan development with all of the groups listed below. The Board may delegate responsibility for arranging meetings and other input opportunities to the Superintendent or designee.

5 CCR 15495 defines what it means to consult with students, including unduplicated students and other numerically significant student subgroups, and gives examples of methods that may be used for this consultation. State regulations do not provide examples of consultation with groups other than students, but consultations might include surveys, the establishment of an advisory committee consisting of representatives of all the specified groups, solicitation of feedback from the groups after a draft plan is available, discussion of the LCAP at staff meetings, and communication with parent organizations, student councils, school site councils, or other established committees or organizations. The district may expand the following paragraph to reflect district practice.

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

The Board shall consult with teachers, principals, administrators, other school personnel, employee bargaining units, parents/guardians, and students in developing the LCAP. Consultation with students shall enable unduplicated students and other numerically significant student subgroups to review and comment on LCAP development and may include surveys of students, student forums, student advisory committees, and/or meetings with student government bodies or other groups representing students. (Education Code 52060; 5 CCR 15495)

(cf. 1220 - Citizen Advisory Committees)

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

(cf. 6020 - Parent Involvement)

Public Review and Input

Note: Pursuant to Education Code 52063 and 5 CCR 15495, the Board is required to establish a parent advisory committee that is composed of a majority of parents/guardians and includes at least one parent/guardian of an unduplicated student. In addition, if district enrollment includes at least 15 percent English learners, with at least 50 students who are English learners, the Board is required to establish an English learner parent advisory committee which, pursuant to 5 CCR 15495, must include a majority of parents/guardians of English learners. **Pursuant to Education Code 52063 and 5 CCR 15495, the Board is required to establish a parent advisory committee and, if district enrollment includes at least 15 percent English learners, an English learner parent advisory committee to review and comment on the LCAP.** The district may use existing parent advisory committees for these purposes if the committee composition complies with Education Code 52063 and 5 CCR 15495. However, the district should consider whether such opportunities need to be expanded to achieve significant levels of stakeholder involvement in the planning process as intended by the law.

The Board shall establish a parent advisory committee to review and comment on the LCAP. The committee shall be composed of a majority of parents/guardians and shall include **at least one** parents/guardians of **an** unduplicated students as defined above. (Education Code 52063; 5 CCR 15495)

Whenever district enrollment includes at least 15 percent English learners, with at least 50 students who are English learners, the Board shall establish an English learner parent advisory committee composed of a majority of parents/guardians of English learners **to review and comment on the LCAP**. (Education Code 52063; 5 CCR 15495)

The Superintendent or designee shall present the LCAP to the committee(s) before it is submitted to the Board for adoption, and shall respond in writing to comments received from the committee(s). (Education Code 52062)

Note: Education Code 52062 requires notification to the public of the opportunity to submit written comments on the proposed LCAP, including notification in the primary language of parents/guardians when required by Education Code 48985. Pursuant to Education Code 48985, whenever 15 percent or more of the students in a school speak a single primary language other than English, notifications sent to parents/guardians of such students must be written in the primary language as well as in English; see BP 5145.6 - Parental Notifications.

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

The Superintendent or designee shall notify members of the public of the opportunity to submit written comments regarding the specific actions and expenditures proposed to be included in the LCAP. The notification shall be provided using the most efficient method of notification possible, which may not necessarily include producing printed notices or sending notices by mail. All written notifications related to the LCAP shall be provided in the primary language of parents/guardians when required by Education Code 48985. (Education Code 52062)

(cf. 5145.6 - Parental Notifications)

Note: Pursuant to Education Code 305, the LCAP parent/guardian and community engagement process must include solicitation of input ~~as described in the following paragraph on language acquisition programs. Also s~~See BP/AR 6174 - Education for English Learners for further information regarding the types of language acquisition programs that may be offered ~~to students.~~

As part of the parent/guardian and community engagement process, the district shall solicit input on effective and appropriate instructional methods, including, but not limited to, establishing language acquisition programs to enable all students, including English learners and native English speakers, to have access to the core academic content standards and to become proficient in English. (Education Code 305-306)

Note: Education Code 52062, as amended by AB 1808, requires the district to consult with its special education local plan area administrator(s) to ensure that specific actions for individuals with disabilities are included in the LCAP.

The Superintendent or designee shall consult with the administrator(s) of the special education local plan area of which the district is a member to ensure that specific actions for students with disabilities are included in the LCAP and are consistent with strategies included in the annual assurances support plan for the education of students with disabilities. (Education Code 52062)

(cf. 0430 - Comprehensive Local Plan for Special Education)

Note: Pursuant to Education Code 42127, the Board must not adopt a district budget until the LCAP is in place for the budget year; see BP 3100 - Budget. The budget must include the expenditures necessary to implement the plan that will be effective during the subsequent fiscal year. If it does not, the County Superintendent of Schools will disapprove the district's budget.

The Board shall hold at least one public hearing to solicit the recommendations and comments of members of the public regarding the specific actions and expenditures proposed to be included in the LCAP. The public hearing shall be held at the same meeting as the budget hearing required pursuant to Education Code 42127 and AR 3100 - Budget. (Education Code 42127, 52062)

(cf. 9320 - Meetings and Notices)

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)**Adoption of the Plan**

The Board shall adopt the LCAP prior to adopting the district budget, but at the same public meeting. This meeting shall be held after the public hearing described above, but not on the same day as the hearing. **(Education Code 52062)**

The Board may adopt revisions to the LCAP at any time during the period in which the plan is in effect, provided the Board follows the process to adopt the LCAP pursuant to Education Code 52062 and the revisions are adopted in a public meeting. (Education Code 52062)

Submission of Plan to County Superintendent of Schools

Note: Education Code 52070 requires the district to submit the LCAP to the County Superintendent, **who** ~~The County Superintendent~~ may seek written clarification of the contents of the plan and may submit recommendations for amendments as provided below. ~~He/she~~ **The County Superintendent** is required to approve the LCAP on or before October 8 if ~~he/she determines~~ **it is determined** that (1) the LCAP adheres to the template adopted by the SBE **and follows any SBE instructions or directions for completing the template**; (2) the district budget includes expenditures sufficient to implement the specific actions **and strategies** in the LCAP; and (3) the LCAP adheres to supplemental and concentration grant expenditure requirements specified in Education Code 42238.07 for unduplicated students. In determining whether the district has fully demonstrated that it will use supplemental and concentration funds to increase or improve services for unduplicated students, 5 CCR 15497 requires the County Superintendent to review any descriptions of districtwide or schoolwide services provided.

Education Code 52064.1, as added by AB 1808, requires the district to file the LCFF budget overview for parents/guardians with the County Superintendent to be reviewed for adherence with the template adopted by the SPI. If the budget overview is not approved, the County Superintendent will withhold approval of the LCAP and will provide technical assistance pursuant to Education Code 52071.

Not later than five days after adoption of the LCAP, **the district budget, and the LCFF budget overview for parents/guardians**, the Board shall file the LCAP, **the budget, and the budget overview** with the County Superintendent of Schools. (Education Code **42127, 52064.1**, 52070)

If the County Superintendent sends, by August 15, a written request for clarification of the contents of the LCAP, the Board shall respond in writing within 15 days of the request. If the County Superintendent then submits recommendations for amendments to the LCAP within 15 days of receiving the Board's response, the Board shall consider those recommendations in a public meeting within 15 days of receiving the recommendations. (Education Code 52070)

If the County Superintendent does not approve the district's LCAP, the Board shall accept technical assistance from the County Superintendent focused on revising the plan so that it can be approved. (Education Code 52071)

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

Monitoring Progress

Note: The following **optional** paragraph may be revised to reflect the district's timeline for reviewing the progress and effectiveness of strategies included in the LCAP. Reports should be provided to the Board in sufficient time to allow for any necessary changes in the annual update to the LCAP by July 1 of each year, as required by Education Code 52060-52061. The **California School** Dashboard provides a tool to assist in evaluation of district and school performance and includes all of the state priorities for the LCAP described in Education Code 52060.

The Superintendent or designee shall report to the Board, at least annually in accordance with the timeline and indicators established by **him/her the Superintendent** and the Board, regarding the district's progress toward attaining each goal identified in the LCAP. Evaluation shall include, but not be limited to, an assessment of district and school performance reported on the California School Dashboard. Evaluation data shall be used to recommend any necessary revisions to the LCAP.

(cf. 0500 - Accountability)

Technical Assistance/Intervention

Note: Pursuant to Education Code 52071, **as amended by AB 1808**, the Board may, at its discretion ~~and at the district's expense~~, request technical assistance **from the County Superintendent** as described in items #1-3 **2** below. **The County Superintendent may charge a fee not to exceed the cost of the service, if the provision of the service requested would create an unreasonable or untenable cost burden for the County Superintendent.** ~~In addition, the County Superintendent is required to provide such technical assistance whenever he/she does not approve the district's LCAP and/or the district fails to improve student achievement across more than one state priority described in Education Code 52060, as determined using the Dashboard.~~

~~When it is in the best interest of the district,~~ **At its discretion**, the Board may submit a request to the County Superintendent for technical assistance, including, but not limited to: (Education Code 52071)

1. Assistance in ~~the identification of~~ **identifying** district strengths and weaknesses in regard to state priorities, **which includes the review of performance data on the state and local indicators included in the Dashboard and other relevant local data**, and ~~review of~~ **in identifying** effective, evidence-based programs **or practices** that **address any areas of weakness apply to the district's goals**
2. Assistance from an academic, **programmatic, or fiscal** expert, **or** team of ~~academic~~ experts, **in identifying and implementing effective programs and practices that are designed to improve performance in any identified areas of weakness. The district may engage other service providers, including, but not limited to, or**

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

~~another school districts, county offices of education, or charter schools, to provide such assistance. in the county in identifying and implementing effective programs to improve the outcomes for student subgroups.~~

- ~~3. Advice and assistance from the California Collaborative for Educational Excellence established pursuant to Education Code 52074~~

Note: Pursuant to Education Code 52071, as amended by AB 1808, the district must be provided technical assistance whenever one or more numerically significant student subgroups meet the criteria for assistance and intervention established pursuant to Education Code 52064.5.

If the County Superintendent offers the district technical assistance in the event that one or more the district's numerically significant student subgroups are identified based on performance criteria established pursuant to Education Code 52064.5, the Board shall provide the County Superintendent timely documentation of the district's completion of activities listed in items #1-2 above, maintain regular communication with the County Superintendent, and take all necessary steps to ensure district compliance with other requirements specified in Education Code 52071.

Note: Pursuant to Education Code 52074, as amended by AB 1840, either the County Superintendent or the SPI may refer a district to the California Collaborative for Educational Excellence (CCEE) if it is determined to be necessary to help the district accomplish the goals set forth in the district's LCAP. Additionally, if a district receives an emergency apportionment pursuant to Education Code 41320-41322, the district shall be deemed to have been referred to the CCEE.

If referred to the California Collaborative for Educational Excellence by either the County Superintendent or the Superintendent of Public Instruction (SPI), the district shall implement the recommendations of that agency in order to accomplish the goals set forth in the district's LCAP. (Education Code 52071, 52074)

~~In the event that the County Superintendent requires the district to receive technical assistance pursuant to Education Code 52071, the Board shall review all recommendations received from the County Superintendent or other advisor and shall consider revisions to the LCAP as appropriate in accordance with the process specified in Education Code 52062.~~

Note: Education Code 52072 provides that the SPI, with approval of the SBE, may intervene when a district meets both of the following criteria: (1) the district did not improve the outcomes for three or more student subgroups identified pursuant to Education Code 52052, or all of the student subgroups if the district has fewer than three subgroups, in regard to more than one state or local priority in three out of four consecutive school years; and (2) the California Collaborative for Educational Excellence (CCEE) has provided advice and assistance to the district and submits a finding that the district failed or is unable to implement the CCEE's recommendations or that the district's inadequate performance is so persistent or acute as to require intervention. For any district identified as needing intervention, the SPI or an academic trustee appointed by the SPI may, with approval of the SBE, take one or more of the actions listed in items #1-3 below.

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

If the SPI identifies the district as needing intervention ~~pursuant to Education Code 52072~~, the district shall cooperate with any action taken by the SPI or any academic advisor appointed by the SPI, which may include one or more of the following: **(Education Code 52072)**

1. Revision of the district's LCAP
2. Revision of the district's budget in accordance with changes in the LCAP
3. A determination to stay or rescind any district action that would prevent the district from improving outcomes for all student subgroups, provided that action is not required by a collective bargaining agreement

Legal Reference:

EDUCATION CODE

305-306 English language education

17002 State School Building Lease-Purchase Law, including definition of good repair

33430-33436 Learning Communities for School Success Program; grants for LCAP implementation

41020 Audits

41320-41322 Emergency apportionments

42127 Public hearing on budget adoption

42238.01-42238.07 Local control funding formula

44258.9 County superintendent review of teacher assignment

48985 Parental notices in languages other than English

51210 Course of study for grades 1-6

51220 Course of study for grades 7-12

52052 Numerically significant student subgroups

52059.5 Statewide system of support

52060-52077 Local control and accountability plan

52302 Regional occupational centers and programs

52372.5 Linked learning ~~pilot~~ program

54692 Partnership academies

60119 Sufficiency of textbooks and instructional materials; hearing and resolution

60605.8 California Assessment of Academic Achievement; Academic Content Standards Commission

~~60811.3 Assessment of language development~~

64001 Single plan for student achievement

99300-99301 Early Assessment Program

WELFARE AND INSTITUTIONS CODE

300 Dependent child of the court

CODE OF REGULATIONS, TITLE 5

15494-15497 Local control and accountability plan and spending requirements

UNITED STATES CODE, TITLE 20

6312 Local educational agency plan

6826 Title III funds, local plans

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

Management Resources:

CSBA PUBLICATIONS

The California School Dashboard and Small Districts, October 2018

Promising Practices for Developing and Implementing LCAPs, Governance Brief, November 2016

LCFF Rubrics, Issue 1: What Boards Need to Know About the New Rubrics, Governance Brief, rev. October 2016

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

California School Accounting Manual

California School Dashboard

LCFF Frequently Asked Questions

Local Control and Accountability Plan and Annual Update (LCAP) Template

Family Engagement Framework: A Tool for California School Districts, 2014

California Career Technical Education Model Curriculum Standards, 2013

California Common Core State Standards: English Language Arts and Literacy in History/Social Studies, Science, and Technical Subjects, rev. 2013

California Common Core State Standards: Mathematics, rev. 2013

California English Language Development Standards, 2012

WEB SITES

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

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

California School Dashboard: <http://www.caschooldashboard.org>

(3/17 10/17) 12/18

CSBA Sample

Administrative Regulation

Philosophy, Goals, Objectives, and Comprehensive Plans

AR 0460(a)

LOCAL CONTROL AND ACCOUNTABILITY PLAN

Note: Education Code 52060-52077 require the Governing Board to adopt and annually update, on or before July 1, a three-year local control and accountability plan (LCAP). See the accompanying Board policy for information about plan development and monitoring.

Goals and Actions Addressing State and Local Priorities

Note: Education Code 52060 requires that the LCAP include annual goals, aligned with specified state priorities, to be achieved for all students and for each numerically significant subgroup as defined in Education Code 52052. Pursuant to Education Code 52052, a numerically significant subgroup includes 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) in the school or district. ~~For schools or districts with 11-99 students, numerically significant student subgroups are defined by the Superintendent of Public Instruction (SPI) with approval by the State Board of Education (SBE).~~

In addition, several state priorities address programs and services for "unduplicated students." For purposes of supplemental and concentration grants allocated through the local control funding formula (LCFF), "unduplicated students" are defined by Education Code 42238.02 as students eligible for free or reduced-price meals, English learners, and foster youth; see the accompanying Board policy.

The district's local control and accountability plan (LCAP) **and annual updates** shall include, for the district and each district school: (Education Code 52060)

1. A description of the annual goals established for all students and for each numerically significant subgroup as defined in Education Code 52052, including ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students. The LCAP shall identify goals for each of the following state priorities:
 - a. The degree to which district teachers are appropriately assigned in accordance with Education Code 44258.9 and fully credentialed in the subject areas and for the students they are teaching; every district student has sufficient access to standards-aligned instructional materials as determined pursuant to Education Code 60119; and school facilities are maintained in good repair as specified in Education Code 17002

(cf. 1312.4 - Williams Uniform Complaint Procedures)

(cf. 3517 - Facilities Inspection)

(cf. 4112.2 - Certification)

(cf. 4113 - Assignment)

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

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

- b. Implementation of the academic content and performance standards adopted by the State Board of Education (SBE), including how the programs and services will enable English learners to access the Common Core State Standards and the English language development standards for purposes of gaining academic content knowledge and English language proficiency

(cf. 6011 - Academic Standards)

(cf. 6174 - Education for English Learners)

Note: Education Code 52060, as amended by AB 2878 (Ch. 826, Statutes of 2018), expands the parent involvement state priority to include family engagement. Education Code 52060 provides that family engagement may include, but not be limited to, efforts by the district and schools to apply research-based practices, such as welcoming all families into the school community, engaging in effective two-way communication, supporting student success, and empowering families to advocate for equity and access. It may also include partnering with families to inform, influence, and create practices and programs that support student success and collaboration with families and the broader community, expand student learning opportunities, and promote civic participation.

- c. Parent/guardian involvement **and family engagement**, including efforts the district makes to seek parent/guardian input in district and school site decision making and how the district will promote parent/guardian participation in programs for unduplicated students, as defined in Education Code 42238.02 and Board policy, and students with disabilities

(cf. 3553 - Free and Reduced Price Meals)

(cf. 6020 - Parent Involvement)

(cf. 6173.1 - Education for Foster Youth)

~~Note: Pursuant to Education Code 52060, the LCAP must address student achievement as measured by specified indicators, including the Academic Performance Index (API), as applicable. However, the API has been replaced by the California School Dashboard, which examines the performance of schools, districts, and defined student groups on measures of academic performance, high school graduation rate, English learner progress, college/career preparation, suspension rate, and chronic absenteeism. Thus, item #1d below does not include the API. Districts may use data from the Dashboard, along with the other specified indicators, to develop goals related to student achievement.~~

- d. Student achievement, as measured by all of the following as applicable:

- (1) Statewide assessments of student achievement
- (2) The percentage of students who have successfully completed courses that satisfy the requirements for entrance to the University of California and the California State University, or career technical education sequences or programs of study that **satisfy specified requirements and** align with SBE-approved career technical education

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

standards and frameworks, including, but not limited to, those described in Education Code 52302, 52372.5, or 54692

- (3) The percentage of English learners who make progress toward English proficiency as measured by the SBE-certified assessment of English proficiency
- (4) The English learner reclassification rate
- (5) The percentage of students who have passed an Advanced Placement examination with a score of 3 or higher
- (6) The percentage of students who ~~participate in and~~ demonstrate college preparedness in the Early Assessment Program pursuant to Education Code 99300-99301

(cf. 0500 - Accountability)

(cf. 6141.5 - Advanced Placement)

(cf. 6162.5 - Student Assessment)

(cf. 6162.51 - State Academic Achievement Tests)

(cf. 6178 - Career Technical Education)

- e. Student engagement, as measured by school attendance rates, chronic absenteeism rates, middle school dropout rates, high school dropout rates, and high school graduation rates, as applicable

(cf. 5113.1 - Chronic Absence and Truancy)

(cf. 5147 - Dropout Prevention)

(cf. 6146.1 - High School Graduation Requirements)

- f. School climate, as measured by student suspension and expulsion rates and other local measures, including surveys of students, parents/guardians, and teachers on the sense of safety and school connectedness, as applicable

(cf. 5137 - Positive School Climate)

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

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

- g. The extent to which students have access to and are enrolled in a broad course of study that includes all of the subject areas described in Education Code 51210 and 51220, as applicable, including the programs and services developed and provided to unduplicated students and students with disabilities, and the programs and services that are provided to benefit these

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

students as a result of supplemental and concentration grant funding pursuant to Education Code 42238.02 and 42238.03

(cf. 6143 - Courses of Study)

(cf. 6159 - Individualized Education Program)

- h. Student outcomes, if available, in the subject areas described in Education Code 51210 and 51220, as applicable

Note: In addition to goals aligned with the state priorities described in item #1 above, Education Code 52060 provides that the LCAP may include goals for local priorities established by the Board; see the accompanying Board policy. **Optional** item #2 below may be revised to reflect local priorities.

2. Any goals identified for any local priorities established by the Board.

(cf. 0200 - Goals for the School District)

3. A description of the specific actions the district will take during each year of the LCAP to achieve the identified goals, including the enumeration of any specific actions necessary for that year to correct any deficiencies in regard to the state and local priorities specified in items #1-2 above. Such actions shall not supersede provisions of existing collective bargaining agreements within the district.

Note: Pursuant to Education Code 52060, in developing goals and actions for the LCAP, the Board may consider qualitative information, including, but not limited to, the results of school quality reviews conducted pursuant to Education Code 52052. Education Code 52052 authorizes the **Superintendent of Public Instruction (SPI)**, with approval of the **SBE State Board of Education** and conditional upon an appropriation in the state budget, to develop and implement a program of school quality reviews that features locally convened panels to visit schools, observe teachers, interview students, and examine student work.

For purposes of the descriptions required by items #1-3 above, the Board may consider qualitative information, including, but not limited to, findings that result from any school quality reviews conducted pursuant to Education Code 52052 or any other reviews. (Education Code 52060)

For any local priorities addressed in the LCAP, the Board and Superintendent or designee shall identify and include in the LCAP the method for measuring the district's progress toward achieving those goals. (Education Code 52060)

Note: AB 1840 (Ch. 426, Statutes of 2018) amended Education Code 52060 to require data to be reported in a manner consistent with the California School Dashboard rather than the school accountability report card.

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

To the extent practicable, data reported in the LCAP shall be reported in a manner consistent with how information is reported on ~~a school accountability report card~~ **the California School Dashboard**. (Education Code 52060)

~~(cf. 0510—School Accountability Report Card)~~

Increase or Improvement in Services for Unduplicated Students

Note: The following section is for use by districts that receive LCFF supplemental and/or concentration grant funds. Such districts are required to increase or improve services for unduplicated students in proportion to the increase in funds apportioned on the basis of the number and concentration of unduplicated students; see BP 3100 - Budget. 5 CCR 15494-15496 specify the method for determining the percentage by which services for unduplicated students must be increased or improved above services provided to all students in the fiscal year.

The LCAP shall demonstrate how the district will increase or improve services for unduplicated students at least in proportion to the increase in funds apportioned on the basis of the number and concentration of unduplicated students. (5 CCR 15494-15496)

When the district expends supplemental and/or concentration grant funds on a districtwide or schoolwide basis during the year for which the LCAP is adopted, the district's LCAP shall: (5 CCR 15496)

1. Identify those services that are being funded and provided on a districtwide or schoolwide basis
2. Describe how **such** services are principally directed towards, and are effective in, meeting the district's goals for unduplicated students in the state priority areas and any local priority areas
3. If the enrollment of unduplicated students is less than 55 percent of district enrollment or less than 40 percent of school enrollment, describe how these services are the most effective use of the funds to meet the district's goals for its unduplicated students in the state priority areas and any local priority areas. The description shall provide the basis for this determination, including, but not limited to, any alternatives considered and any supporting research, experiences, or educational theory.

Annual Updates

~~On or before July 1 of each year, the LCAP shall be updated using the template adopted by the SBE and shall include all of the following: (Education Code 52061)~~

- ~~1. A review of any changes in the applicability of the goals described in the existing LCAP pursuant to the section "Goals and Actions Addressing State and Local Priorities" above~~

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

2. A review of the progress toward the goals included in the existing LCAP, an assessment of the effectiveness of the specific actions described in the existing LCAP toward achieving the goals, and a description of changes to the specific actions the district will make as a result of the review and assessment

Note: Pursuant to Education Code 52061, the annual update to the LCAP must include expenditures for specific actions included in the LCAP and expenditures serving unduplicated students. Education Code 52061 requires that the expenditures specified in items #3-4 below be classified in accordance with the California School Accounting Manual.

3. A listing and description of the expenditures for the fiscal year implementing the specific actions included in the LCAP and the changes to the specific actions made as a result of the reviews and assessment required by items #1-2 above
4. A listing and description of expenditures for the fiscal year that will serve unduplicated students and students redesignated as fluent English proficient

Availability of the Plan

Note: Education Code 52065, as amended by AB 1840, requires the district to prominently post its LCAP and any annual update or revisions to the LCAP on the homepage of its district web site. In addition, the County Superintendent of Schools is required to post all district LCAPs, or links to those plans, on the county office of education web site and to transmit all such plans to the SPI, who will then post links to all plans on the California Department of Education web site.

Education Code 52064.1, as added by AB 1808 (Ch. 32, Statutes of 2018), provides that the LCFF budget overview for parents/guardians is also subject to the requirements of Education Code 52065.

The Superintendent or designee shall prominently post the LCAP, and any updates or revisions to the LCAP, and the LCFF budget overview for parents/guardians on the homepage of the district's web site. (Education Code 52064.1, 52065)

(cf. 1113 - District and School Web Sites)

(10/15 10/17) 12/18

CUSD Policy Update

Board Policy

Community Relations

BP 1312.3(a)

UNIFORM COMPLAINT PROCEDURES

The Governing Board recognizes that the district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The Board encourages early resolution of complaints whenever possible. To resolve complaints which may require a more formal process, the Board adopts the uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying administrative regulation.

Complaints Subject to the UCP

The district's uniform complaint procedures (UCP) shall be used to investigate and resolve the following complaints:

1. Any complaint alleging district violation of applicable state or federal law or regulations governing adult education programs, after school education and safety programs, migrant education, career technical and technical education and training programs, child care and development programs, child nutrition programs, special education programs, consolidated categorical aid programs, and any other district-implemented program which is listed in Education Code 64000(a) (5 CCR 4610)

(cf. 3553 - Free and Reduced Price Meals)

(cf. 3555 - Nutrition Program Compliance)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

(cf. 5148 - Child Care and Development)

(cf. 5148.2 - Before/After School Programs)

(cf. 6159 - Individualized Education Program)

(cf. 6171 - Title I Programs)

(cf. 6174 - Education for English Learners)

(cf. 6175 - Migrant Education Program)

(cf. 6178 - Career Technical Education)

(cf. 6178.1 - Work-Based Learning)

UNIFORM COMPLAINT PROCEDURES

(cf. 6178.2 - Regional Occupational Center/Program)

(cf. 6200 - Adult Education)

2. Any complaint alleging the occurrence of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) against any student, employee, or other person participating in district programs and activities, including, but not limited to, those programs or activities funded directly by or that receive or benefit from any state financial assistance, based on the person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, ethnic group identification, age, religion, marital, pregnancy, or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55, or based on his/her association with a person or group with one or more of these actual or perceived characteristics (5 CCR 4610)

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

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

3. Any complaint alleging district noncompliance with the requirement to provide reasonable accommodation to a lactating student on school campus to express breast milk, breastfeed an infant child, or address other breastfeeding-related needs of the student (Education Code 222)

(cf. 5146 - Married/Pregnant/Parenting Students)

4. Any complaint alleging district noncompliance with the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities (5 CCR 4610)

(cf. 3260 - Fees and Charges)

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

5. Any complaint alleging district noncompliance with legal requirements related to the implementation of the local control and accountability plan (Education Code 52075)

(cf. 0460 - Local Control and Accountability Plan)

UNIFORM COMPLAINT PROCEDURES

6. Any complaint, by or on behalf of any student who is a foster youth, alleging district noncompliance with any legal requirement applicable to the student regarding placement decisions, the responsibilities of the district's educational liaison to the student, the award of credit for coursework satisfactorily completed in another school or district, school transfer, or the grant of an exemption from Board-imposed graduation requirements (Education Code 48853, 48853.5, 49069.5, 51225.1, 51225.2)

(cf. 6173.1 - Education for Foster Youth)

~~7. Any complaint, by or on behalf of a homeless student as defined in 42 USC 11434a, alleging district noncompliance with any requirement applicable to the student regarding the award of credit for coursework satisfactorily completed in another school or district or the grant of an exemption from Board-imposed graduation requirements (Education Code 51225.1, 51225.2)~~

~~(cf. 6173—Education for Homeless Children)~~

87. Any complaint, by or on behalf of a homeless student as defined in 42 USC 11434a, former juvenile court school student, or a child of a military family as defined in Education Code 49701 who transfers into the district after his/her second year of high school, alleging district noncompliance with any requirement applicable to the student regarding the award of credit for coursework satisfactorily completed in the juvenile court school or the grant of an exemption from Board-imposed graduation requirements (Education Code 51225.1, 51225.2)

~~(cf. 6173.3—Education for Juvenile Court School Students)~~

~~(cf. 6173 - Education for Homeless Children)~~

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

~~(cf. 6173.3 - Education for Juvenile Court School Students)~~

98. Any complaint alleging district noncompliance with the requirements of Education Code 51228.1 and 51228.2 that prohibit the assignment of a student **in grades 9-12** to a course without educational content for more than one week in any semester or to a course the student has previously satisfactorily completed, without meeting specified conditions (Education Code 51228.3)

(cf. 6152 - Class Assignment)

109. Any complaint alleging district noncompliance with the physical education instructional minutes requirement for students in elementary school (Education Code 51210, 51223)

(cf. 6142.7 - Physical Education and Activity)

101. Any complaint alleging retaliation against a complainant or other participant in the complaint process or anyone who has acted to uncover or report a violation subject to this policy

UNIFORM COMPLAINT PROCEDURES

112. Any other complaint as specified in a district policy

The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process to reach a resolution to the complaint that is acceptable to all parties. ADR such as mediation may be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. The Superintendent or designee shall ensure that the use of ADR is consistent with state and federal laws and regulations.

The district shall protect all complainants from retaliation. In investigating complaints, the confidentiality of the parties involved shall be protected as required by law. For any complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the Superintendent or designee shall keep the identity of the complainant, and/or the subject of the complaint if he/she is different from the complainant, confidential when appropriate and as long as the integrity of the complaint process is maintained.

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

(cf. 5125 - Student Records)

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

When an allegation that is not subject to the UCP is included in a UCP complaint, the district shall refer the non-UCP allegation to the appropriate staff or agency and shall investigate and, if appropriate, resolve the UCP-related allegation(s) through the district's UCP.

The Superintendent or designee shall provide training to district staff to ensure awareness and knowledge of current law and related requirements, including the steps and timelines specified in this policy and the accompanying administrative regulation.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

The Superintendent or designee shall maintain records of all UCP complaints and the investigations of those complaints in accordance with applicable law and district policy.

(cf. 3580 - District Records)

UNIFORM COMPLAINT PROCEDURES

Non-UCP Complaints

The following complaints shall not be subject to the district's UCP but shall be referred to the specified agency: (5 CCR 4611)

1. Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services, the County Protective Services Division, and the appropriate law enforcement agency.

(cf. 5141.4 - Child Abuse Prevention and Reporting)

2. Any complaint alleging health and safety violations by a child development program shall, for licensed facilities, be referred to Department of Social Services and shall, for licensing-exempt facilities, be referred to the appropriate Child Development regional administrator.

3. Any complaint alleging fraud shall be referred to the Legal, Audits, and Compliance Branch of the California Department of Education.

Any complaint alleging employment discrimination shall be sent to the California Department of Fair Employment and Housing and the compliance officer shall notify the complainant by first class mail of the transfer.

4. Any complaint alleging fraud shall be referred to the California Department of Education.

Any complaint related to sufficiency of textbook or instructional materials, emergency or urgent facilities that pose a threat to the health or safety of students or staff, or teacher vacancies and misassignments shall be investigated and resolved in accordance with the procedures in AR 1312.4 – William Uniform Complaint Procedures. (Education Code 35186)

~~In addition, the district's Williams Uniform Complaint Procedures, AR 1312.4, shall be used to investigate and resolve any complaint related to sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, or teacher vacancies and misassignments. (Education Code 35186)~~

(cf. 1312.4 - Williams Uniform Complaint Procedures)

UNIFORM COMPLAINT PROCEDURES

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

222 Reasonable accommodations; lactating students

8200-8498 Child care and development programs

8500-8538 Adult basic education

18100-18203 School libraries

32289 School safety plan, uniform complaint procedures

33380-33384 California Indian Education Centers

35186 Williams uniform complaint procedures

48853-48853.5 Foster youth

48985 Notices in language other than English

49010-49013 Student fees

49060-49079 Student records

49069.5 Rights of parents

49490-49590 Child nutrition programs

49701 Interstate Compact on Educational Opportunity for Military Children

51210 Courses of study grades 1-6

51223 Physical education, elementary schools

51225.1-51225.2 Foster youth, homeless children, and former juvenile court school students; course credits; graduation requirements

51226-51226.1 Career technical education

51228.1-51228.3 Course periods without educational content

52060-52077 Local control and accountability plan, especially:

52075 Complaint for lack of compliance with local control and accountability plan requirements

52160-52178 Bilingual education programs

52300-52490 Career technical education

52500-52616.24 Adult schools

54000-54029 Economic Impact Aid

54400-54425 Compensatory education programs

54440-54445 Migrant education

54460-54529 Compensatory education programs

56000-56867 Special education programs

59000-59300 Special schools and centers

64000-64001 Consolidated application process

GOVERNMENT CODE

11135 Nondiscrimination in programs or activities funded by state

12900-12996 Fair Employment and Housing Act

HEALTH AND SAFETY CODE

104420 Tobacco-Use Prevention Education

PENAL CODE

422.55 Hate crime; definition

422.6 Interference with constitutional right or privilege

CODE OF REGULATIONS, TITLE 2

11023 Harassment and discrimination prevention and correction

CODE OF REGULATIONS, TITLE 5

3080 Application of section

4600-4687 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

1221 Application of laws

1232g Family Educational Rights and Privacy Act

1681-1688 Title IX of the Education Amendments of 1972

6301-6577 Title I basic programs

6801-7014 Title III language instruction for limited English proficient and immigrant students

7101-7184 Safe and Drug-Free Schools and Communities Act

7201-7283g Title V promoting informed parental choice and innovative programs

7301-7372 Title V rural and low-income school programs

12101-12213 Title II equal opportunity for individuals with disabilities

UNITED STATES CODE, TITLE 29

794 Section 504 of Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42

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

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

6101-6107 Age Discrimination Act of 1975

CODE OF FEDERAL REGULATIONS, TITLE 28

35.107 Nondiscrimination on basis of disability; complaints

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy Act

100.3 Prohibition of discrimination on basis of race, color or national origin

104.7 Designation of responsible employee for Section 504

CODE OF FEDERAL REGULATIONS, TITLE 34

106.8 Designation of responsible employee for Title IX

106.9 Notification of nondiscrimination on basis of sex

110.25 Notification of nondiscrimination on the basis of age

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Sample UCP Board Policies and Procedures

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

Dear Colleague Letter: Title IX Coordinators, April 2015

~~Questions and Answers on Title IX and Sexual Violence, April 2014~~

Dear Colleague Letter: Bullying of Students with Disabilities, August 2013

~~Dear Colleague Letter: Sexual Violence, April 2014~~

Dear Colleague Letter: Harassment and Bullying, October 2010

Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001

U.S. DEPARTMENT OF JUSTICE PUBLICATIONS

Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 2002

WEB SITES

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

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

Family Policy Compliance Office: <http://familypolicy.ed.gov>

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

U.S. Department of Justice: <http://www.justice.gov>

Policy CORONADO UNIFIED SCHOOL DISTRICT

adopted: September 14, 2017 Coronado, California

CUSD Policy Update

Administrative Regulation

Community Relations

AR 1312.3(a)

UNIFORM COMPLAINT PROCEDURES

Coronado USD | AR 1312.3 Community Relations

Uniform Complaint Procedures

Except as the Governing Board may otherwise specifically provide in other district policies, these uniform complaint procedures (UCP) shall be used to investigate and resolve only the complaints specified in BP 1312.3.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.2 - Complaints Concerning Instructional Materials)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

(cf. 4030 - Nondiscrimination in Employment)

Compliance Officers

The district designates the individual(s) identified below as the employee(s) responsible for coordinating the district's response to complaints and for complying with state and federal civil rights laws. The individual(s) also serve as the compliance officer(s) specified in AR 5145.3 - Nondiscrimination/Harassment as the responsible employee(s) to handle complaints regarding unlawful discrimination (such as discriminatory harassment, intimidation, or bullying). The individual(s) shall receive and coordinate the investigation of complaints and shall ensure district compliance with law.

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

Director of Student Services

201 Sixth Street

Coronado, CA 92118

(619) 522-8900

nfoley@coronadousd.net

UNIFORM COMPLAINT PROCEDURES

The compliance officer who receives a complaint may assign another compliance officer to investigate and resolve the complaint. The compliance officer shall promptly notify the complainant and respondent, if applicable, if another compliance officer is assigned to the complaint.

In no instance shall a compliance officer be assigned to a complaint in which he/she has a bias or conflict of interest that would prohibit him/her from fairly investigating or resolving the complaint. Any complaint against a compliance officer or that raises a concern about the compliance officer's ability to investigate the complaint fairly and without bias shall be filed with the Superintendent or designee who shall determine how the complaint will be investigated.

The Superintendent or designee shall ensure that employees assigned to investigate and resolve complaints receive training and are knowledgeable about the laws and programs at issue in the complaints to which they are assigned. Training provided to such employees shall cover current state and federal laws and regulations governing the program, applicable processes for investigating and resolving complaints, including those alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), applicable standards for reaching decisions on complaints, and appropriate corrective measures. Assigned employees may have access to legal counsel as determined by the Superintendent or designee.

(cf. 4331 - Staff Development)

(cf. 9124 - Attorney)

The compliance officer or, if necessary, any appropriate administrator shall determine whether interim measures are necessary during and pending the result of an investigation. If interim measures are determined to be necessary, the compliance officer or the administrator shall consult with the Superintendent, the Superintendent's designee, or, if appropriate, the site principal to implement one or more interim measures. The interim measures shall remain in place until the compliance officer determines that they are no longer necessary or until the district issues its final written decision, whichever occurs first.

Notifications

The district's UCP policy and administrative regulation shall be posted in all district schools and offices, including staff lounges and student government meeting rooms. (Education Code 234.1)

UNIFORM COMPLAINT PROCEDURES

The Superintendent or designee shall annually provide written notification of the district's UCP, including information regarding unlawful student fees, local control and accountability plan (LCAP) requirements, and requirements related to the educational rights of foster youth, homeless students, and former juvenile court school students to students, employees, parents/guardians, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties. (Education Code 262.3, 48853, 48853.5, 49013, 49069.5, 51225.1, 51225.2, 52075; 5 CCR 4622)

(cf. 0420 - School Plans/Site Councils)

(cf. 0460 - Local Control and Accountability Plan)

(cf. 1220 - Citizen Advisory Committees)

(cf. 3260 - Fees and Charges)

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

(cf. 5145.6 - Parental Notifications)

(cf. 6173 - Education for Homeless Children)

(cf. 6173.1 - Education for Foster Youth)

(cf. 6173.3 - Education for Juvenile Court School Students)

~~The annual notification, complete contact information of the compliance officer(s), and information related to Title IX as required pursuant to Education Code 221.61 shall be posted on the district web site and may be provided through district supported social media, if available.~~

~~(cf. 1113 - District and School Web Sites)~~

~~(cf. 1114 - District Sponsored Social Media)~~

~~The Superintendent or designee shall ensure that all students and parents/guardians, including students and parents/guardians with limited English proficiency, have access to the relevant information provided in the district's policy, regulation, forms, and notices concerning the UCP.~~

~~If 15 percent or more of students enrolled in a particular district school speak a single primary language other than English, the district's policy, regulation, forms, and notices concerning the UCP shall be translated into that language, in accordance with Education Code 234.1 and 48985. In all other instances, the district shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.~~

UNIFORM COMPLAINT PROCEDURES

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for receiving complaints
 2. Advise the complainant of any civil law remedies that may be available to him/her under state or federal antidiscrimination laws, if applicable
 3. Advise the complainant of the appeal process, including, if applicable, the complainant's right to take a complaint directly to the California Department of Education (CDE) or to pursue remedies before civil courts or other public agencies, such as the U.S. Department of Education's Office for Civil Rights (OCR) in cases involving unlawful discrimination (such as discriminatory harassment, intimidation, or bullying).
 4. Include statements that:
 - a. The district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs.
 - b. The complaint review shall be completed within 60 calendar days from the date of receipt of the complaint unless the complainant agrees in writing to an extension of the timeline.
 - c. A complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) must be filed not later than six months from the date it occurred, or six months from the date the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension.
 - d. Complaints should be filed in writing and signed by the complainant. If a complainant is unable to put his/her complaint in writing, for example, due to conditions such as a disability or illiteracy, district staff shall assist him/her in the filing of the complaint.
 - e. If a complaint is not filed in writing but the district receives notice of any allegation that is subject to the UCP, the district shall take affirmative steps to investigate and address the allegations, in a manner appropriate to the particular circumstances.
- If the allegation involves retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) and the investigation confirms that discrimination has occurred, the district will take steps to prevent recurrence of discrimination and correct its discriminatory effects on the complainant, and on others, if appropriate.
- f. A student enrolled in a public school shall not be required to pay a fee for his/her participation in an educational activity that constitutes an integral fundamental part of the district's educational program, including curricular and extracurricular activities.

UNIFORM COMPLAINT PROCEDURES

g. The Board is required to adopt and annually update the LCAP in a manner that includes meaningful engagement of parents/guardians, students, and other stakeholders in the development and/or review of the LCAP.

h. A foster youth shall receive information about educational rights related to his/her educational placement, enrollment in and checkout from school, as well as the responsibilities of the district liaison for foster youth to ensure and facilitate these requirements and to assist the student in ensuring proper transfer of his/her credits, records, and grades when he/she transfers between schools or between the district and another district.

i. A foster youth, homeless student, or former juvenile court school student who transfers into a district high school or between district high schools as applicable shall be notified of the district's responsibility to:

(1) Accept any coursework or part of the coursework that the student has satisfactorily completed in another public school, juvenile court school, or a nonpublic, nonsectarian school or agency, and to issue full or partial credit for the coursework completed

(2) Not require the student to retake any course or a portion of a course which he/she has satisfactorily completed in another public school, juvenile court school, or a nonpublic, nonsectarian school or agency

(3) If the student has completed his/her second year of high school before the transfer, provide the student information about district-adopted coursework and Board-imposed graduation requirements from which he/she may be exempted pursuant to Education Code 51225.1

j. The complainant has a right to appeal the district's decision to the CDE by filing a written appeal within 15 calendar days of receiving the district's decision.

In any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the respondent also shall have the right to file an appeal with the CDE in the same manner as the complainant, if he/she is dissatisfied with the district's decision.

k. The appeal to the CDE must include a copy of the complaint filed with the district and a copy of the district's decision.

l. Copies of the district's UCP are available free of charge.

The annual notification, complete contact information of the compliance officer(s), and information related to Title IX as required pursuant to Education Code 221.61 shall be posted on the district web site and may be provided through district-supported social media, if available.

UNIFORM COMPLAINT PROCEDURES

(cf. 1113 – District and School Web Sites)

(cf. 1114 – District-Sponsored Social Media)

The Superintendent or designee shall ensure that all students and parents/guardians, including students and parents/guardians with limited English proficiency, have access to the relevant information provided in the district's policy, regulation, forms, and notices concerning the UCP.

If 15 percent or more of students enrolled in a particular district school speak a single primary language other than English, the district's policy, regulation, forms, and notices concerning the UCP shall be translated into that language, in accordance with Education Code 234.1 and 48985. In all other instances, the district shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

District Responsibilities

All UCP-related complaints shall be investigated and resolved within 60 calendar days of the district's receipt of the complaint unless the complainant agrees in writing to an extension of the timeline. (5 CCR 4631)

For complaints alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the district shall inform the respondent when the complainant agrees to an extension of the timeline for investigating and resolving the complaint.

The compliance officer shall maintain a record of each complaint and subsequent related actions, including steps taken during the investigation and all information required for compliance with 5 CCR 4631 and 4633.

All parties involved in the allegations shall be notified when a complaint is filed and when a decision or ruling is made. However, the compliance officer shall keep all complaints or allegations of retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) confidential except when disclosure is necessary to carry out the investigation, take subsequent corrective action, conduct ongoing monitoring, or maintain the integrity of the process. (5 CCR 4630, 4964)

Filing of Complaints

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and a date stamp.

All complaints shall be filed in writing and signed by the complainant. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist him/her in the filing of the complaint. (5 CCR 4600)

UNIFORM COMPLAINT PROCEDURES

Complaints shall also be filed in accordance with the following rules, as applicable:

1. A complaint alleging district violation of applicable state or federal law or regulations governing ~~adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and training programs, child care and development programs, child nutrition programs, and special education programs~~ **the programs specified in the accompanying Board policy (item #1 of the section "Complaints Subject to the UCP")** may be filed by any individual, public agency, or organization. (5 CCR 4630)
2. Any complaint alleging noncompliance with law regarding the prohibition against requiring students to pay student fees, deposits, and charges or any requirement related to the LCAP may be filed anonymously if the complaint provides evidence, or information leading to evidence, to support an allegation of noncompliance. A complaint about a violation of the prohibition against the charging of unlawful student fees may be filed with the principal of the school or with the Superintendent or designee. However, any such complaint shall be filed no later than one year from the date the alleged violation occurred. (Education Code 49013, 52075; 5 CCR 4630)
3. A complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) may be filed only by a person who alleges that he/she personally suffered the unlawful discrimination or by a person who believes that an individual or any specific class of individuals has been subjected to it. The complaint shall be initiated no later than six months from the date when the alleged unlawful discrimination occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension. (5 CCR 4630)
4. When a complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) is filed anonymously, the compliance officer shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation.
5. When the complainant of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) or the alleged victim, when he/she is not the complainant, requests confidentiality, the compliance officer shall inform him/her that the request may limit the district's ability to investigate the conduct or take other necessary action. When honoring a request for confidentiality, the district shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.

UNIFORM COMPLAINT PROCEDURES

Mediation

Within three business days after the compliance officer receives the complaint, he/she may informally discuss with all the parties the possibility of using mediation. Mediation shall be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving an allegation of sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. If the parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the compliance officer shall ensure that all parties agree to make the mediator a party to relevant confidential information. The compliance officer shall also notify all parties of the right to end the informal process at any time.

If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with his/her investigation of the complaint.

The use of mediation shall not extend the district's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. If mediation is successful and the complaint is withdrawn, then the district shall take only the actions agreed to through the mediation. If mediation is unsuccessful, the district shall then continue with subsequent steps specified in this administrative regulation.

Investigation of Complaint

Within 10 business days after the compliance officer receives the complaint, the compliance officer shall begin an investigation into the complaint.

Within one business day of initiating the investigation, the compliance officer shall provide the complainant and/or his/her representative with the opportunity to present the information contained in the complaint to the compliance officer and shall notify the complainant and/or his/her representative of the opportunity to present the compliance officer with any evidence, or information leading to evidence, to support the allegations in the complaint. Such evidence or information may be presented at any time during the investigation.

In conducting the investigation, the compliance officer shall collect all available documents and review all available records, notes, or statements related to the complaint, including any additional evidence or information received from the parties during the course of the investigation. He/she shall individually interview all available witnesses with information pertinent to the complaint, and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. At appropriate intervals, the compliance officer shall inform both parties of the status of the investigation.

UNIFORM COMPLAINT PROCEDURES

To investigate a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the compliance officer shall interview the alleged victim(s), any alleged offenders, and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or engagement in any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegation. Similarly, a respondent's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or engagement in any other obstruction of the investigation may result in a finding, based on evidence collected, that a violation has occurred and in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

In accordance with law, the district shall provide the investigator with access to records and other information related to the allegation in the complaint and shall not in any way obstruct the investigation. Failure or refusal of the district to cooperate in the investigation may result in a finding based on evidence collected that a violation has occurred and in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

The compliance officer shall apply a "preponderance of the evidence" standard in determining the veracity of the factual allegations in a complaint. This standard is met if the allegation is more likely to be true than not.

Report of Findings

Unless extended by written agreement with the complainant, a final decision shall be sent to the complainant within 60 calendar days of the district's receipt of the complaint. Within 30 calendar days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report, as described in the section "Final Written Decision" below. If the complainant is dissatisfied with the compliance officer's decision, he/she may, within five business days, file his/her complaint in writing with the Board.

The Board may consider the matter at its next regular Board meeting or at a special Board meeting convened in order to meet the 60-day time limit within which the complaint must be answered. When required by law, the matter shall be considered in closed session. The Board may decide not to hear the complaint, in which case the compliance officer's decision shall be final.

UNIFORM COMPLAINT PROCEDURES

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 calendar days of the district's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant. (5 CCR 4631) Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant, and respondent if there is one, a written report, as described in the section "Final Written Decision" below, within 60 calendar days of the district's receipt of the complaint. (5 CCR 4631)

In resolving any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), the respondent also shall be sent the district's decision and, in the same manner as the complainant, may file a complaint with the Board if dissatisfied with the decision.

Final Written Decision

The district's decision on how it will resolve the complaint shall be in writing and shall be sent to the complainant and respondent. (5 CCR 4631)

In consultation with district legal counsel, information about the relevant part of a decision may be communicated to a victim who is not the complainant and to other parties who may be involved in implementing the decision or are affected by the complaint, as long as the privacy of the parties is protected. In a complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), notice of the district's decision to the alleged victim shall include information about any sanction to be imposed upon the respondent that relates directly to the alleged victim.

If the complaint involves a limited-English-proficient student or parent/guardian and the student involved attends a school at which 15 percent or more of the students speak a single primary language other than English, then the decision shall also be translated into that language. In all other instances, the district shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

For all complaints, the decision shall include: (5 CCR 4631)

1. The findings of fact based on the evidence gathered. In reaching a factual determination, the following factors may be taken into account:
 - a. Statements made by any witnesses
 - b. The relative credibility of the individuals involved
 - c. How the complaining individual reacted to the incident
 - d. Any documentary or other evidence relating to the alleged conduct

UNIFORM COMPLAINT PROCEDURES

e. Past instances of similar conduct by any alleged offenders

f. Past false allegations made by the complainant

2. The conclusion(s) of law

3. Disposition of the complaint

4. Rationale for such disposition

For complaints of retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the disposition of the complaint shall include a determination for each allegation as to whether retaliation or unlawful discrimination has occurred.

The determination of whether a hostile environment exists may involve consideration of the following:

a. How the misconduct affected one or more students' education

b. The type, frequency, and duration of the misconduct

c. The relationship between the alleged victim(s) and offender(s)

d. The number of persons engaged in the conduct and at whom the conduct was directed

e. The size of the school, location of the incidents, and context in which they occurred

f. Other incidents at the school involving different individuals

5. Corrective action(s), including any actions that have been taken or will be taken to address the allegations in the complaint and including, with respect to a student fees complaint, a remedy that comports with Education Code 49013 and 5 CCR 4600

For complaints of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the decision may, as required by law, include:

a. The corrective actions imposed on the respondent

b. Individual remedies offered or provided to the complainant or another person who was the subject of the complaint, but this information should not be shared with the respondent.

c. Systemic measures the school has taken to eliminate a hostile environment and prevent recurrence

UNIFORM COMPLAINT PROCEDURES

6. Notice of the complainant's and respondent's right to appeal the district's decision to the CDE within 15 calendar days, and procedures to be followed for initiating such an appeal

The decision may also include follow-up procedures to prevent recurrence or retaliation and for reporting any subsequent problems.

For complaints alleging unlawful discrimination based on state law (such as discriminatory harassment, intimidation, and bullying), the decision shall also include a notice to the complainant that:

1. He/she may pursue available civil law remedies outside of the district's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with the CDE. (Education Code 262.3)
2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law. (Education Code 262.3)
3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at www.ed.gov/ocr within 180 days of the alleged discrimination.

Corrective Actions

When a complaint is found to have merit, the compliance officer shall adopt any appropriate corrective action permitted by law. Appropriate corrective actions that focus on the larger school or district environment may include, but are not limited to, actions to reinforce district policies; training for faculty, staff, and students; updates to school policies; or school climate surveys.

For complaints involving retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), appropriate remedies that may be offered to the victim but not communicated to the respondent may include, but are not limited to, the following:

1. Counseling
2. Academic support
3. Health services
4. Assignment of an escort to allow the victim to move safely about campus
5. Information regarding available resources and how to report similar incidents or retaliation

UNIFORM COMPLAINT PROCEDURES

6. Separation of the victim from any other individuals involved, provided the separation does not penalize the victim

7. Restorative justice

8. Follow-up inquiries to ensure that the conduct has stopped and there has been no retaliation

9. Determination of whether any past actions of the victim that resulted in discipline were related to the treatment the victim received and described in the complaint

For complaints involving retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), appropriate corrective actions that focus on a student offender may include, but are not limited to, the following:

1. Transfer from a class or school as permitted by law

2. Parent/guardian conference

3. Education regarding the impact of the conduct on others

4. Positive behavior support

5. Referral to a student success team

6. Denial of participation in extracurricular or co-curricular activities or other privileges as permitted by law

7. Disciplinary action, such as suspension or expulsion, as permitted by law

When an employee is found to have committed retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

The district may also consider training and other interventions for the larger school community to ensure that students, staff, and parents/guardians understand the types of behavior that constitute unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), that the district does not tolerate it, and how to report and respond to it.

When a complaint is found to have merit, an appropriate remedy shall be provided to the complainant or other affected person.

UNIFORM COMPLAINT PROCEDURES

If a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges, physical education instructional minutes for students in elementary schools, or any requirement related to the LCAP is found to have merit, the district shall provide a remedy to all affected students and parents/guardians subject to procedures established by regulation of the State Board of Education. (Education Code 49013, 51223, 52075)

For complaints alleging noncompliance with the laws regarding student fees, the district shall attempt in good faith, by engaging in reasonable efforts, to identify and fully reimburse all affected students and parents/guardians who paid the unlawful student fees within one year prior to the filing of the complaint. (Education Code 49013; 5 CCR 4600)

Appeals to the California Department of Education

Any complainant who is dissatisfied with the district's final written decision may file an appeal in writing with the CDE within 15 calendar days of receiving the district's decision. (Education Code 222, 48853, 48853.5, 49013, 49069.5, 51223, 51225.1, 51225.2, 51228.3, 52075; 5 CCR 4632)

When a respondent in any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying) is dissatisfied with the district's final written decision, he/she, in the same manner as the complainant, may file an appeal with the CDE.

The complainant or respondent shall specify the basis for the appeal of the decision and whether the facts are incorrect and/or the law has been misapplied. The appeal shall be accompanied by a copy of the locally filed complaint and a copy of the district's decision. (5 CCR 4632)

Upon notification by the CDE that the complainant or respondent has appealed the district's decision, the Superintendent or designee shall forward the following documents to the CDE: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the written decision
3. A summary of the nature and extent of the investigation conducted by the district, if not covered by the decision
4. A copy of the investigation file including, but not limited to, all notes, interviews, and documents submitted by the parties and gathered by the investigator

UNIFORM COMPLAINT PROCEDURES

5. A report of any action taken to resolve the complaint
6. A copy of the district's uniform complaint procedures
7. Other relevant information requested by the CDE

Regulation CORONADO UNIFIED SCHOOL DISTRICT

approved: September 14, 2017 Coronado, California

323-7/4333933.1

CSBA Sample

Administrative Regulation

Community Relations

AR 1312.4(a)

WILLIAMS UNIFORM COMPLAINT PROCEDURES

Note: Education Code 35186 **mandates** that districts establish policies and procedures to address complaints regarding insufficiency of textbooks and instructional materials, teacher vacancy or misassignment, and emergency or urgent facilities conditions that pose a threat to the health and safety of students or staff. ~~These procedures are no longer required for complaints of deficiencies related to the provision of intensive instruction and services to students who have not passed one or both parts of the high school exit examination after the completion of grade 12 since that categorical program was eliminated pursuant to AB 97 (Ch. 47, Statutes of 2013).~~ When such a complaint is filed with the district, the district is required to investigate and resolve the complaint in accordance with the Williams uniform complaint procedures established pursuant to 5 CCR 4680-4687. In addition, pursuant to Education Code 8235.5, as added by AB 1808 (Ch. 32, Statutes of 2018), California State Preschool Programs (CSPP) (Education Code 8235-8239.1) that are exempt from licensing pursuant to Health and Safety Code 1596.792 must utilize district complaint procedures, with modifications as necessary, to resolve allegations of noncompliance with applicable health and safety requirements. The Legislative Counsel's Digest of AB 1808 clarifies that the Williams uniform complaint procedures are the applicable procedures.

Education Code 35186 requires that districts post notices concerning these complaint procedures in each classroom. 5 CCR 4680-4687 further delineate legal requirements for the complaint form and notice. See the accompanying exhibits for a sample notices and complaint forms.

It is recommended that districts use these procedures only for complaints ~~regarding insufficiency of textbooks and instructional materials, teacher vacancy or misassignment, and emergency or urgent facilities conditions~~ specified in law and this administrative regulation. See BP/AR 1312.3 - Uniform Complaint Procedures for a discussion of the types of complaints subject to the ~~The~~ uniform complaint procedures specified in ~~established pursuant to 5 CCR 4600-4670.~~ should be used, as required, for a complaint alleging (1) failure to comply with state and federal laws governing educational programs; (2) unlawful discrimination, harassment, intimidation, or bullying; (3) violation of the prohibition against requiring students to pay fees, deposits, or other charges unless authorized by law; (4) noncompliance with legal requirements pertaining to the local control and accountability plan; (5) retaliation against a complainant or other participant in the complaint process or anyone who has otherwise acted to uncover or report alleged wrongdoing in the district; or (6) any other complaint as specified in a district policy; see BP/AR 1312.3 - ~~Uniform Complaint Procedures.~~ For procedures related to complaints about employees, see BP/AR 1312.1 - Complaints Concerning District Employees. For complaints concerning the district's adoption and selection of specific instructional materials, see BP/AR 1312.2 - Complaints Concerning Instructional Materials. For complaints regarding the district's nutrition program, see BP 3555 - Nutrition Program Compliance.

Types of Complaints

The district shall use the procedures described in this administrative regulation only to investigate and resolve the following: **(Education Code 35186; 5 CCR 4680-4683)**

1. Complaints regarding the insufficiency of textbooks and instructional materials, including any complaint alleging that: **(Education Code 35186; 5 CCR 4681)**

WILLIAMS UNIFORM COMPLAINT PROCEDURES (continued)

- a. A student, including an English learner, does not have standards-aligned textbooks or instructional materials or state- or district-adopted textbooks or other required instructional materials to use in class.
- b. A student does not have access to textbooks or instructional materials to use at home or after school. This does not require two sets of textbooks or instructional materials for each student.
- c. Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.
- d. A student was provided photocopied sheets from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials.

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

- 2. Complaints regarding teacher vacancy or misassignment, including any complaint alleging that: **(Education Code 35186; 5 CCR 4682)**
 - a. A semester begins and a teacher vacancy exists.
 - b. A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learners in the class.

(cf. 4112.22 - Staff Teaching English Learners)

- c. A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

Teacher vacancy means a position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of the semester for an entire semester. (Education Code 35186; 5 CCR 4600)

Beginning of the year or semester means the first day classes necessary to serve all the students enrolled are established with a single designated certificated employee assigned for the duration of the class, but not later than 20 working days after the first day students attend classes for that semester. (5 CCR 4600)

WILLIAMS UNIFORM COMPLAINT PROCEDURES (continued)

Misassignment means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold. (Education Code 35186; 5 CCR 4600)

(cf. 4112.2 - Certification)

(cf. 4113 - Assignment)

3. Complaints regarding the condition of school facilities, including any complaint alleging that: **Education Code 35186; 5 CCR 4683**

- a. A condition poses an emergency or urgent threat to the health or safety of students or staff.

Emergency or urgent threat means structures or systems that are in a condition that poses a threat to the health and safety of students or staff while at school, including, but not limited to, gas leaks; nonfunctioning heating, ventilation, fire sprinklers, or air-conditioning systems; electrical power failure; major sewer line stoppage; major pest or vermin infestation; broken windows or exterior doors or gates that will not lock and that pose a security risk; abatement of hazardous materials previously undiscovered that pose an immediate threat to students or staff; structural damage creating a hazardous or uninhabitable condition; or any other condition deemed appropriate. (Education Code 17592.72)

- b. A school restroom has not been cleaned, maintained, or kept open in accordance with Education Code 35292.5.

Clean or maintained school restroom means a school restroom has been cleaned or maintained regularly, is fully operational, or has been stocked at all times with toilet paper, soap, or paper towels or functional hand dryers. (Education Code 35292.5)

Open restroom means the school has kept all restrooms open during school hours when students are not in classes and has kept a sufficient number of restrooms open during school hours when students are in classes. This does not apply when the temporary closing of the restroom is necessary for student safety or to make repairs. (Education Code 35292.5)

(cf. 3517 - Facilities Inspection)

WILLIAMS UNIFORM COMPLAINT PROCEDURES (continued)

Forms and Notices

The Superintendent or designee shall ensure a Williams complaint form is available at each school. However, complainants need not use the district's complaint form in order to file a complaint. (Education Code 35186; 5 CCR 4680)

Note: Education Code **8235.5 and** 35186 requires that the district's complaint form contain the elements stated in the following paragraph. In addition, Education Code **8235.5 and** 35186 requires that a notice be posted in each classroom in each school in the district, as specified below. See the accompanying exhibits for a sample forms and classroom notices.

The Superintendent or designee shall ensure that the district's complaint form **specifies the location for filing a complaint and** contains a space to indicate whether the complainant desires a response to ~~his/her~~ **the** complaint and ~~specifies the location for filing a complaint~~. A complainant may add as much text to explain the complaint as **desired** ~~he/she wishes~~. (Education Code **8235.5**, 35186; 5 CCR 4680)

Filing of Complaint

Note: Education Code **8235.5 and** 35186 requires that complaints be investigated and resolved within the timelines specified below. During the Federal Program Monitoring (FPM) process, ~~California Department of Education (CDE)~~ staff will expect to see statements regarding the filing of the complaint, the investigation, timelines, and the complainant's right to appeal to the Governing Board and to appeal facilities complaints to ~~the~~ CDE, as detailed in the following section and the section "Investigation and Response" below.

A complaint alleging any condition(s) specified in the section "Types of Complaints" above shall be filed with the principal or designee, **or the preschool administrator or designee as appropriate**, at the school in which the complaint arises. ~~The principal or designee shall forward a~~ **A** complaint about problems beyond ~~his/her~~ **the** authority **of the principal or preschool administrator shall be forwarded** to the Superintendent or designee in a timely manner, but not to exceed 10 working days. **Complaints may be filed anonymously.** (Education Code **8235.5**, 35186; 5 CCR 4680)

Investigation and Response

The principal/**preschool administrator** or a designee **of the Superintendent** shall make all reasonable efforts to investigate any problem within ~~his/her~~ **their** authority. (Education Code **8235.5**, 35186; 5 CCR 4685)

Investigation of a complaint regarding preschool health or safety issues shall begin within 10 calendar days of receipt of the complaint. (Education Code 8235.5)

WILLIAMS UNIFORM COMPLAINT PROCEDURES (continued)

~~He/she~~ **The principal/preschool administrator or Superintendent's designee** shall remedy a valid complaint within a reasonable time period not to exceed 30 working days from the date the complaint was received. (Education Code **8235.5**, 35186; 5 CCR 4685)

~~Complaints may be filed anonymously. If the complainant has indicated on the complaint form that he/she would like a desire to receive a response to the complaint, the principal/preschool administrator or Superintendent's designee shall report the resolution of the complaint to him/her the complainant at the mailing address indicated on the complaint form within 45 working days of the initial filing of the complaint. At the same time, the principal or designee shall report the~~ **If the principal/preschool administrator makes this report, the same information shall be reported at the same time** to the Superintendent or designee. (Education Code **8235.5**, 35186; 5 CCR 4680, 4685)

Note: Education Code 48985 specifies that, when 15 percent or more of the students enrolled in a particular school speak a single primary language other than English, all notices, reports, statements, or records sent to the parents/guardians of such students be written in English and in the primary language. Education Code **8235.5 and** 35186 requires that, when Education Code 48985 is applicable, any response requested by the complainant must be written in English and in the primary language in which the complaint was filed.

When Education Code 48985 is applicable and the complainant has requested a response, the response shall be written in English and in the primary language in which the complaint was filed. (Education Code **8235.5**, 35186)

If a complainant is not satisfied with the resolution of a complaint, ~~he/she~~ **the complainant** has the right to describe the complaint to the Governing Board at a regularly scheduled meeting. (Education Code **8235.5**, 35186; 5 CCR 4686)

For any complaint concerning a facilities condition that poses an emergency or urgent threat to the health or safety of students or staff as described in item #3a **or #4** in the section "Types of Complaints" above, a complainant who is not satisfied with the resolution proffered by the principal/**preschool administrator** or Superintendent or designee may file an appeal to the Superintendent of Public Instruction within 15 days of receiving the district's response. The complainant shall comply with the appeal requirements specified in 5 CCR 4632. (Education Code **8235.5**, 35186; 5 CCR 4687)

All complaints and written responses shall be public records. (Education Code **8235.5**, 35186; 5 CCR 4686)

(cf. 1340 - Access to District Records)

WILLIAMS UNIFORM COMPLAINT PROCEDURES (continued)

Reports

Note: During the FPM process, CDE staff will expect to see the following statement.

On a quarterly basis, the Superintendent or designee shall report, to the Board at a regularly scheduled public Board meeting and to the County Superintendent of Schools, summarized data on the nature and resolution of all complaints. The report shall include the number of complaints by general subject area with the number of resolved and unresolved complaints. (Education Code **8235.5**, 35186; 5 CCR 4686)

Forms and Notices

~~The Superintendent or designee shall ensure a Williams complaint form is available at each school. However, complainants need not use the district's complaint form in order to file a complaint. (Education Code 35186; 5 CCR 4680)~~

~~Note: Education Code 35186 requires that the district's complaint form contain the elements stated in the following paragraph. In addition, Education Code 35186 requires that a notice be posted in each classroom in each school in the district, as specified below. See the accompanying exhibits for a sample form and classroom notice.~~

~~The Superintendent or designee shall ensure that the district's complaint form contains a space to indicate whether the complainant desires a response to his/her complaint and specifies the location for filing a complaint. A complainant may add as much text to explain the complaint as he/she wishes. (Education Code 35186; 5 CCR 4680)~~

~~The Superintendent or designee shall ensure that a notice is posted in each classroom in each school containing the components specified in Education Code 35186. (Education Code 35186)~~

Legal Reference: (see next page)

WILLIAMS UNIFORM COMPLAINT PROCEDURES (continued)

Legal Reference:

EDUCATION CODE

234.1 *Prohibition of discrimination, harassment, intimidation, and bullying*

1240 *County superintendent of schools, duties*

8235-8239.1 California State Preschool Programs, especially:

8235.5 California State Preschool Program, complaints regarding health and safety issues

17592.72 *Urgent or emergency repairs, School Facility Emergency Repair Account*

33126 *School accountability report card*

35186 *Williams uniform complaint procedures*

35292.5-**35292.6** *Restrooms, maintenance and cleanliness*

48985 *Notice to parents in language other than English*

60119 *Hearing on sufficiency of instructional materials*

HEALTH AND SAFETY CODE

1596.792 California Child Day Care Act; general provisions and definitions

1596.7925 California Child Day Care Act; health and safety regulations

CODE OF REGULATIONS, TITLE 5

4600-4670 *Uniform complaint procedures*

4680-4687 *Williams uniform complaint procedures*

UNITED STATES CODE, TITLE 20

6314 Title I schoolwide program

Management Resources:

WEB SITES

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

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

California Department of Education, Williams case: <http://www.cde.ca.gov/eo/ce/wc>

State Allocation Board, Office of Public School Construction: <http://www.opsc.dgs.ca.gov>

CSBA Sample

Exhibit

Community Relations

E(1) 1312.4(a)

WILLIAMS UNIFORM COMPLAINT PROCEDURES

Note: Education Code 35186 requires that the following notice be posted in each **K-12** classroom in each school in the district. During the Federal Program Monitoring process, California Department of Education (CDE) staff will check to ensure that a notice is placed in each classroom in each school and that the notice contains all the information described below.

NOTICE TO PARENTS/GUARDIANS, STUDENTS, AND TEACHERS: **K-12** COMPLAINT RIGHTS

Parents/Guardians, Students, and Teachers:

Pursuant to Education Code 35186, you are hereby notified that:

1. There should be sufficient textbooks and instructional materials. That means each student, including an English learner, must have a textbook or instructional materials, or both, to use in class and to take home.
2. School facilities must be clean, safe, and maintained in good repair.
3. There should be no teacher vacancies or misassignments. There should be a teacher assigned to each class and not a series of substitutes or other temporary teachers. The teacher should have the proper credential to teach the class, including the certification required to teach English learners, if present.

Misassignment means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold.

Teacher vacancy means a position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.

Note: Education Code 35186 requires that the notice inform parents/guardians of the location to obtain a complaint form and provides that posting a notice downloadable from the CDE's web site will satisfy this requirement. The law does not require that complaint form be placed in any specific location. The following paragraph lists locations where complaint forms may be available and should be modified to reflect district practice, including adding the school and district web site addresses.

WILLIAMS UNIFORM COMPLAINT PROCEDURES (continued)

4. — **If you choose to file a complaint alleging that any of the above conditions is not being met, your complaint will be addressed through the district's Williams uniform complaint procedures as required by law.** A complaint form may be obtained at the school office or district office, or downloaded from the school or district web site. You may also download a copy of the California Department of Education complaint form from the following web site: <http://www.cde.ca.gov/re/cp/uc>. However, a complaint need not be filed using either the district's complaint form or the complaint form from the California Department of Education.

(11/07 8/14) 3/19

CSBA Sample Exhibit

Community Relations

E(2) 1312.4(a)

WILLIAMS UNIFORM COMPLAINT PROCEDURES

COMPLAINT FORM: WILLIAMS UNIFORM COMPLAINT PROCEDURES

Note: Education Code 35186 creates a the Williams uniform complaint procedures for the filing of complaints concerning deficiencies in textbooks or instructional materials, conditions of facilities that are not maintained in a clean or safe manner or in good repair, or teacher vacancy or misassignment. The following form contains elements required by Education Code 35186 and 5 CCR 4681-4683. During the Federal Program Monitoring process, California Department of Education staff will check to ensure that the complaint form includes all of the elements specified below. This form is no longer applicable to complaints regarding deficiencies in intensive instruction and services to students who have not passed all parts of the high school exit examination by the end of grade 12 since that categorical program was eliminated by AB 97 (Ch. 47, Statutes of 2013).

K-12 COMPLAINT FORM: WILLIAMS UNIFORM COMPLAINT PROCEDURES

Education Code 35186 creates a procedure for the filing of complaints concerning deficiencies related to instructional materials, conditions of facilities that are not maintained in a clean or safe manner or in good repair, or teacher vacancy or misassignment. The complaint and response are public documents as provided by law. Complaints may be filed anonymously. However, if you wish to receive a response to your complaint, you must provide the contact information below.

Response requested? ☐ Yes ☐ No

Contact information: (if response is requested)

Name: _____

Address: _____

Phone number: Day: _____ Evening: _____

E-mail address, if any: _____

Date problem was observed: _____

Location of the problem that is the subject of this complaint:

School name/address: _____

Course title/grade level and teacher name: _____

Room number/name of room/location of facility: _____

Only the following issues may be the subject of this complaint process. If you wish to complain about an issue not specified below, please contact the school or district for the appropriate district complaint procedure.

WILLIAMS UNIFORM COMPLAINT PROCEDURES (continued)

Specific issue(s) of the complaint: (Please check all that apply. A complaint may contain more than one allegation.)

1. Textbooks and instructional materials: (Education Code 35186; 5 CCR 4681)
 - ☐ A student, including an English learner, does not have standards-aligned textbooks or instructional materials or state- or district-adopted textbooks or other required instructional materials to use in class.
 - ☐ A student does not have access to textbooks or instructional materials to use at home or after school. This does not require two sets of textbooks or instructional materials for each student.
 - ☐ Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.
 - ☐ A student was provided photocopied sheets from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials.
2. Teacher vacancy or misassignment: (Education Code 35186; 5 CCR 4682)
 - ☐ A semester begins and a teacher vacancy exists. A *teacher vacancy* is a position to which a single designated certificated employee has not been assigned at the beginning of the school year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.
 - ☐ A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learners in the class.
 - ☐ A teacher is assigned to teach a class for which the teacher lacks subject matter competency.
3. Facilities conditions: (Education Code 17592.72, 35186, 35292.5, **35292.6**; 5 CCR 4683)
 - ☐ A condition exists that poses an emergency or urgent threat to the health or safety of students or staff including gas leaks; nonfunctioning heating, ventilation, fire sprinklers, or air-conditioning systems; electrical power failure; major sewer line stoppage; major pest or vermin infestation; broken windows or exterior doors or gates that will not lock and that pose a security risk; abatement of hazardous materials

WILLIAMS UNIFORM COMPLAINT PROCEDURES (continued)

previously undiscovered that pose an immediate threat to students or staff; structural damage creating a hazardous or uninhabitable condition; and any other condition deemed appropriate by the district.

- ☐ A school restroom has not been cleaned or maintained regularly, is not fully operational, or has not been stocked at all times with toilet paper, soap, or paper towels or functional hand dryers.
- ☐ The school has not kept all restrooms open during school hours when students are not in classes and has not kept a sufficient number of restrooms open during school hours when students are in classes. This does not apply when temporary closing of the restroom is necessary for student safety or to make repairs.

Please describe the issue of your complaint in detail. You may attach additional pages and include as much text as necessary to fully describe the situation. For complaints regarding facilities conditions, please describe the emergency or urgent facilities condition and how that condition poses a threat to the health or safety of students or staff.

Note: Education Code 35186 requires that complaints be filed with the principal or designee and that the complaint form specify the location for filing the complaint. Districts should specify the name and/or location in the spaces below.

Please file this complaint at the following location:

(principal or **title of** designee **of the Superintendent**)

(address)

Please provide a signature below. If you wish to remain anonymous, a signature is not required. However, all complaints, even anonymous ones, should be dated.

(Signature)

(Date)

(11/10 8/14) 3/19

Policy Reference UPDATE Service

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CSBA Sample

Administrative Regulation

Community Relations

AR 1340(a)

ACCESS TO DISTRICT RECORDS

Note: Article 1, Section 3 of the California Constitution grants any person the right to access information concerning meetings and writings of state and local government bodies, officials, and agencies as long as the constitutional rights of privacy and due process are protected. Courts broadly interpret rules or laws granting access and narrowly interpret those denying access; thus, the burden is on the district to demonstrate the need for restricting access to public records.

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

Definitions

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

Emails and other electronic communications related in a substantive manner to district business are considered public records. Furthermore, in City of San Jose v. Superior Court, the California Supreme Court held that using a personal account or personal device to send or receive communications regarding public business does not categorically exclude those records from disclosure upon request under the California Public Records Act (CPRA) (Government Code 6250-6270). The court noted that public agencies are required to disclose all applicable records that can be located "with reasonable effort," including those records contained on a public employee's or official's personal device or account. Such searches need not be extraordinary or intrusive. For further information, see CSBA's Legal Alert: Tips for Governing Boards in Response to Public Records Act Ruling on Electronic Communications. Also see the accompanying Board policy, AR 3580 - District Records, and BB 9012 - Board Member Electronic Communications.

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

(cf. 3580 - District Records)

(cf. 9012 - Board Member Electronic Communications)

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

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

ACCESS TO DISTRICT RECORDS (continued)

Public Records

Note: While not specifically enumerated in Government Code 6252, items #1-~~15~~ **14** below are items which fall within the definition of "public records."

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

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

(cf. 3100 - Budget)

(cf. 3460 - Financial Reports and Accountability)

2. Statistical compilations

3. Reports and memoranda

4. Notices and bulletins

5. Minutes of public meetings (Education Code 35145)

(cf. 9324 - Minutes and Recordings)

6. Meeting agendas (Government Code 54957.5)

(cf. 9322 - Agenda/Meeting Materials)

7. Official communications between the district and other government agencies

Note: District and school plans (e.g., local control and accountability plan, school plan for student achievement, comprehensive safety plan) must generally be accessible to the public. However, pursuant to Education Code 32281, the Governing Board may choose to prohibit disclosure of those portions of the comprehensive safety plan that include tactical responses to criminal incidents. See BP 0450 - Comprehensive Safety Plan.

8. **School-based program plans (Education Code 52850) District and school plans, and the information and data relevant to the development and evaluation of such plans, unless otherwise prohibited by law**

(cf. 0400 - Comprehensive Plans)

(cf. 0420 - School Plans/Site Councils)

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

ACCESS TO DISTRICT RECORDS (continued)

(cf. 0440 - District Technology Plan)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 0460 - Local Control and Accountability Plan)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

(cf. 3543 - Transportation Safety and Emergencies)

(cf. 7110 - Facilities Master Plan)

- ~~10.~~ **9.** Initial proposals of exclusive employee representatives and of the district (Government Code 3547)

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

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

- ~~11.~~ **10.** Records pertaining to claims and litigation against the district which have been adjudicated or settled (Government Code 6254, 6254.25)

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

- ~~12.~~ **11.** Statements of economic interests required by the Conflict of Interest Code (Government Code 81008)

(cf. 9270 - Conflict of Interest)

Note: Generally, the names and salaries of public employees are subject to disclosure under the **Public Records Act CPRA**. In Sacramento County Employees Retirement System v. Superior Court, a California Court of Appeal held that the names and corresponding pension benefits of members of a county retirement system are subject to disclosure and are not considered "individual records of members" protected by Government Code 31532. However, in International Federation of Professional and Technical Engineers v. The Superior Court of Alameda County, the California Supreme Court recognized that, in some instances, the salaries of certain employees might be exempt from disclosure, depending on the facts and circumstances. **The Board should consult legal counsel if it believes that any document related to the names and salaries of public employees should not be disclosed.** Additionally, in Sacramento County Employees Retirement System v. Superior Court, a California Court of Appeal held that the names and corresponding pension benefits of members of a county retirement system are subject to disclosure and are not considered "individual records of members" protected by Government Code 31532.

- ~~13.~~ **12.** Documents containing names, salaries, and pension benefits of district employees

- ~~14.~~ **13.** Employment contracts and settlement agreements (Government Code 53262)

ACCESS TO DISTRICT RECORDS (continued)

(cf. 2121 - Superintendent's Contract)

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

(cf. 4141/4241 - Collective Bargaining Agreement)

15. 14. Instructional materials including, but not limited to, textbooks (Education Code 49091.10)

(cf. 5020 - Parent Rights and Responsibilities)

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

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

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

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

Confidential Public Records

Note: Pursuant to Government Code 8310.3, districts are prohibited from collecting or disclosing to federal government authorities any personal information regarding an individual's religious beliefs, practices, or affiliation for the purpose of compiling a list, registry, or database of individuals based on religious affiliation, national origin, or ethnicity.

In addition, Education Code 234.7 prohibits the collection of information or documents regarding the citizenship or immigration status of students or their family members. If the district becomes aware of the citizenship or immigration status of any student, it is prohibited from disclosing that information to U.S. Immigration and Customs Enforcement (ICE), as such disclosure is not among the limited exceptions specified in law for which student records may be released without parental consent or a lawful judicial order. An ICE "administrative warrant" is not a court order that would allow a district to disclose student records without parent/guardian consent. See BP/AR 5125 - Student Records, BP/AR 5145.13 - Response to Immigration Enforcement, and the Office of the Attorney General's publication Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues.

ACCESS TO DISTRICT RECORDS (continued)

Unless otherwise authorized or required by law, information regarding an individual's citizenship or immigration status or religious beliefs, practices, or affiliation shall not be disclosed to federal government authorities. (Education Code 234.7; Government Code 8310.3)

(cf. 5145.13 - Response to Immigration Enforcement)

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

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

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

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

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

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

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

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

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

ACCESS TO DISTRICT RECORDS (continued)

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

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

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

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

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

(cf. 5125 - Student Records)

(cf. 5125.1 - Release of Directory Information)

(cf. 5125.3 - Challenging Student Records)

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

(cf. 6162.51 - State Academic Achievement Tests)

6. Without affecting the law of eminent domain, the contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the district relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained (Government Code 6254)
7. Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in **an** unfair competitive disadvantage to the person supplying the information (Government Code 6254)
8. Library circulation and patron use records of a borrower or patron including, but not limited to, **his/her** name, address, telephone number, email address, borrowing information, or use of library information resources, except when disclosure is to **a** persons acting within the scope of **his/her** **their** duties in the administration of the library, to **a** persons authorized in writing by the individual to whom the records pertain, or by court order (Government Code 6254, 6267)

(cf. 6163.1 - Library Media Centers)

ACCESS TO DISTRICT RECORDS (continued)

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

In Los Angeles County Board of Supervisors v. Superior Court, the California Supreme Court held that invoices for the services of district counsel, or portions of those invoices, may be privileged and therefore exempt from disclosure. The Board should consult with legal counsel to determine what records to disclose in response to a CPRA request for such invoices.

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

(cf. 9124 - Attorney)

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

~~*(cf. 0450 - Comprehensive Safety Plan)*~~

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

(cf. 9223 - Filling Vacancies)

12. Minutes of Board meetings held in closed session (Government Code 54957.2)

(cf. 9321 - Closed Session Purposes and Agendas)

13. Computer software developed by the district (Government Code 6254.9)

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

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

(cf. 5141.6 - School Health Services)

ACCESS TO DISTRICT RECORDS (continued)

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

Note: Item #17 below reflects an exemption often referred to as the "catch-all" or "public interest" exemption pursuant to Government Code 6255. This exemption allows a district to withhold a record based on analysis of the specific facts of the situation and in light of the competing public interests. This exemption also includes the "deliberative process privilege" which is designed to protect a district's decision-making process in order to encourage candid discussions within the district. Legal counsel should be consulted to determine whether a request for a record falls under this exemption.

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

Inspection of Records and Requests for Copies

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

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

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

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

1. The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request
2. The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request
3. The need for consultation, which shall be conducted with all practicable speed, with

ACCESS TO DISTRICT RECORDS (continued)

another agency (e.g., a state agency or city) having a substantial interest in the determination of the request or among two or more components of the district (e.g., two different school sites) with substantial interest in the request

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

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

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

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

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

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

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

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

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

ACCESS TO DISTRICT RECORDS (continued)

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

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

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

Assistance in Identifying Requested Records

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

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

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

If, after making a reasonable effort to elicit additional clarifying information from the requester to help identify the record, the Superintendent or designee is still unable to identify the information, this requirement shall be deemed satisfied.

2. Describe the information technology and physical location in which the records exist
3. Provide suggestions for overcoming any practical basis for denying access to the records or information sought

ACCESS TO DISTRICT RECORDS (continued)

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

CSBA Sample

Board Policy

Business and Noninstructional Operations

BP 3100(a)

BUDGET

The Governing Board recognizes its critical responsibility for adopting a sound budget each fiscal year which is aligned with **and reflects** the district's vision, goals, priorities, local control and accountability plan (LCAP), and other comprehensive plans. The district budget shall guide decisions and actions throughout the year and shall serve as a tool for monitoring the fiscal health of the district.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

(cf. 0400 - Comprehensive Plans)

(cf. 0460 - Local Control and Accountability Plan)

(cf. 3300 - Expenditures and Purchases)

(cf. 3460 - Financial Reports and Accountability)

(cf. 9000 - Role of the Board)

The district budget shall show a complete plan and itemized statement of all proposed expenditures and all estimated revenues for the following fiscal year, together with a comparison of revenues and expenditures for the current fiscal year. The budget shall also include the appropriations limit and the total annual appropriations subject to limitation as determined pursuant to Government Code 7900-7914. (Education Code 42122)

Budget Development and Adoption Process

In order to provide guidance in the development of the budget, the Board shall annually establish budget priorities based on identified district needs and goals and on realistic projections of available funds.

The Superintendent or designee shall oversee the preparation of a proposed district budget for approval by the Board and shall involve appropriate staff in the development of budget projections.

Note: Education Code 42103 and 42127 require the district to hold a public hearing prior to adoption of the budget. ~~See the accompanying administrative regulation for requirements pertaining to the public hearing.~~ A public hearing on the district's local control and accountability plan (LCAP) must occur at the same meeting **as the public hearing on the proposed budget.** ~~See the accompanying administrative regulation and BP 0460 - Local Control and Accountability Plan for requirements pertaining to the public hearing.~~

Pursuant to Education Code 52064.1, as added by AB 1808 (Ch. 32, Statutes of 2018), districts are required, by July 1, 2019, to develop a local control funding formula (LCFF) budget overview for parents/guardians with specified information, based on a template created by the Superintendent of Public Instruction (SPI). The budget overview must be developed in conjunction with, and attached as a cover to, the LCAP and annual update to the LCAP. The adoption, review, approval, and posting of the budget overview are subject to the same requirements as for the LCAP, including the requirement for a public hearing.

BUDGET (continued)

The Board shall hold a public hearing on the proposed budget in accordance with Education Code 42103 and 42127. **The hearing shall occur at the same meeting as the public hearing on the district's LCAP and the local control funding formula (LCFF) budget overview for parents/guardians. (Education Code 42103, 42127, 52062, 52064.1)**

(cf. 9320 - Meetings and Notices)

(cf. 9322 - Agenda/Meeting Materials)

(cf. 9323 - Meeting Conduct)

The Board shall adopt the district budget **at a public meeting held after the date of the public hearing but** on or before July 1 of each year. The Board shall adopt the budget following its adoption of the LCAP, or annual update to the LCAP, **and the LCFF budget overview for parents/guardians.** The budget shall include the expenditures necessary to implement the LCAP or the annual update to the LCAP. (Education Code 42127, **52062**)

~~At a public meeting scheduled on a date after the public hearing on the budget, the Board shall, following its adoption of the LCAP or an annual update to the LCAP, adopt the budget. The budget shall include the expenditures necessary to implement the LCAP or the annual update to the LCAP. (Education Code 42127, 52062)~~

Note: Pursuant to Education Code 42126, the district budget must be in a format prescribed by the **Superintendent of Public Instruction (SPI)**. The SPI has established a requirement that districts use the Standardized Account Code Structure (SACS). SACS ensures that districts meet state and federal reporting guidelines and comply with generally accepted accounting principles prescribed by the Governmental Accounting Standards Board (GASB). The California Department of Education's (CDE) California School Accounting Manual provides guidance regarding coding of revenues and expenditures.

~~At its discretion, the district may use a different format for communicating the budget to the Board, staff, and public but, according to the CDE, the budget that the Board formally adopts must be in the SACS format.~~

The budget that is **presented at the public hearing as well as the budget** formally adopted by the Board shall adhere to the state's Standardized Account Code Structure as prescribed by the Superintendent of Public Instruction **(SPI)**. (Education Code 42126, 42127)

The Superintendent or designee may supplement this format with additional information as necessary to effectively communicate the budget to the Board, staff, and public.

Note: Education Code 42127 requires the district to file the adopted budget with the County Superintendent of Schools as described below. If the district fails to submit a budget by July 1, the County Superintendent will, at district expense, develop a budget by September 15 and transmit that budget to the Board.

No later than five days after the Board adopts the district budget or by July 1, whichever occurs first, the Board shall file **the adopted district budget** with the County Superintendent of Schools ~~the adopted district budget and supporting data~~. The budget and supporting data shall be maintained and made available for public review. (Education Code 42127)

BUDGET (continued)

(cf. 1340 - Access to District Records)

Note: Pursuant to Education Code 42127, on or before September 15, the County Superintendent must approve, conditionally approve, or disapprove the district's adopted budget. Education Code 42127 requires that this determination be based on a consideration of whether the district's adopted budget complies with state standards and criteria, will allow the district to meet its current and **future multiyear** financial obligations, **includes the expenditures necessary to implement the LCAP or annual update to the LCAP**, satisfies all conditions established by the County Superintendent in the case of a conditionally approved budget, **will enable the district to satisfy its multiyear financial commitments, includes the expenditures necessary to implement the LCAP or the annual update to the LCAP**, and, when applicable, **and** complies with the requirements pertaining to ending fund balances that exceed the state minimum recommended reserve.

Education Code 42127 also requires the County Superintendent to consider other studies, reports, evaluations, or audits that may indicate that the district is in fiscal distress; see the Fiscal Crisis and Management Assistance Team's Fiscal Oversight Guide and BP 3460 - Financial Reports and Accountability.

If the County Superintendent disapproves or conditionally approves the district's budget, the Board shall review and respond to **his/her the County Superintendent's** recommendations at a **regular** public meeting on or before October 8. The response shall include any revisions to the adopted budget and any other proposed actions to be taken as a result of those recommendations. (Education Code 42127)

Budget Advisory Committee

Note: The following **optional** section is for use by districts that choose to establish a budget advisory committee to provide input during the budget development process. The committee may be appointed by the Superintendent or designee (Option 1), by the Board (Option 2), or may be a Board subcommittee composed exclusively of Board members (Option 3). Committees established by Board action are subject to the Brown Act; see BP/AR 1220 - Citizen Advisory Committees. Districts should delete or modify the following options as appropriate. See the accompanying administrative regulation for optional language regarding the committee's composition and duties.

This committee is different from the budget review committee that is required **in the event that pursuant to Education Code 42127 and 42127.1 if** the County Superintendent disapproves the district's budget; see the accompanying administrative regulation.

The Superintendent or designee may appoint a budget advisory committee composed of staff, Board representatives, and/or members of the community.

Note: The following paragraph is for use by districts that selected either Option 1, 2, or 3 above.

BUDGET (continued)

The committee ~~shall~~ **may** submit recommendations during the budget development process and its duties shall be assigned each year based on district needs. All recommendations of the committee shall be advisory only and shall not be binding on the Board.

(cf. 1220 - Citizen Advisory Committees)

(cf. 2230 - Representative and Deliberative Groups)

(cf. 3350 - Travel Expenses)

(cf. 9130 - Board Committees)

(cf. 9140 - Board Representatives)

Budget Criteria and Standards

The ~~Superintendent or designee shall develop a~~ district budget **shall be developed** in accordance with state criteria and standards specified in 5 CCR 15440-15450 as they relate to projections of average daily attendance (ADA), enrollment, ratio of ADA to enrollment, ~~local control funding formula~~ **LCFF** revenue, salaries and benefits, other revenues and expenditures, facilities maintenance, deficit spending, ~~unrestricted general~~ fund balance, and reserves. In addition, ~~he/she~~ **the Superintendent or designee** shall provide the supplemental information specified in 5 CCR 15451 which addresses the methodology and budget assumptions used, contingent liabilities, use of one-time revenues for ongoing expenditures, use of ongoing revenues for one-time expenditures, contingent revenues, contributions, long-term commitments, unfunded liabilities, status of collective bargaining agreements, the LCAP, and LCAP expenditures. (Education Code 33128, ~~33128.3~~, 33129, 42127.01; 5 CCR 15440-15451)

Note: The following paragraph is for use by districts that receive supplemental and concentration funding within the ~~local control funding formula (LCFF)~~ based on the number and concentration of "unduplicated students" (i.e., students who are eligible for free or reduced-price meals, English learners, and foster youth) pursuant to Education Code 42238.02 and 42238.03. 5 CCR 15496 addresses the method of determining the percentage by which services for unduplicated students must be increased or improved above services provided to all students in the fiscal year. Pursuant to 5 CCR 15496, the district's LCAP must include evidence demonstrating how LCFF funding apportioned on the basis of unduplicated students is used to support such students; see AR 0460 - Local Control and Accountability Plan.

The district budget shall provide for ~~increasing~~ **ing** or ~~improving~~ **ing** services for unduplicated students at least in proportion to the increase in funds apportioned on the basis of the number and concentration of unduplicated students in accordance with 5 CCR 15496. *Unduplicated students* are students who are eligible for free or reduced-price meals, English learners, and/or foster youth. (Education Code 42238.07; 5 CCR 15496)

(cf. 3553 - Free and Reduced Price Meals)

(cf. 6173.1 - Education for Foster Youth)

(cf. 6174 - Education for English Learners)

BUDGET (continued)

The Board may establish other budget assumptions or parameters which may take into consideration the stability of funding sources, legal requirements and constraints on the use of funds, anticipated increases and/or decreases in the cost of services and supplies, program requirements, and any other factors necessary to ensure that the budget is a realistic plan for district revenues and expenditures.

(cf. 2210 - Administrative Discretion Regarding Board Policy)

(cf. 3110 - Transfer of Funds)

Fund Balance

Note: The following section should be revised to reflect district practice. **Governmental Accounting Standards Board (GASB)** Statement 54 addresses the way fund balances (i.e., the gross differences between assets and liabilities reflected on the balance sheet) in governmental funds are reported in external financial reports. Fund balances must be classified as nonspendable, restricted, committed, assigned, and unassigned in accordance with GASB 54 definitions; also see AR 3460 - Financial Reports and Accountability. Pursuant to GASB 54, the Board has sole authority to specify purposes of funds classified as "committed" and also must express, or delegate the authority to express, intended purposes of resources that result in the "assigned" fund balance. The Board may modify the following section to reflect its fund balance policy or may adopt a formal resolution containing the required components.

The district shall classify fund balances in compliance with Governmental Accounting Standards Board (GASB) Statement 54, as follows:

1. *Nonspendable fund balance* includes amounts that are not expected to be converted to cash, such as resources that are not in a spendable form (e.g., inventories and prepaids) or that are legally or contractually required to be maintained intact.
2. *Restricted fund balance* includes amounts constrained to specific purposes by their providers or by law.

Note: For purposes of the committed fund balance, GASB 54 requires that the Board commit funds no later than the end of the reporting period. In New Requirements for Reporting Fund Balance in Governmental Funds, the CDE clarifies that for districts the end of the reporting period is June 30.

3. *Committed fund balance* includes amounts constrained to specific purposes by the Board.

For this purpose, all commitments of funds shall be approved by a majority vote of the Board. The constraints shall be imposed no later than the end of the reporting period (June 30), although the actual amounts may be determined subsequent to that date but prior to the issuance of the financial statements.

4. *Assigned fund balance* includes amounts which are intended for a specific purpose but do not meet the criteria to be classified as restricted or committed.

BUDGET (continued)

The Board delegates authority to assign funds to the assigned fund balance to the Superintendent and authorizes the assignment of such funds to be made any time prior to the issuance of the financial statements. The Superintendent **may shall have discretion to** further delegate the authority to assign funds **at his/her discretion**.

5. *Unassigned fund balance* includes amounts that are available for any purpose.

When multiple types of funds are available for an expenditure, the district shall first utilize funds from the restricted fund balance as appropriate, then from the committed fund balance, then from the assigned fund balance, and lastly from the unassigned fund balance.

Note: Although not required by GASB 54, the Government Finance Officers Association (GFOA) recommends that public agencies adopt a minimum fund balance policy that establishes an appropriate level of unrestricted fund balance that will be maintained in the general fund. The GFOA's **Best Practice: Appropriate Level of Unrestricted Fund Balance in the General Fund** **Fund Balance Guidelines for the General Fund** describes a variety of factors that should be considered when developing a minimum fund balance policy, such as the predictability of its revenue and volatility of its expenditures, perceived exposure to significant one-time outlays, potential drain upon the general fund from other funds as well as the availability of resources in other funds, **potential impact on bond ratings and the corresponding increased cost of borrowed funds**, **liquidity of resources**, and portion of unrestricted fund balance already committed or assigned for a specific purpose.

The Board intends to maintain a minimum assigned and unassigned fund balance in an amount the Board deems sufficient to maintain fiscal solvency and stability and to protect the district against unforeseen circumstances.

Note: The GFOA recommends that the minimum fund policy address both the circumstances under which the unrestricted fund balance can be spent down and the procedure for replenishing deficiencies. The district may revise the following **optional** paragraph to specify the rate at which the district will attempt to recover the fund balance (e.g., the Board shall develop a plan to recover the fund balance at a rate of at least one percent each year).

If the assigned and unassigned fund balance falls below the level set by the Board due to an emergency situation, unexpected expenditures, or revenue shortfalls, the Board shall develop a plan to recover the fund balance which may include dedicating new unrestricted revenues, reducing expenditures, and/or increasing revenues or pursuing other funding sources.

Reserve Balance

Note: 5 CCR 15450 establishes a minimum local reserve balance for economic uncertainties based on the district's average daily attendance (ADA). The minimum reserve balance is the greater of five percent or \$55,000 for districts with 0-300 ADA; the greater of four percent or \$55,000 for districts with 301-1,000 ADA; three percent for districts with 1,001-30,000 ADA; two percent for districts with 30,001-400,000 ADA; and one percent for districts with over 400,000 ADA. The following paragraph may be revised to reflect the minimum reserve applicable to the district's ADA.

BUDGET (continued)

Education Code 42127.01 establishes, under certain conditions, a maximum amount of local reserve balance for economic uncertainties. Pursuant to Education Code 42127.01, as amended by SB 751 (Ch. 674, Statutes of 2017), if the amount of monies in the state Public School System Stabilization Account is three percent or more of the combined total of general fund revenues appropriated for school districts and allocated local proceeds of taxes, the district's combined assigned or unassigned ending general fund balance must not exceed 10 percent of those funds in the immediately following fiscal year. Basic aid districts, as defined in Education Code 42238.02, and districts with 2,500 or less ADA are exempted from this requirement and may delete the following paragraph. Other districts may also be exempted from this requirement by the County Superintendent for up to two consecutive fiscal years within a three year period upon providing documentation of extraordinary fiscal circumstances (e.g., multiyear infrastructure or technology projects) that substantiate the need for a reserve in excess of the limit specified in Education Code 42127.01.

The district budget shall include a minimum reserve balance for economic uncertainties that is consistent with the percentage or amount specified in 5 CCR 15450.

Note: Education Code 42127.01 establishes, under certain conditions, a maximum amount of local reserve balance for economic uncertainties. Pursuant to Education Code 42127.01, as amended by SB 751 (Ch. 674, Statutes of 2017), if the amount of monies in the state Public School System Stabilization Account is three percent or more of the combined total of general fund revenues appropriated for school districts and allocated local proceeds of taxes, the district's combined assigned or unassigned ending general fund balance must not exceed 10 percent of those funds in the immediately following fiscal year.

Basic aid districts, as described in Education Code 42238.02, and districts with 2,500 or less ADA are exempted from this requirement and may delete the following paragraph. Other districts may also be exempted from this requirement by the County Superintendent for up to two consecutive fiscal years within a three-year period upon providing documentation of extraordinary fiscal circumstances (e.g., multiyear infrastructure or technology projects) that substantiate the need for a reserve in excess of the limit specified in Education Code 42127.01.

In any year **that following the fiscal year in which** the district is notified by the **Superintendent of Public Instruction SPI** that the amount of monies in the state Public School System Stabilization Account equals or exceeds three percent of the combined total of general fund revenues appropriated for school districts and allocated local proceeds of taxes, the district budget shall not contain a combined assigned or unassigned ending general fund balance that is in excess of 10 percent of these funds, **unless the requirement is waived in accordance with Education Code 42127.01.** (Education Code ~~41202,~~ 42127.01)

Long-Term Financial Obligations

The district's current-year budget and multiyear projections shall include adequate provisions for addressing the district's long-term financial obligations, including, but not limited to, long-term obligations resulting from collective bargaining agreements, financing of facilities projects, unfunded or future liability for retiree benefits, and accrued workers' compensation claims.

(cf. 4141/4241 - Collective Bargaining Agreement)
(cf. 4154/4254/4354 - Health and Welfare Benefits)

BUDGET (continued)

(cf. 7210 - Facilities Financing)

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

Note: The following paragraph is optional. Government Code 21710-21716, as added by SB 1413 (Ch. 665, Statutes of 2018), establish the California Employers' Pension Prefunding Trust Program and related Trust Fund, allowing districts that provide a defined benefit pension plan to their employees to prefund required pension contributions to the California Public Employees' Retirement System (CalPERS). Districts may elect to participate in the Prefunding Trust Program for the purpose of investing payments toward their required CalPERS pension contributions.

The Board may approve a plan for meeting the district's long-term obligations to fund contributions to the California Public Employees' Retirement System (CalPERS) which, to the extent possible, minimizes significant increases in annual general fund expenditures towards pension obligations. The plan may include prefunding required pension contributions through the California Employers' Pension Prefunding Trust Program pursuant to Government Code 21710-21716.

Note: The following two **optional** paragraphs are for use by districts that provide "other postemployment benefits" (OPEBs) (i.e., medical, dental, vision, hearing, life insurance, long-term care, long-term disability, and other nonpension benefits to retired employees or Board members) and should be revised to reflect district practice; see BP/AR 4154/4254/4354 - Health and Welfare Benefits and BB 9250 - Remuneration, Reimbursement and Other Benefits. CSBA recommends that districts adopt a specific funding strategy for addressing their OPEB obligations. The district may pay the premiums as they fall due ("pay-as-you-go"), but in such a case the district would then accrue a deficit with respect to future retirees which can be expected to grow as a result of an increasing retiree population and increases in benefit costs. Therefore, it is recommended that the district prefund the debt to the extent possible using a method and level to be determined by the Board. For example, the district may contribute a set amount or percentage of the actuarially determined "annual required contributions" to an irrevocable trust or designated fund each year.

GASB Statement 75 requires districts that do not provide OPEB through a trust to report the total unfunded liability (i.e., OPEBs that are not prefunded) in the district's financial statements; see AR 3460 - Financial Reports and Accountability.

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

The Board shall approve a plan for meeting the district's long-term obligations to fund nonpension, other postemployment benefits (OPEBs). This plan shall include a specific funding strategy and the method that will be used to finance the district's annual fiscal obligations for such benefits in a manner that continually reduces the deficit to the district to the extent possible. The Board reserves the authority to review and amend the funding strategy as necessary to ensure that it continues to serve the best interests of the district and maintains flexibility to adjust for changing budgetary considerations.

~~When the~~ **The** Superintendent or designee **shall annually** presents a report to the Board on the estimated accrued but unfunded cost of OPEBs, ~~the Board shall disclose, as~~ **As** a

BUDGET (continued)

separate agenda item at the same meeting, **the Board shall disclose** whether or not it will reserve a sufficient amount of money in its budget to fund the present value of the benefits of existing retirees and/or the future cost of employees who are eligible for benefits in the current fiscal year. (Education Code 42140)

Note: The following **optional** paragraph is for use by districts that are self-insured for workers' compensation claims, either individually or as part of a joint powers agency. See AR 3460 - Financial Reports and Accountability for provisions related to reporting the estimated accrued but unfunded cost of workers' compensation claims based on an actuarial report.

~~When the~~ **The** Superintendent or designee **shall annually** presents a report to the Board on the estimated accrued but unfunded cost of workers' compensation claims, ~~the Board shall disclose, as~~ **and the actuarial reports upon which the estimated costs are based. As** a separate agenda item at the same meeting, **the Board shall disclose** whether ~~or not~~ it will reserve in the budget sufficient amounts to fund the present value of accrued but unfunded workers' compensation claims or if it is otherwise decreasing the amount in its workers' compensation reserve fund. The Board shall annually certify to the County Superintendent the amount, if any, that it has decided to reserve in the budget for these costs. The Board shall submit to the County Superintendent any budget revisions that may be necessary to account for this budget reserve. (Education Code 42141)

Budget Amendments

Note: The following section is **optional** and should be revised to reflect district practice.

No later than 45 days after the Governor signs the annual Budget Act, the Superintendent or designee shall make available for public review any revisions in budgeted revenues and expenditures which occur as a result of the funding made available by that Budget Act. (Education Code 42127)

Whenever revenues and expenditures change significantly throughout the year, the Superintendent or designee shall recommend budget amendments to ensure accurate projections of the district's net ending balance. When final figures for the prior-year budget are available, this information shall be used as soon as possible to update the current-year budget's beginning balance and projected revenues and expenditures.

In addition, budget amendments shall be submitted for Board approval as necessary when collective bargaining agreements are accepted, district income declines, increased revenues or unanticipated savings are made available to the district, program proposals are significantly different from those approved during budget adoption, interfund transfers are needed to meet actual program expenditures, and/or other significant changes occur that impact budget projections.

BUDGET (continued)

Legal Reference:

EDUCATION CODE

1240 Duties of county superintendent of schools
 33127-33131 Standards and criteria for local budgets and expenditures
 41202 Determination of minimum level of education funding
 42103 Public hearing on proposed budget; requirements for content of proposed budget
 42122-42129 Budget requirements
 42130-42134 Financial certifications
 42140-~~42144~~ **42142** Disclosure of fiscal obligations
 42238-42251 Apportionments to districts, especially:
 42238.01-42238.07 Local control funding formula
 42602 Use of unbudgeted funds
 42610 Appropriation of excess funds and limitation thereon
 45253 Annual budget of personnel commission
 45254 First year budget of personnel commission
 52060-52077 Local control and accountability plan

GOVERNMENT CODE

7900-7914 Appropriations limit

21710-21716 California Employer's Pension Prefunding Trust Program

CODE OF REGULATIONS, TITLE 5

15060 Standardized account code structure
 15440-15451 Criteria and standards for school district budgets
 15494-~~15496~~ **15497** Local control funding formula, **supplemental and concentration grant expenditures**

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

California School Accounting Manual

New Requirements for Reporting Fund Balance in Governmental Funds, January 7, 2011

FISCAL CRISIS AND MANAGEMENT ASSISTANCE TEAM PUBLICATIONS

Fiscal Oversight Guide for AB 1200, AB 2756 and Subsequent Related Legislation, **December 2015**
~~September 2006~~

GOVERNMENT FINANCE OFFICERS ASSOCIATION

Best Practice: **Appropriate Level of Unrestricted Fund Balance in the General Fund, 2009** **Fund Balance Guidelines for the General Fund, September 2015**

GOVERNMENTAL ACCOUNTING STANDARDS BOARD STATEMENTS

Statement 75, Accounting and Financial Reporting **by Employers** for Post-employment Benefits Other Than Pensions, June 2015

Statement 54, Fund Balance Reporting and Governmental Fund Type Definitions, **March** **February** 2009

WEB SITES

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

Association of California School Administrators: <http://www.acsa.org>

California Department of Education, Finance and Grants: <http://www.cde.ca.gov/fg>

California Department of Finance: <http://www.dof.ca.gov>

Fiscal Crisis and Management Assistance Team: <http://www.fcmat.org>

BUDGET (continued)

Management Resources: (continued)

WEB SITES (continued)

Government Finance Officers Association: <http://www.gfoa.org>

Governmental Accounting Standards Board: <http://www.gasb.org>

School Services of California, Inc.: <http://www.sscal.com>

CSBA Sample

Administrative Regulation

Business and Noninstructional Operations

AR 3100(a)

BUDGET

Budget Advisory Committee

Note: The following **optional** section is for use by districts that have established a budget advisory committee and have selected either Option 1 or 2 in the "Budget Advisory Committee" section of the accompanying Board policy.

Membership of the district's budget advisory committee may include representatives of each of the following groups:

1. Governing Board members, provided that less than a majority of the Board serves on the committee

(cf. 9140 - Board Representatives)

2. District and school site administrators
3. Representatives of bargaining units
4. Certificated and/or classified staff
5. Parents/guardians
6. Representatives of the business community and/or other community members
7. Students

(cf. 1220 - Citizen Advisory Committees)

(cf. 2230 - Representative and Deliberative Groups)

(cf. 9130 - Board Committees)

Note: The remainder of this section details the duties of the budget advisory committee and is for use by districts that selected either Option 1, 2, or 3 in the "Budget Advisory Committee" section of the accompanying Board policy.

The committee's duties may include, but **are** not necessarily **be**-limited to:

1. Making recommendations regarding budget priorities **which align with the district's vision, goals, priorities, local control and accountability plan (LCAP), and other comprehensive plans**

BUDGET (continued)

2. Recommending cost reduction strategies, such as identifying services that may be reduced, made more efficient, or discontinued
3. Reviewing the clarity and effectiveness of budget documents and communications
4. Presenting progress reports on the committee's work and a final report of recommendations to the Superintendent or designee and to the Board

The specific duties of the committee shall be clearly defined and presented to each member in writing, along with any background information necessary for the successful completion of the committee's charges, the timelines for reporting the committee's progress, and timelines for completion of each task.

(cf. 3350 - Travel Expenses)

Public Hearing

Note: Pursuant to Education Code 52062, the public hearing on the budget must be at the same meeting as the public hearing on the local control and accountability plan (LCAP). ~~as described below; see~~ **In addition, pursuant to Education Code 52064.1, as added by AB 1808 (Ch. 32, Statutes of 2018), districts are required to develop a local control funding formula budget overview for parents/guardians through a process that meets the requirements of Education Code 52062, including the requirement for a public hearing. See** the accompanying Board policy and BP 0460 - Local Control and Accountability Plan.

The agenda for the public hearing on the district budget shall be posted at least 72 hours before the hearing and shall indicate the location where the budget may be inspected. The proposed budget shall be available for public inspection at least three working days before this hearing. (Education Code 42103, 42127, 52062)

(cf. 0460 - Local Control and Accountability Plan)

(cf. 9320 - Meetings and Notices)

(cf. 9322 - Agenda/Meeting Materials)

~~Note: Pursuant to Education Code 42103, the County Superintendent of Schools must publish the location, dates, and times at which the district's proposed budget may be inspected, as well as the location, date, and time of the public hearing described above. This notice must be published in a newspaper of general circulation 10-45 days before the hearing.~~

The Superintendent or designee shall notify the County Superintendent of Schools of the location **and** dates, **and times** at which the proposed budget may be inspected, as well as the location, date, and time of the public hearing, in sufficient time for the County Superintendent to publish such information in a newspaper of general circulation at least 10 days but not more than 45 days before the hearing, as required by Education Code 42103.

BUDGET (continued)

Note: Pursuant to Education Code 42127, as amended by AB 2585 (Ch. 309, Statutes of 2014), if the proposed budget for 2015-16 or a subsequent year includes a combined assigned and unassigned ending fund balance in excess of the minimum recommended reserve for economic uncertainties adopted by the State Board of Education and contained in 5 CCR 15450, the public hearing must provide the information specified below for public review and discussion.

Whenever the proposed district budget includes a combined assigned and unassigned ending fund balance that exceeds the minimum recommended reserve for economic uncertainties adopted by the State Board of Education, the district shall provide, for each fiscal year included in the budget, the following information for public review and discussion at the public hearing: (Education Code 42127; 5 CCR 15450)

1. The minimum recommended reserve for economic uncertainties
2. The combined assigned and unassigned ending fund balances that are in excess of the minimum recommended reserve
3. A statement of reasons substantiating the need for the combined assigned and unassigned ending balances that are in excess of the minimum recommended reserve

During the hearing, any district resident may **speak to appear and object to** the proposed budget or to any item in the budget. The hearing may conclude when all residents who have requested to be heard have had the opportunity to speak. (Education Code 42103)

(cf. 9323 - Meeting Conduct)

Budget Review Committee for Disapproved Budgets

Note: Pursuant to Education Code 42127, **as amended by SB 78 (Ch. 19, Statutes of 2015)**, if the County Superintendent conditionally approves or disapproves the district's initial budget, the district must respond to the County Superintendent's recommendations by October 8; see the accompanying Board policy. If the County Superintendent then disapproves that revised budget, Education Code 42127 and 42127.1 require **him/her the County Superintendent** to call for the formation of a budget review committee unless the **Governing** Board and the County Superintendent agree to waive the committee requirement and the California Department of Education agrees to the waiver. See BP 1431 - Waivers. The formation, convening procedures, and timelines of the budget review committee are set forth in Education Code 42127.1-42127.3.

Education Code 42127 provides that the County Superintendent cannot call for the formation of a budget review committee if **his/her the** sole reason for disapproving the district's budget is **disapproval of that he/she has not approved** the district's LCAP or the annual update to the LCAP.

If the district's budget is disapproved by the County Superintendent for any reason other than **his/her** disapproval of the district's **local control and accountability plan (LCAP)** or annual update to the LCAP, the budget shall be reviewed by a budget review committee, unless the Board and County Superintendent agree to waive the requirement and the California Department of Education accepts the waiver. (Education Code 42127)

BUDGET (continued)

Note: Pursuant to Education Code 42127.2, if the **Governing** Board fails to select the budget review committee from a list of candidates provided by the Superintendent of Public Instruction (SPI) within five working days of receiving the list, as provided in item #1 below, the SPI will select and convene the committee no later than 10 working days after the district's receipt of the candidate list.

This committee shall consist of either: (Education Code 42127.1, 42127.2)

1. Three persons selected by the Board from a list of candidates provided by the Superintendent of Public Instruction (SPI), who shall be selected within five working days after receiving the list of candidates
2. A regional review committee **selected and** convened by the County Superintendent with the approval of the Board **and SPI**

Note: Pursuant to Education Code 42127.2, ~~as amended by SB 78 (Ch. 19, Statutes of 2015),~~ the budget review committee is required to submit, by November 30, its recommendation as to whether the district's budget should be approved or disapproved and, if the recommendation is for disapproval, its recommended revisions to the budget. The SPI may extend this deadline for up to 15 working days. ~~SB 78 also amended Education Code 42127.3 to extend until December 31 the date by which the County Superintendent, in consultation with the district and SPI, must adopt a fiscal plan and budget for the district.~~

If the budget review committee recommends disapproval of the district budget, the Board may submit a response to the SPI no later than five working days after receipt of the committee's report. The response may include any revisions to the adopted final budget and any other proposed actions to be taken as a result of the committee's recommendations. (Education Code 42127.3)

If the SPI disapproves the district budget after reviewing the committee's report and the district's response, the Board shall consult with the County Superintendent **as he/she to** develops and adopts, by December 31, a fiscal plan and budget that will allow the district to meet its **current fiscal year and multiyear** financial obligations. For the current fiscal year, the district shall operate in accordance with the budget adopted by the County Superintendent. (Education Code 42127.3)

Until the district receives approval of its budget, it shall continue to operate either on the basis of the prior year's budget or on the basis of the current year's unapproved budget as adopted and revised by the Board, whichever budget contains a lower total spending authority. (Education Code 42127.4)

(12/14 10/15) 3/19

CSBA Sample

Board Policy

Business and Noninstructional Operations

BP 3260(a)

FEES AND CHARGES

Note: Pursuant to Education Code 49011, a district is prohibited from requiring students to pay a fee, deposit, or other charge in order to participate in an educational activity as defined in Education Code 49010. A district is also required to provide the supplies, materials, and equipment needed by students to participate in educational activities. Education Code 49011 clarifies that an otherwise impermissible fee would not be made permissible by the provision of a waiver for some students. However, pursuant to 5 CCR 350, a district is permitted, in certain circumstances, to impose fees that are specifically authorized by law. See the accompanying administrative regulation for a list of permissible fees.

The Governing Board recognizes its responsibility to ensure that books, materials, equipment, supplies, and other resources necessary for students' participation in the district's educational program are made available to ~~them~~ **students** at no cost.

No student shall be required to pay a fee, deposit, or other charge for ~~his/her~~ participation in an educational activity which constitutes an integral fundamental part of the district's educational program, including curricular and extracurricular activities. (Education Code 49010, 49011; 5 CCR 350)

(cf. 3100 - Budget)

(cf. 6145 - Extracurricular and Cocurricular Activities)

As necessary, the Board may approve fees, deposits, and other charges which are specifically authorized by law. When approving such fees, deposits, or charges, establishing fee schedules, or determining whether waivers or exceptions should be granted, the Board shall consider relevant data, including the socioeconomic conditions of ~~district~~ students' families and their ability to pay.

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

(cf. 0415 - Equity)

(cf. 3250 - Transportation Fees)

(cf. 3515.4 - Recovery for Property Loss or Damage)

(cf. 3553 - Free and Reduced Price Meals)

(cf. 5143 - Insurance)

(cf. 9323.2 - Actions by the Board)

Note: The following **optional** paragraph may be revised to reflect district practice. The prohibition against student fees pursuant to Education Code 49011 does not restrict districts from soliciting for voluntary donations, participating in fundraising activities, or providing prizes or other recognition for participants in such fundraising activities. However, according to the California Department of Education's (CDE) Fiscal Management Advisory ~~1517-01, Pupil Fees, Deposits, and Other Charges: Parent Service Hours~~, the prohibition against student fees does bar a district from requiring volunteer hours ~~or payment in lieu of performing volunteer hours~~ as a condition of admission, enrollment, continued enrollment, sibling preference, attendance, participation in educational activities, or receipt of credit or privileges related to educational activities.

FEES AND CHARGES (continued)

The prohibition against student fees shall not ~~restrict~~ **prevent** the district from soliciting for donations, ~~participating in~~ **conducting** fundraising activities, or providing prizes or other recognition for participants in such activities and events. The Superintendent or designee shall emphasize that participation of students, parents/guardians, district employees, volunteers, or educational or civic organizations in such activities and events is voluntary. The district shall not offer or award to a student any course credit or privileges related to educational activities in exchange for voluntary donations or participation in fundraising activities by or on behalf of the student. ~~It~~ **The district** also shall not remove or threaten to remove from a student any course credit or privileges related to educational activities, or otherwise discriminate against the student, due to a lack of voluntary donations or participation in fundraising activities by or on behalf of the student.

(cf. 1321 - Solicitation of Funds from and by Students)

(cf. 3290 - Gifts, Grants and Bequests)

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

The Superintendent or designee may provide information or professional development opportunities to administrators, teachers, and other personnel regarding permissible fees.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Complaints

Note: Pursuant to Education Code 49013, a district is mandated to adopt policy and procedures which allow complaints to be filed using the uniform complaint procedures when the district is alleged to have violated the prohibition against requiring unauthorized student fees. See BP/AR 1312.3 - Uniform Complaint Procedures for language implementing this mandate.

A complaint alleging district noncompliance with the prohibition against requiring student fees, deposits, or other charges shall be filed in accordance with the district's procedures in BP/AR 1312.3 - Uniform Complaint Procedures. (Education Code 49013)

(cf. 1312.3 - Uniform Complaint Procedures)

Note: Education Code 49013 requires districts found in violation of the prohibition against student fees to design a remedy which may include reasonable efforts to **fully** identify and **fully** reimburse all affected individuals as specified in 5 CCR 4600. See AR 1312.3 - Uniform Complaint Procedures for additional language reflecting these requirements.

If, upon investigation, the district finds merit in the complaint, the Superintendent or designee shall recommend and the Board shall adopt an appropriate remedy to be provided to all affected students and parents/guardians in accordance with 5 CCR 4600.

FEES AND CHARGES (continued)

Information related to the prohibition against requiring students to pay fees for participation in an educational activity shall be included in the district's annual notification of uniform complaint procedures to be provided to all students, parents/guardians, employees, and other interested parties pursuant to 5 CCR 4622. (Education Code 49013)

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

(cf. 5145.6 - *Parental Notifications*)

Collection of Debt

Note: Education Code 49014 (the Public School Fair Debt Collection Act), as added by AB 1974 (Ch. 577, Statutes of 2018), establishes requirements for districts to follow when seeking to recover a debt owed by students and/or parents/guardians, including debts resulting from unpaid fees lawfully imposed by a district. See the accompanying administrative regulation for additional language reflecting these requirements.

The debt collection requirements of this Act do not apply to debt owed as a result of vandalism or loss of district property loaned to the student. For further information in regard to such debt, see AR 3515.4 - Recovery for Property Loss or Damage.

For information regarding meal payments, including the collection of delinquent meal charges, see BP/AR 3551 - Food Service Operations/Cafeteria Fund.

The Superintendent or designee shall, in accordance with law, recover any debt owed to the district as a result of unpaid permissible student fees approved by the Board. However, the district shall not bill a current or former student for accumulated debt, nor take negative action against a student or former student because of such debt, including, but not limited to, any of the following: (Education Code 49014)

- 1. Denying full credit for any class assignment**
- 2. Denying full and equal participation in any classroom activity**
- 3. Denying access to the library or other on-campus educational facilities**
- 4. Denying or withholding grades or transcripts**
- 5. Denying or withholding a diploma**
- 6. Limiting or barring participation in an extracurricular activity, club, or sport**
- 7. Limiting or excluding the student from participation in an educational activity, field trip, or school ceremony**

Legal Reference: (see next page)

FEES AND CHARGES (continued)

Legal Reference:

EDUCATION CODE

8239 *Preschool and wraparound child care services*

8250 *Child care and development services for children with disabilities*

8263 *Child care eligibility*

8422 *21st Century High School After School Safety and Enrichment for Teens programs*

8482.6 *After School Education and Safety programs*

8760-8774 *Outdoor science, ~~and~~ conservation, **and forestry** programs*

17453.1 *District sale or lease of Internet appliances or personal computers to ~~students or parents~~ **of students***

17551 *Property fabricated by students*

19910-19911 *Offenses against libraries*

32033 *Eye protective devices*

32221 *Insurance for athletic team member*

32390 *Fingerprinting program*

35330-35332 *Excursions and field trips*

35335 *School camp programs*

38080-38086.1 *Cafeteria establishment and use*

38120 *Use of school band equipment on excursions to foreign countries*

39801.5 *Transportation for adults*

39807.5 *Payment of transportation costs*

39837 *Transportation of students to places of summer employment*

48050 *Residents of adjoining states*

48052 *Tuition for foreign residents*

48904 *Liability of parent or guardian*

49010-49013 *Student fees*

49014 Public School Fair Debt Collection Act

49065 *Charge for copies*

49066 *Grades, effect of physical education class apparel*

49091.14 *Prospectus of school curriculum*

49557.5 Unpaid school meal fees

51810-51815 *Community service classes*

52612 *Tuition for adult classes*

52613 *Nonimmigrant foreign nationals*

56504 *School records; students with disabilities*

60410 *Students in classes for adults*

GOVERNMENT CODE

6253 *Request for copy; fee*

CALIFORNIA CONSTITUTION

Article 9, Section 5 *Common school system*

CODE OF REGULATIONS, TITLE 5

350 *Fees not permitted*

4600-4687 *Uniform complaint procedures*

UNITED STATES CODE, TITLE 8

1184 ~~Foreign~~ **Nonimmigrant** students

FEES AND CHARGES (continued)

Legal Reference: (continued)

COURT DECISIONS

Arcadia Unified School District v. State Department of Education (1992) 2 Cal 4th 251

Driving School Assn of CA v. San Mateo Union HSD (1993) (1992) 11 Cal. App. 4th 1513

Arcadia Unified School District v. State Department of Education (1992) 2 Cal 4th 251

Steffes v. California Interscholastic Federation (1986) 176 Cal. App. 3d 739

Hartzell v. Connell (1984) 35 Cal. 3d 899

CTA v. Glendale School District Board of Education (1980) 109 Cal. App. 3d 738

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Pupil Fees, : Damage to School Property Deposits and Other Charges, Fiscal Management Advisory 16-01, September 16, 2016 17-01, July 28, 2017

Pupil Fees: Parent Service Hours, Fiscal Management Advisory 15-01, January 20, 2015

Pupil Fees, Deposits, and Other Charges: Cap and Gown for High School Graduation Ceremony, Addendum to Fiscal Management Advisory 12-02, October 4, 2013

Fees, Deposits and Other Charges, Fiscal Management Advisory 12-02, April 24, 2013

WEB SITES

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

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

CSBA Sample Administrative Regulation

Business and Noninstructional Operations

AR 3260(a)

FEES AND CHARGES

Note: Pursuant to 5 CCR 350, districts may charge fees only when specifically authorized by law. The following list specifies fees currently authorized by law and should be revised to reflect the types of fees that have been approved by the Governing Board; see the accompanying Board policy. Other permissible fees may exist and be identified in the future. For further information about fees and charges, see the California Department of Education's (CDE) Fiscal Management Advisory ~~12-02,~~ **17-01, Pupil Fees, Deposits and Other Charges.**

Pursuant to Education Code 49011, a district is prohibited from requiring a student to pay fees or charges in order to participate in an educational activity. A complaint alleging the unauthorized charging of student fees **may should** be filed in accordance with the uniform complaint procedures; see the accompanying Board policy and BP/AR 1312.3 - Uniform Complaint Procedures. Districts with questions as to whether a particular fee may be charged should consult with legal counsel.

When approved by the Governing Board, the Superintendent or designee may impose a fee for the following: (5 CCR 350)

1. Insurance for athletic team members, with an exemption providing for the district to pay the cost of the insurance for any team member who is financially unable to pay (Education Code 32221)

(cf. 5143 - Insurance)

2. Insurance for medical or hospital service for students participating in field trips and excursions (Education Code 35331)

Note: In its Fiscal Management Advisory ~~12-02-17-01,~~ **the** CDE interprets Education Code 35330 as permitting the district, at its discretion, to charge fees for any field trip, provided that no student is prevented from participating in a field trip due to a lack of funds. ~~AB 341 (Ch. 40, Statutes of 2017) amended Education Code 35330 to delete the prohibition against the use of district funds for the expenses of students participating in an out of state field trip, thereby giving districts discretion as to whether or not to charge students a fee to participate in such trips~~

3. Expenses of students' participation in a field trip or excursion within the state or to another state, the District of Columbia, or a foreign country, as long as no student is prohibited from making the field trip due to lack of funds (Education Code 35330)

(cf. 6153 - School-Sponsored Trips)

4. Student fingerprinting program, as long as the fee does not exceed the actual costs associated with the program (Education Code 32390)

(cf. 5142.1 - Identification and Reporting of Missing Children)

FEES AND CHARGES (continued)

5. School camp programs in outdoor science education, conservation education, or forestry operated pursuant to Education Code 8760-8774, provided that the fee is not mandatory and no student is denied the opportunity to participate for nonpayment of the fee (Education Code 35335)

(cf. 6142.5 - Environmental Education)

Note: Education Code 17551 permits the district to sell to a student any **nonperishable** property of the district which has been fabricated by the student, as provided in item #6 below. CDE Fiscal Management Advisory **12-02 17-01** clarifies that this cost applies to materials **the students** will take home for **his/her** **their** own possession and use, such as wood shop, art, or sewing projects.

6. Reimbursement **to the district** for the direct cost of materials **provided by the district to a student for the fabrication of nonperishable personal property the student used by students to fabricate property they** will take home for **his/her** **their** own possession and use, such as wood shop, art, or sewing projects kept by **the students** (Education Code 17551)
7. Home-to-school transportation and transportation between regular, full-time day schools and regional occupational centers, programs, or classes, as long as the fee does not exceed the statewide average nonsubsidized cost per student, **the district provides a waiver based on financial need, and an exemptions are is made for indigent and disabled students any student with a disability whose individualized education program includes transportation as a related service necessary to receive a free appropriate public education** (Education Code 39807.5)

(cf. 3250 - Transportation Fees)

(cf. 6159 - Individualized Education Program)

(cf. 6178.2 - Regional Occupational Center/Program)

8. Transportation for students to and from their places of employment in connection with any summer employment program for youth (Education Code 39837)
9. Deposit for school band instruments, music, uniforms, and other regalia which school band members take on excursions to foreign countries (Education Code 38120)
10. Sale or lease of personal computers or of Internet appliances that allow a person to connect to or access the district's educational network, provided that the items are sold or leased to parents/guardians at no more than cost and the district provides network access for families who cannot afford it (Education Code 17453.1)

(cf. 0440 - District Technology Plan)

(cf. 6163.4 - Student Use of Technology)

FEES AND CHARGES (continued)

11. An adult education or secondary school community service class in civic, vocational, literacy, health, homemaking, and technical and general education, not to exceed the cost of maintaining the class (Education Code 51810-51815)

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

12. Eye safety devices worn in courses or activities involving the use of hazardous substances likely to cause injury to the eyes, when being sold to students and/or teachers or instructors to keep and at a price not to exceed the district's actual costs (Education Code 32033)

(cf. 3514.1 - Hazardous Substances)

(cf. 5142 - Safety)

13. Actual cost of furnishing copies of any student's records, except that no charge shall be made for furnishing up to two transcripts or two verifications of a former student's records or for reproducing records of a student with a disability when the cost would effectively prevent the parent/guardian from exercising the right to receive the copies (Education Code 49065, 56504)

(cf. 5125 - Student Records)

14. Actual cost of duplication for reproduction of the prospectus of school curriculum or for copies of public records (Education Code 49091.14; Government Code 6253)

(cf. 1340 - Access to District Records)

(cf. 5020 - Parent Rights and Responsibilities)

15. Food sold at school, subject to free and reduced-price meal program eligibility and other restrictions specified in law (Education Code 38084)

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

(cf. 3551 - Food Service Operations/Cafeteria Funds)

(cf. 3552 - Summer Meal Program)

(cf. 3553 - Free and Reduced Price Meals)

(cf. 3554 - Other Food Sales)

16. ~~As allowed in~~ **In accordance with** law, replacement cost or reimbursement for lost or willfully damaged district books, supplies, or property, or for district property loaned to a student that ~~he/she~~ **the student** fails to return (Education Code 19910-19911, 48904)

(cf. 3515.4 - Recovery for Property Loss or Damage)

FEES AND CHARGES (continued)

17. Tuition for district school attendance by an out-of-state or out-of-country resident (Education Code 48050, 48052, 52613; 8 USC 1184)

(cf. 5111.1 - District Residency)

(cf. 5111.2 - Nonresident Foreign Students)

18. Adult education books, materials, transportation, and classes, except that no fee may be charged for classes in elementary subjects, classes for which high school credit is granted when taken by a person who does not hold a high school diploma, or classes in English and citizenship (Education Code 39801.5, 52612, 60410)

(cf. 6200 - Adult Education)

19. Preschool and child care and development services, in accordance with the fee schedule established by the Superintendent of Public Instruction, unless the family qualifies for subsidized services or the program is **exempted from fees by law for severely disabled children and the student is eligible to enroll in it** (Education Code 8239, 8250, 8263)

(cf. 5148 - Child Care and Development)

(cf. 5148.3 - Preschool/Early Childhood Education)

Note: Pursuant to Education Code 8422 and 8482.6, as amended by AB 2615 (Ch. 470, Statutes of 2016), districts are permitted to charge family fees for participation in After School Education and Safety (ASES) programs, 21st Century Community Learning Centers (21st CCLC), and 21st Century High School After School Safety and Enrichment for Teens programs, as long as fees are waived or reduced for families with students who are eligible for free or reduced-price meals. In regard to ASES and 21st CCLC, commencing July 1, 2017, no fees may be charged if the district knows the student is a homeless youth or in foster care.

20. Participation in a before-school or after-school program that is funded as an After School Education and Safety (ASES) program, 21st Century Community Learning Center (21st CCLC), or 21st Century High School After School Safety and Enrichment for Teens program, provided that fees are waived or reduced for families with students who are eligible for free or reduced-price meals and, in regard to ASES and 21st CCLC programs, fees are not charged if the district knows the student is a homeless or foster youth (Education Code 8422, 8482.6)

(cf. 5148.2 - Before/After School Programs)

(cf. 6173 - Education for Homeless Children)

(cf. 6173.1 - Education for Foster Youth)

Note: In Fiscal Management Advisory **12-02, the 17-01**, CDE lists Advanced Placement and International Baccalaureate examination fees as permissible. Some districts choose to reduce the cost of the fees for low-income students through the use of district funds or other funding sources; see BP 6141.4 - International Baccalaureate Program and BP 6141.5 - Advanced Placement.

FEES AND CHARGES (continued)

21. Advanced Placement and International Baccalaureate Diploma examinations for college credits, as long as the examination is not a course requirement and the results have no impact on student grades or credits in the course

(cf. 6141.4 - International Baccalaureate Program)

(cf. 6141.5 - Advanced Placement)

Note: In its Addendum to Fiscal Management Advisory 12-02 issued in October 2013, the CDE clarifies 17-01, CDE advises that a district that requires its students to wear a cap and gown as a condition for their participation in the high school graduation ceremony may not require such students to purchase the cap and gown. CDE recommends that such districts provide the graduates with a cap and gown for their use at the graduation ceremony and inform them that those interested may purchase a cap and gown from a vendor.

Collection of Debt

Note: Education Code 49014 (the Public School Fair Debt Collection Act), as added by AB 1974 (Ch. 577, Statutes of 2018), establishes requirements for districts to follow when seeking to recover a debt owed by students and/or parents/guardians, including a requirement to provide the parent/guardian with an itemized invoice that references the district's policies relating to debt collection and the rights established pursuant to Education Code 49014 and 49557.5 (unpaid meal fees). It is recommended that districts include references to this administrative regulation and the accompanying Board policy, as well as BP/AR 3551 - Food Service Operations/Cafeteria Fund. For additional rights established by Education Code 49014, including prohibitions against directly billing a student or former student or imposing any negative action on a student, see the accompanying Board policy.

Before pursuing payment of any debt that has accumulated from unpaid permissible fees, the Superintendent or designee shall provide an itemized invoice for any amount owed by the parent/guardian on behalf of a student or former student. The invoice shall reference district policies related to debt collection and the rights established pursuant to Education Code 49014 and 49557.5. For each payment received, the district shall provide a receipt to the parent/guardian. (Education Code 49014)

The Superintendent or designee shall not sell debt owed by a parent/guardian of a student or former student. (Education Code 49014)

CSBA Sample

Board Policy

Business and Noninstructional Operations

BP 3515.4(a)

RECOVERY FOR PROPERTY LOSS OR DAMAGE

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

Pursuant to Education Code 48904, parents/guardians are liable **to the district** for the costs of damages caused by the willful misconduct of their minor children (1) that results in damage to school property, an employee's personal property, or injury or death of a district student, employee, or volunteer, and (2) for any reward paid by the district **for information leading to the identification and apprehension of persons who willfully damage or destroy property**; see section below entitled "Rewards." ~~These~~ **These** amounts ~~are~~ **are** is adjusted annually for inflation by the Superintendent of Public Instruction. For ~~2018-2019~~, the liability of a parent/guardian must not exceed ~~\$19,600~~ **\$20,300** for damages and ~~\$19,600~~ **\$20,300** for the reward. For situations not addressed by the Education Code, Civil Code 1714.1 provides for parent/guardian liability for the willful misconduct of their minor child which results in injury, death, or property damage. The limit under this statute is adjusted every two years for cost-of-living by the Judicial Council of California and, effective July 1, 2017, parent/guardian liability must not exceed \$42,100.

Pursuant to Penal Code 640.5 and 640.6, an individual who has been found to have defaced district property with graffiti may be fined or ordered by a court to perform community service. Depending on the amount of damage, Penal Code 594 also specifies that an individual, or the parent/guardian of a minor, who has been convicted of vandalism may be ordered to clean up and repair the property and to keep the property free from graffiti for one year.

The following optional policy may be modified to reflect district practice.

The Governing Board desires to create a safe and secure learning environment and to minimize acts of vandalism and damage to school property. ~~To discourage such acts, When~~ **When district property is damaged due to the willful misconduct of a student or other person,** the district shall seek reimbursement of damages, within the limitations specified in law, ~~from any individual, or from the parent/guardian of any a minor child or from any other responsible individual, who has committed theft or has willfully damaged district or employee property.~~

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3515 - Campus Security)

(cf. 4156.3/4256.3/4356.3 - Employee Property Reimbursement)

(cf. 4158/4258/4358 - Employee Security)

~~(cf. 5125.2 - Withholding Grades, Diploma or Transcripts)~~

(cf. 5131 - Conduct)

(cf. 5131.5 - Vandalism and Graffiti)

(cf. 5136 - Gangs)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

Note: Pursuant to Education Code 49014, as added by AB 1974 (Ch. 577, Statutes of 2018), the district may collect debt owed to the school by a student who willfully cuts, defaces, or otherwise injures district property or fails to return property that was loaned by the district, unless the student is a current or former homeless student or foster youth.

RECOVERY FOR PROPERTY LOSS OR DAMAGE (continued)

The district may collect debt owed by a student or former student as a result of vandalism or to cover the replacement cost of district books, supplies, or property loaned to a student that the student willfully fails to return or that is willfully cut, defaced, or otherwise injured. However, this policy shall not apply to a student who is a current or former homeless or foster child or youth. (Education Code 48904, 49014)

(cf. 5125.2 - Withholding Grades, Diploma or Transcripts)

(cf. 6173 - Education for Homeless Children)

(cf. 6173.1 - Education for Foster Youth)

Rewards

Note: **The following section is optional.** Government Code 53069.5 authorizes the Governing Board to offer rewards for information leading to the identification and apprehension of persons who willfully damage or destroy property.

~~When district or law enforcement officials have not been able to identify the person(s) responsible for the theft or vandalism of district property, the Board may authorize a reward for the identification and apprehension of the responsible person(s).~~ **The Board may offer and pay a reward for information leading to the determination of the identity of, and the apprehension of, any person who willfully damages or destroys any district property. (Government Code 53069.5)**

Note: The **Governing** Board may set any amount for the reward it deems to be appropriate. ~~However,~~ as detailed above, Education Code 48904 specifies a limit on the amount of parent/guardian liability for repayment of the reward.

Option 1 below allows the Superintendent or designee to offer a reward up to \$2,500 without Board approval. Option 2 provides that the Board will determine the amount of any reward offered. Both options may be revised, including the specified reward amount, to reflect district practice.

The Board authorizes the Superintendent or designee to offer a reward in any amount ~~he/she deems~~ **deemed** appropriate, not exceeding \$2,500. A reward in excess of \$2,500 shall be authorized in advance by the Board.

Note: The following paragraph applies to all districts.

The Superintendent or designee shall disburse the reward when the guilt of the person responsible for the act has been established by a criminal conviction or other appropriate judicial procedure. **If more than one person provides information, the reward shall be divided among them as appropriate.**

Legal Reference: (see next page)

RECOVERY FOR PROPERTY LOSS OR DAMAGE (continued)

Legal Reference:

EDUCATION CODE

19910 Libraries, malicious cutting, tearing, defacing, breaking or injuring

19911 Libraries, willful detention of property

44810 Willful interference with classroom conduct

48904 Liability of parent/guardian for willful misconduct

49014 Public School Fair Debt Collection Act

CIVIL CODE

1714.1 Liability of parent or guardian for act of willful misconduct by a minor

GOVERNMENT CODE

53069.5 Reward for information concerning person causing death, injury, or property damage

53069.6 Actions to recover damages

54951 Local agency, definition

PENAL CODE

484 Theft defined

594 Vandalism

594.1 Aerosol paint and etching cream

640.5 Graffiti; facilities or vehicles of governmental entity

640.6 Graffiti

Management Resources:

WEB SITES

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

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

Judicial Council of California: <http://www.courts.ca.gov>

CSBA Sample

Administrative Regulation

Business and Noninstructional Operations

AR 3515.4(a)

RECOVERY FOR PROPERTY LOSS OR DAMAGE

Note: The following administrative regulation is **optional** and should be modified to reflect district practice.

Reports by Staff

District employees shall report any damage to or loss of school property to the **principal Superintendent** or designee immediately after such damage or loss is discovered. ~~In those instances in which insurance reimbursement may be involved, the principal or designee shall contact the appropriate district official.~~

(cf. 3530 - Risk Management/Insurance)

(cf. 5131.5 - Vandalism and Graffiti)

Investigation

Note: Certain acts of graffiti or vandalism may trigger the need for an investigation pursuant to the district's sexual harassment or nondiscrimination grievance procedures (e.g., graffiti that is sexual in nature or disparaging to a class of individuals protected by the district's nondiscrimination policies). See BP 5131.5 - Vandalism and Graffiti.

The Superintendent or designee shall conduct a complete investigation of any instance of damage to or loss of school property and shall consult law enforcement officials when appropriate. ~~If it is determined that the damage has been committed by any district student, the Superintendent or designee shall initiate appropriate disciplinary procedures against the student.~~

(cf. 3515.3 - District Police/Security Department)

~~(cf. 5131 - Conduct)~~

~~(cf. 5144 - Discipline)~~

~~(cf. 5144.1 - Suspension and Expulsion/Due Process)~~

~~(cf. 5145.3 - Nondiscrimination/Harassment)~~

~~(cf. 5145.7 - Sexual Harassment)~~

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

Recovery of Damages

When the individual causing the damage or loss has been identified and the costs of repair, replacement, or cleanup determined, the Superintendent or designee shall take all practical and reasonable steps to recover the district's costs and shall consult with the district's legal counsel and/or insurance **administrator carrier**, as appropriate.

RECOVERY FOR PROPERTY LOSS OR DAMAGE (continued)

Such steps may include the filing of a civil complaint in a court of competent jurisdiction to recover damages from the responsible person and, if the responsible person is a minor, from **his/her the** parent/guardian in accordance with law. Damages may include the cost of repair or replacement of the property, the payment of any reward, interest, court costs, and all other damages as provided by law.

Note: If a student's parents/guardians are unable to pay the damages, Education Code 48904 requires the district to offer an option for the student to provide work in lieu of payment. Pursuant to Education Code 49014, as added by AB 1974 (Ch. 577, Statutes of 2018), a district may offer any student or former student alternative, nonmonetary means to settle debt owed as a result of damage or loss of district property, regardless of the parents/guardians' ability to pay. However, the district is prohibited from collecting debt from a current or former homeless student or foster youth, and therefore cannot offer or require such a student to work or provide an alternative form of compensation.

If the responsible person is a minor student of the district and the student's parents/guardians are unable to pay for the damages or to return the property, the district shall offer a program of voluntary work for the student in lieu of the payment of monetary damages. The district may offer any other student or former student, with parent/guardian permission, the option to provide service, work, or other alternative, nonmonetary forms of compensation to settle the debt owed as a result of property loss or damage. Service or work exchanged for repayment of a debt shall comply with all provisions of the Labor Code related to youth employment. (Education Code 48904, 49014)

The Superintendent or designee may withhold the student's grades, diploma, and/or transcripts until the student's parents/guardians have paid for the damages or the voluntary work has been completed. Prior to withholding a student's grades, diploma, or transcripts, due process shall be afforded the student in accordance with law. (Education Code 48904)

(cf. 5125.2 - Withholding Grades, Diploma or Transcripts)

~~If it is determined that the damage has been committed by any district student,~~ **In addition,** the Superintendent or designee shall initiate appropriate disciplinary procedures against the student.

(cf. 5131 - Conduct)

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.9 - Hate-Motivated Behavior)

RECOVERY FOR PROPERTY LOSS OR DAMAGE (continued)

Payment of Reward

~~When authorized according to Board policy, the Superintendent or designee shall pay the a reward to the party who provides information sufficient to identify and apprehend the person(s) subsequently determined to be responsible for the damage or loss. If more than one person provides information, the reward shall be divided among them as appropriate.~~

(10/97 7/09) 3/19

CSBA Sample

Board Policy

All Personnel

BP 4030(a)

NONDISCRIMINATION IN EMPLOYMENT

Note: The following Board policy and accompanying administrative regulation are **mandated** pursuant to Government Code 11138 and 2 CCR 11023, ~~as added by Register 2015, No. 50.~~ The California Fair Employment and Housing Act (FEHA) (Government Code 12900-12996) prohibits ~~employers~~ **districts and district employees** from ~~harassing or~~ discriminating against employees and job applicants on the basis of actual or perceived race, color, ancestry, national origin, age, religious creed, marital status, **pregnancy**, physical or mental disability, medical condition, genetic information, **military and veteran status**, sex, sexual orientation, gender, gender identity, ~~or gender expression,~~ religious creed, physical or mental disability, medical condition, marital status, or genetic information. Pursuant to 2 CCR 11009, as amended by Register 2015, No. 50, these same protections apply to unpaid interns and volunteers. Consequently, the district is required to also notify unpaid interns and volunteers about these protections. For more information about volunteers, see BP/AR 1240—Volunteer Assistance. **Pursuant to Government Code 12940, these protections apply to employees, job applicants, persons who serves in an unpaid internship or other limited-duration program to gain unpaid work experience, volunteers, and independent contractors.**

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

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

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

(cf. 1240 - Volunteer Assistance)

(cf. 3312 - Contracts)

(cf. 3600 - Consultants)

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

Note: 2 CCR 11027.1, as added by Register 2018, No. 20, provides a definition of "national origin" for the purpose of implementing state nondiscrimination laws.

No district employee shall be discriminated against or harassed by any coworker, supervisor, manager, or other person with whom the employee comes in contact in the course of employment, on the basis of the employee's actual or perceived race, ~~religious creed~~, color,

NONDISCRIMINATION IN EMPLOYMENT (continued)

ancestry, national origin, ancestry, age, religious creed, marital status, pregnancy, physical or mental disability, medical condition, genetic information, military and veteran status, sex, sexual orientation, gender, gender identity, gender expression, sex, or sexual orientation or his/her association with a person or group with one or more of these actual or perceived characteristics.

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

Note: 2 CCR 11028, as amended by Register 2018, No. 20, prohibits inquiry into an employee's immigration status or discrimination on the basis of such status, unless the district provides clear and convincing evidence that it is required to do so in order to comply with federal immigration law. Districts should consult legal counsel as necessary.

The district shall not inquire into any employee's immigration status nor discriminate against an employee on the basis of immigration status, unless there is clear and convincing evidence that it is necessary to comply with federal immigration law. (2 CCR 11028)

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

Discrimination in employment based on the characteristics listed above is prohibited in all areas of employment and in all employment-related practices, including the following:

1. Discrimination in hiring, compensation, terms, conditions, and other privileges of employment

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

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

2. Taking of an adverse employment action, such as termination or the denial of employment, promotion, job assignment, or training

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

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

3. Unwelcome conduct, whether verbal, physical, or visual, that is so severe or pervasive as to adversely affect an employee's employment opportunities, or that has

NONDISCRIMINATION IN EMPLOYMENT (continued)

the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive work environment

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

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

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

(cf. 4033 - Lactation Accommodation)

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

- b. Religious creed discrimination based on an employee's religious belief or observance, including his/her religious dress or grooming practices, or based on the district's failure or refusal to use reasonable means to accommodate an employee's religious belief, observance, or practice which conflicts with an employment requirement;

(cf. 4119.22/4219.22/4319.22 - Dress and Grooming)

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

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

- d. ~~Disability discrimination based on the district's f~~Failure to make reasonable accommodation for the known physical or mental disability of an employee, or to engage in a timely, good faith, interactive process with an employee; **who has requested such accommodations in order to determine the effective reasonable accommodations, if any, to be provided to the employee for the employee, when he/she has requested reasonable accommodation for a known physical or mental disability or medical condition**

(cf. 4032 - Reasonable Accommodation)

NONDISCRIMINATION IN EMPLOYMENT (continued)

Note: Retaliation against complainants or other participants in the grievance procedures is prohibited by Government Code 12940 and 34 CFR 110.34. In addition to the general prohibition against retaliation, Government Code 12940 provides that an employee who requests accommodation for ~~his/her~~ a physical or mental disability or religious belief is protected from retaliation as specified below. CSBA recommends that this protection be extended to all protected characteristics, **as provided below**, and ~~has modified the policy accordingly. In Thompson v. North American Stainless LP, the U.S. Supreme Court held that a third party may file an anti-retaliation suit.~~

The Board also prohibits retaliation against any district employee who opposes any discriminatory employment practice by the district or its employees, agents, or representatives or who complains, testifies, assists, or in any way participates in the district's complaint process pursuant to this policy. No employee who requests an accommodation for any protected characteristic listed in this policy shall be subjected to any punishment or sanction, regardless of whether the request was granted. (Government Code 12940; **2 CCR 11028**)

Note: Pursuant to Government Code 12964.5, as added by SB 1300 (Ch. 955, Statutes of 2018), the district is prohibited from requiring an employee, in exchange for a raise or bonus or as a condition of employment or continued employment, to sign a nondisparagement agreement or similar document that would deny the employee the right to disclose information about unlawful acts in the workplace or requiring an employee to release the right to file a claim or civil action against the district.

No employee shall, in exchange for a raise or bonus or as a condition of employment or continued employment, be required to sign any document that releases the employee's right to file a claim against the district or to disclose information about harassment or other unlawful employment practices. (Government Code 12964.5)

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

Note: Pursuant to 2 CCR 11019, in certain instances, an employee's (especially a supervisor's) knowledge or notice of prohibited conduct of another employee or individual may subject the district to liability. Therefore, it is recommended that the district require its employees with knowledge of harassment or discrimination to report the incident to the appropriate district authorities. In addition, Government Code 12940, **as amended by SB 1300**, provides that ~~an employer a district~~ may be responsible for ~~the sexual~~ harassment of employees by nonemployees where the ~~employer district~~ knows or should have known of the conduct and failed to take immediate and corrective action, **taking into consideration the extent of the district's control and other legal responsibility that the district may have with respect to the conduct of those nonemployees.** Also ~~s~~See BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment.

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

Any supervisory or management employee who observes or has knowledge of an incident of prohibited discrimination or harassment, **including harassment of an employee by a**

NONDISCRIMINATION IN EMPLOYMENT (continued)

nonemployee, shall report the incident to the Superintendent or designated district coordinator as soon as practical after the incident. All other employees are encouraged to report such incidents to their supervisor immediately. The district shall protect any employee who reports such incidents from retaliation.

Note: Government Code 12940 **and 2 CCR 11023** requires districts to take all reasonable steps, **including training**, to prevent prohibited discrimination and harassment, **including, but not limited to, dissemination of the district's policy on the prevention of harassment, discrimination, and retaliation.** ~~In addition, 2 CCR 11023, as added by Register 2015, No. 15, imposes an affirmative duty on the district to create a workplace environment that is free from all prohibited practices.~~ **In addition, Government Code 12950 requires districts to post, in prominent and accessible locations on district premises, posters developed by the California Department of Fair Employment and Housing (DFEH), which are available on DFEH's web site. For further information on prevention strategies,** ~~For details of such measures,~~ see the accompanying administrative regulation.

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

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

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

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

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

Legal Reference: (see next page)

NONDISCRIMINATION IN EMPLOYMENT (continued)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

CIVIL CODE

51.7 Freedom from violence or intimidation

GOVERNMENT CODE

11135 Unlawful discrimination

11138 Rules and regulations

12900-12996 Fair Employment and Housing Act, **especially:**

12940-12952 Unlawful employment practices

12960-12976 Unlawful employment practices; complaints

PENAL CODE

422.56 Definitions, hate crimes

CODE OF REGULATIONS, TITLE 2

11006-11086 Discrimination in employment, **especially:**

11013 Recordkeeping

11019 Terms, conditions and privileges of employment

11023 Harassment and discrimination prevention and correction

11024 Sexual harassment training and education

11027-11028 National origin and ancestry discrimination

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

1681-1688 Title IX of the Education Amendments of 1972

UNITED STATES CODE, TITLE 29

621-634 Age Discrimination in Employment Act

794 Section 504 of the Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42

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

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

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

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

6101-6107 Age discrimination in federally assisted programs

12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 34

100.6 Compliance information

104.7 Designation of responsible employee for Section 504

104.8 Notice

106.8 Designation of responsible employee and adoption of grievance procedures

106.9 Dissemination of policy

110.1-110.39 Nondiscrimination on the basis of age

COURT DECISIONS

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

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

NONDISCRIMINATION IN EMPLOYMENT (continued)

Management Resources:

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING PUBLICATIONS

California Law Prohibits Workplace Discrimination and Harassment, December 2014

Transgender Rights in the Workplace

Workplace Harassment Guide for California Employers

Your Rights and Obligations as a Pregnant Employee

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

Notice of Non-Discrimination, August 2010

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

Questions and Answers: Religious Discrimination in the Workplace, 2008

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

EEOC Compliance Manual

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

WEB SITES

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

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

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

CSBA Sample Administrative Regulation

All Personnel

AR 4030(a)

NONDISCRIMINATION IN EMPLOYMENT

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

All allegations of discrimination in employment, including those involving an **employee, job applicant, intern, volunteer, or job applicant person contracted to provide services to the district** shall be investigated and resolved in accordance with procedures specified in this administrative regulation.

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

(cf. 1240 - Volunteer Assistance)

(cf. 3312 - Contracts)

(cf. 3600 - Consultants)

(cf. 4032 - Reasonable Accommodation)

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

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

Director of Human Resources
(position title)
201 Sixth Street, Coronado, CA 92118
(address)
619-522-8900
(telephone number)
jeremy.lyche@coronadousd.net
(email)

NONDISCRIMINATION IN EMPLOYMENT (continued)**Measures to Prevent Discrimination**

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

To prevent unlawful discrimination, harassment, and retaliation in district employment, the Superintendent or designee shall implement the following measures:

Note: Pursuant to Government Code 12950, districts are required to post the California Department of Fair Employment and Housing's (DFEH) posters entitled California Law Prohibits Workplace Discrimination and Harassment and Transgender Rights in the Workplace, as provided in item #1. DFEH rules require that these materials be posted electronically and in every location where the district has employees (e.g., district office, hiring office, each school site). These posters and the rules for posting are available on the DFEH web site.

In addition, 2 CCR 11049 requires posting a notice of the rights and obligations of employees who are pregnant, have a related medical condition, or are recovering from childbirth. See AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave.

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

(cf. 1113 - District and School Web Sites)

(cf. 1114 - District-Sponsored Social Media)

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

2. Disseminate the district's nondiscrimination policy to all employees by one or more of the following methods: (2 CCR 11023)
 - a. Printing and providing a copy of the policy to all employees, with an acknowledgment form for each employee to sign and return
 - b. Sending the policy via email with an acknowledgment return form

NONDISCRIMINATION IN EMPLOYMENT (continued)

- c. Posting the policy on the district intranet with a tracking system ensuring all employees have read and acknowledged receipt of the policies
- d. Discussing the policy with employees upon hire and/or during a new hire orientation session
- e. Any other way that ensures employees receive and understand the policy

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

- 3. Provide to employees a handbook ~~that~~ **which** contains information that clearly describes the district's nondiscrimination policy, procedures for filing a complaint, and resources available to ~~anyone who feels that he/she has~~ **employees who believe they have** been the victim of any discriminatory or harassing behavior

Note: Item #5 below provides for training regarding the district's discrimination policy and reporting procedures. For requirements specifically pertaining to sexual harassment training, see AR 4119.11/4219.11/4319.11 - Sexual Harassment. Pursuant to Government Code 12950.1, if the district has 50 or more employees, it must provide at least two hours of staff development regarding sexual harassment to all supervisory employees within six months of their assumption of a supervisory position and once every two years thereafter. As amended by SB 1343 (Ch. 956, Statutes of 2018), Government Code 12950.1 requires any district that has five or more employees to provide at least two hours of sexual harassment training to supervisory employees and at least one hour of sexual harassment training to all nonsupervisory employees by January 1, 2020 and once every two years thereafter.

- 4. Provide training to employees, volunteers, and interns regarding the district's nondiscrimination policy, including what constitutes unlawful discrimination, harassment, and retaliation and how and to whom a report of an incident should be made

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

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

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

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

~~(cf. 4131 - *Staff Development*)~~

~~(cf. 4231 - *Staff Development*)~~

~~(cf. 4331 - *Staff Development*)~~

NONDISCRIMINATION IN EMPLOYMENT (continued)

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

Complaint Procedure

Note: 2 CCR 11023, ~~as added by Register 2015, No. 50,~~ **mandates** that a district's policy include a complaint process with specified requirements. Some of the requirements of 2 CCR 11023 are similar to those required under existing case law.

Courts have held that an employer may mitigate liability for hostile environment employment discrimination when (1) the employer took reasonable care to prevent and promptly correct the discriminatory or harassing conduct (i.e., provided a complaint procedure) and (2) the aggrieved employee unreasonably failed to take advantage of corrective opportunities offered by the employer (i.e., failure to file a complaint). In its June 1999 Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, the Equal Employment Opportunity Commission (EEOC) outlines the elements of an effective complaint procedure to include (1) a clear explanation of the process; (2) protection against retaliation; (3) designation of multiple individuals authorized to receive complaints; (4) a mechanism for prompt, thorough, and impartial investigation; (5) assurance of immediate and appropriate corrective action; and (6) information about time frames for filing charges with ~~the~~ EEOC or ~~the California Department of Fair Employment and Housing~~ (DFEH).

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

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

Any complaint alleging unlawful discrimination or harassment shall be addressed in accordance with the following procedures:

1. **Notice and Receipt of Complaint:** A complainant may inform ~~his/her~~ a direct supervisor, another supervisor, the coordinator, the Superintendent or, if available, a complaint hotline or an ombudsman. **The employee's direct supervisor may be bypassed in filing a complaint where the supervisor is the subject of the complaint.**

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

NONDISCRIMINATION IN EMPLOYMENT (continued)

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

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

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

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

(cf. 3580 - District Records)

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

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

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

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

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

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

NONDISCRIMINATION IN EMPLOYMENT (continued)

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

The report shall include the decision and the reasons for the decision and shall summarize the steps taken during the investigation. If a determination has been made that discrimination or harassment occurred, the report ~~also~~ shall **also** include any corrective action(s) that have been or will be taken to address the behavior, provide appropriate options for remedial actions and resolutions for the complainant, and ensure that retaliation or further discrimination or harassment is prevented. **The report shall be presented to the Superintendent or designee.**

~~The report~~ **A summary of the findings** shall be presented to the complainant, **and** the person accused, ~~and the Superintendent or designee.~~

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

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 9321 - Closed Session Purposes and Agendas)

Other Remedies

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

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

NONDISCRIMINATION IN EMPLOYMENT (continued)

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

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

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

2. To file a valid complaint directly with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC 2000e-5)
3. To file a valid complaint with EEOC after first filing a complaint with DFEH, within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by DFEH, whichever is earlier (42 USC 2000e-5)

(12/15 12/16) 3/19

CSBA Sample

Administrative Regulation

Certificated Personnel

AR 4161.1(a)
4361.1

PERSONAL ILLNESS/INJURY LEAVE

Note: The following administrative regulation is subject to collective bargaining. Education Code 44978 provides a minimum of 10 days of personal illness or injury leave (sick leave) per year for certificated employees working five days a week. The Governing Board may allow additional days at its discretion; if it does so, the following paragraph should be revised accordingly.

Labor Code 245-249 (the Healthy Workplaces, Healthy Families Act) require districts to grant a minimum of one hour of paid sick leave for every 30 hours worked to their employees who work for 30 days **or more** within a year of their employment, including temporary and substitute employees. Pursuant to Labor Code 246, a district may use a different sick leave accrual method which provides for the accrual to be on a regular basis so that **an employee** accrues at least 24 hours of sick leave or paid time off by the 120th calendar day of **his/her/their** employment or each calendar year or 12-month period.

The provisions of Labor Code 245-249 are very broad and **only** district employees covered by a valid collective bargaining agreement may be exempted from them, if the collective bargaining agreement expressly provides paid sick leave in an amount equal to or exceeding the amount of leave required pursuant to Labor Code 246, includes final and binding arbitration of disputes regarding the application of the paid sick days provisions, and provides premium wage rates for all overtime hours worked and a regular hourly rate of pay of not less than 30 percent more than the state minimum wage rate. Since many districts may not satisfy all of the conditions for this exemption, this administrative regulation has been drafted to include the requirements of Labor Code 245-249. Any district **whose** **which has a** collective bargaining agreement **that** meets all of the conditions for exemption may modify this administrative regulation accordingly.

For additional requirements of Labor Code 245-249, see the section titled "Healthy Workplaces, Healthy Families Act Requirements" below. For paid sick leave for temporary and substitute certificated employees, see BP/AR 4121 - Temporary/Substitute Personnel. For sick leave for classified employees, see AR 4261.1 - Personal Illness/Injury Leave.

Certificated employees employed five school days per week are entitled to 10 days' leave of absence with full pay for personal illness or injury (sick leave) per school year of service. Employees who work less than five school days per week (part-time employees) shall be granted sick leave in proportion to the time they work. However, any part-time employees who **is are** entitled to less than three days of paid sick leave per year due to the amount of time worked shall be granted sick leave pursuant to Labor Code 246, if **he/she is they are** eligible. (Education Code 44978; Labor Code 245-249)

(cf. 4161/4261/4361 - Leaves)

(cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)

Use of Sick Leave

Note: Items #1-8 below reflect allowable uses of sick leave specified in law. The district may expand this list to include any additional purposes authorized by law, authorized by the district, or included in a bargaining agreement.

PERSONAL ILLNESS/INJURY LEAVE (continued)

Certificated employees may use sick leave for absences due to:

1. Accident or illness, whether or not the absence arises out of ~~or~~ **and** in the course of employment; quarantine which results from contact **in the course of employment** with other persons having a contagious disease ~~during the employee's performance of his/her duties~~; or temporary inability to perform assigned duties because of illness, accident, or quarantine (Education Code 44964)

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

2. Pregnancy, miscarriage, childbirth, and related recovery (Education Code 44965, 44978)

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

3. Personal necessity (Education Code 44981)

(cf. 4161.2/4261.2/4361.2 - Personal Leaves)

Note: **Optional** item #4 below may be revised as desired to specify a different minimum increment for sick leave.

4. Medical and dental appointments, in increments of not less than one hour
5. Industrial accidents or illnesses when leave granted specifically for that purpose has been exhausted (Education Code 44984)

(cf. 4161.11/4261.11/4361.11 - Industrial Accident/Illness Leave)

Note: Pursuant to the Family and Medical Leave Act (FMLA) (29 USC 2612) and California Family Rights Act (CFRA) (Government Code 12945.2), a district is required to grant leave to an eligible employee to bond with a child after the birth, adoption, or foster care placement of the child, if the district employs 50 or more employees within 75 miles of the worksite where the employee requesting the leave is employed. For this purpose, employees may, but are not required to, use sick leave for any otherwise unpaid FMLA or CFRA leave.

Government Code 12945.6, ~~as added by SB 63 (Ch. 686, Statutes of 2017)~~, extends the right to parental leave to an eligible employee who is not covered by FMLA or CFRA when the district employs 20-49 employees within 75 miles of the worksite where the employee requesting the leave is employed.

For further information regarding parental leave, see AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave.

PERSONAL ILLNESS/INJURY LEAVE (continued)

6. Need of the employee to bond with a child within one year of the child's birth, adoption, or foster care placement (parental leave) (Education Code 44977.5; Government Code 12945.2, 12945.6; 29 USC 2612; 29 CFR 825.112)

Note: Pursuant to Labor Code 233, any district that provides sick leave to its employees is required to permit them to use sick leave, in an amount not less than the sick leave that would be accrued during six months at the employee's then current rate of entitlement, for the purposes specified in items #7-8 below.

For the purpose of using sick leave to attend to the health care needs of a family member, as specified in item #7 below, Labor Code 245.5 defines "family member" as an employee's spouse, registered domestic partner, child (biological, adopted, or foster child; stepchild; legal ward; or a child to whom the employee stands in loco parentis), parent (biological, adoptive, or foster parent; stepparent; legal guardian of an employee or the employee's spouse or registered domestic partner; or a person who stood in loco parentis when the employee was a minor child), grandparent, grandchild, or sibling.

For additional information about leaves for victims of domestic violence, sexual assault, or stalking granted in accordance with item #8 below, see AR 4161.2/4261.2/4361.2 - Personal Leaves.

7. Need of the employee or **his/her employee's** family member, as defined in Labor Code 245.5, for the diagnosis, care, or treatment of an existing health condition or for preventive care (Labor Code 233, 246.5)
8. Need of the employee to seek or obtain any relief or medical attention specified in Labor Code 230(c) and/or 230.1(a) for the health, safety, or welfare of the employee or **his/her the employee's** child, when the employee has been a victim of domestic violence, sexual assault, or stalking (Labor Code 233, 246.5)

For the purposes specified in items #7-8, an employee may use, in any calendar year, the amount of sick leave **he/she would that would be** accrued during six months at **his/her the employee's then** current rate of entitlement. (Labor Code 233)

An employee may take sick leave at any time during the school year, even if credit for sick leave has not yet been accrued. (Education Code 44978)

Note: The following paragraph is **optional**.

An employee shall reimburse the district for any unearned sick leave used as of the date of **his/her** termination.

Unused days of sick leave shall be accumulated from year to year without limitation. (Education Code 44978)

PERSONAL ILLNESS/INJURY LEAVE (continued)

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

At the beginning of each school year, employees shall be notified of the amount of sick leave they have accumulated.

The district shall not require new employees to waive leave accumulated in a previous district. (Education Code 44979, 44980)

Note: Pursuant to Education Code 44979-44980, a certificated employee **s are is** entitled to have **his/her their** accumulated sick leave transferred with **him/her them** in the circumstances specified in the following **optional** paragraph.

The Superintendent or designee shall notify any certificated employee who leaves the district after at least one school year of employment that if the employee accepts a certificated position in another district, county office of education, or community college district within one year, **he/she the employee** may request that the district transfer **his/her any** accumulated sick leave to the new employer. (Education Code 44979, 44980)

Additional Leave for Disabled Military Veterans

Note: Education Code 44978.2, as amended by SB 731 (Ch. 597, Statutes of 2017), provides that an employee who is a military veteran or a former or current member of the California National Guard or a federal reserve component is entitled to additional sick leave with pay for up to 10 days for the purpose of undergoing medical treatment for a qualifying military service-connected disability (i.e., an injury or disease that occurred during active duty or was made worse by active military service and that has a disability rating by the U.S. Department of Veterans Affairs of 30 percent or higher). As amended, Education Code 44978.2 provides that credit for such leave begins on either the effective date of the employee's disability rating decision from the U.S. Department of Veterans Affairs or on the first day the employee begins or returns to employment after active duty, whichever is later.

In addition to any other entitlement for sick leave with pay, a certificated employee who is a former active duty member of the U.S. Armed Forces or a former or current member of the California National Guard or a federal reserve component shall be entitled to sick leave with pay of up to 10 days for the purpose of undergoing medical treatment, including mental health treatment, for a military service-connected disability rated at 30 percent or more by the U.S. Department of Veterans Affairs. An eligible employee who works less than five days per week shall be entitled to such leave in proportion to the time **he/she works worked**. (Education Code 44978.2)

The amount of leave shall be credited to the employee either on the date the employee receives confirmation of the submission of **his/her the** disability application to the U.S. Department of Veterans Affairs or on the first day the employee begins or returns to employment after active duty, whichever is later. When the employee receives **his/her the**

PERSONAL ILLNESS/INJURY LEAVE (continued)

disability rating decision, **he/she the employee** shall report that information to the Superintendent or designee. If the disability rating decision makes the employee eligible for the leave, the time used before the decision shall be counted toward the 10-day maximum leave. If the disability rating decision makes the employee ineligible for the leave, the district may change the sick leave time used before the disability rating decision to an alternative leave balance. (Education Code 44978.2)

Note: Pursuant to Education Code 44978.2, the district may require proof that a leave granted under this law is used for treatment of a military service-connected disability. The following paragraph may be revised to reflect district practice.

The Superintendent or designee may require verification, in accordance with the section "Verification Requirements" below, that the employee used the leave to obtain treatment of a military service-connected disability.

Leave for military-service connected disability shall be available for 12 months following the first date that the leave was credited. Leave not used during the 12-month period shall not be carried over and shall be forfeited. (Education Code 44978.2)

Notification of Absence

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

An employee shall notify the district of **his/her the** need to be absent as soon as such need is known, so that substitute services may be secured. This notification shall include an estimate of the expected duration of absence. If the absence becomes longer than estimated, the employee shall so notify the district. If the duration of absence becomes shorter than estimated, the employee shall notify the district not later than three o'clock in the afternoon of the day preceding the day on which **he/she the employee** intends to return to work. If the employee fails to notify the district and the failure results in a substitute being secured, the cost of the substitute shall be deducted from the employee's pay.

(cf. 4121 - Temporary/Substitute Personnel)

Continued Absence After Available Sick Leave Is Exhausted/Differential Pay

Note: Pursuant to Education Code 44977, **an employees who is are** absent **due to illness** for up to five months after exhausting all **his/her** available sick leave must receive **his/her their** regular salary minus the cost of a substitute. **Option 1 below reflects this requirement. However, Alternatively,** Education Code 44983 **provides that Education Code 44977 does not apply to those districts that allows districts to** adopt a rule that gives certificated employees 50 percent or more of their regular salary during the period of absence. **Option 2 below is for use by districts that choose to specify such a level of compensation; these districts are mandated to adopt a rule to this effect.** When an employee is absent for a **period of more than five months,**

PERSONAL ILLNESS/INJURY LEAVE (continued)

~~or is absent for a~~ cause other than illness, Education Code 44977 and 44983 provide that the amount deducted from ~~his/her~~ **the employee's** salary shall be determined according to the rules and regulations adopted by the Board as long as such rules are not in conflict with State Board of Education regulations.

Option 1 below is for use by districts that subtract the cost of a substitute from the absent employee's salary pursuant to Education Code 44977. Option 2 is mandated pursuant to Education Code 44983 for districts that choose to give certificated employees 50 percent or more of their regular salary during the period of absence, and may be revised to specify a percentage higher than 50 percent in accordance with district practice.

If not covered in the district's bargaining agreement, the district may add provisions to this section reflecting salary deductions for employees absent longer than five months.

During each school year, when a certificated employee has exhausted all available sick leave, including all accumulated sick leave, and, due to illness or accident, continues to be absent ~~from his/her duties~~ for an additional period of up to five school months, ~~the employee shall receive his/her~~ **the district shall deduct from the employee's** regular salary ~~minus for that period~~ the actual cost of a substitute to fill the position. If the district has made every reasonable effort to secure the services of a substitute and has been unable to do so, the amount that would have been paid to a substitute shall be deducted from the employee's salary. (Education Code 44977)

An employee shall not be provided more than one five-month period per illness or accident. However, if the school year ends before the five-month period is exhausted, the employee may take the balance of the five-month period in a subsequent school year. (Education Code 44977)

~~Note: Option 2 below is mandated for use by districts that choose to provide employees at least 50 percent of their regular salary during the period of absence pursuant to Education Code 44983. The following paragraph specifies 50 percent and should be modified by districts that have set a higher percentage.~~

Absence Beyond Five-Month Period/Reemployment List

Note: The following paragraph is required for districts that select Option 1 (i.e., differential pay) in the section "Continued Absence After Available Sick Leave Is Exhausted/Differential Pay" above and should be carefully considered by districts that select Option 2 (i.e., 50 percent pay). Education Code 44978.1 requires the establishment of a reemployment list for employees who are unable to resume their duties after the five-month period provided pursuant to Education Code 44977.

Although Education Code 44978.1 does not explicitly require a reemployment list for districts selecting Option 2, such districts should be aware that failure to establish a reemployment list may subject employees to termination following a five-month absence. Therefore, any district that selects Option 2 and currently maintains a reemployment list for employees who are absent beyond the five-month period, or that wishes to establish such a list, should consult legal counsel before changing its policy or practices.

PERSONAL ILLNESS/INJURY LEAVE (continued)

If a certificated employee is not medically able to ~~resume his/her duties~~ **return to work** after the five-month period provided pursuant to Education Code 44977, the employee shall be placed either in another position or on a reemployment list. Placement on the reemployment list shall be for 24 months for probationary employees or 39 months for permanent employees and shall begin at the expiration of the five-month period. If during this time the employee becomes medically able, ~~he/she~~ **the employee** shall be returned to employment in a position for which ~~he/she~~ **the employee** is credentialed and qualified. (Education Code 44978.1)

(cf. 4116 - Probationary/Permanent Status)

Parental Leave

Note: The following section is subject to any conflicting provision in a collective bargaining agreement that provides greater parental leave rights.

During each school year, a certificated employee may use all available sick leave, including accumulated sick leave, for the purpose of parental leave for a period **of** up to 12 work weeks. The 12-week period shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of such parental leave. (Education Code 44977.5)

Note: Unlike leave taken pursuant to Government Code 12945.2, leave taken pursuant to Education Code 44977.5 does not require an employee to have at least 1,250 hours of service with the district during the previous 12-month period in order to be eligible for parental leave. See AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave for further information on requirements related to the California Family Rights Act.

Eligibility for such leave shall not require 1,250 hours of service with the district during the previous 12 months. (Education Code 44977.5)

Note: Pursuant to Education Code 44977.5, the district is required to provide differential pay to a certificated employee ~~when he/she~~ **for up to 12 work weeks when the employee** has exhausted all available sick leave, including accumulated sick leave, and continues to be absent due to parental leave pursuant to Government Code 12945.2. Such an employee is entitled to receive differential pay, calculated in the same manner described in Option 1 or 2 in the section "Continued Absence After Available Sick Leave Is Exhausted/Differential Pay" above; ~~for up to 12 work weeks.~~ **As amended by AB 2012 (Ch. 994, Statutes of 2018), Education Code 44977.5 requires that, regardless of the type of differential pay system used by the district, employees must receive at least 50 percent of their regular salary for any portion of the 12-week parental leave that remains following the exhaustion of sick leave. The following paragraph may be revised to specify a percentage higher than 50 percent in accordance with district practice.**

Since Education Code 44977.5 does not expressly require districts to provide differential pay to employees who are eligible for parental leave pursuant to Government Code 12945.6, ~~as added by SB 63 (Ch. 686, Statutes of 2017),~~ it is unclear whether such employees would be entitled to differential pay. Districts should consult legal counsel if they have questions regarding differential pay for such employees.

PERSONAL ILLNESS/INJURY LEAVE (continued)

An employee who has exhausted all available sick leave, including accumulated sick leave, and continues to be absent on account of parental leave shall receive differential pay **of at least 50 percent of the employee's regular salary** for the remainder of the 12 work weeks. (Education Code 44977.5)

Parental leave taken pursuant to Education Code 44977.5 shall run concurrently with the parental leave taken pursuant to Government Code 12945.2 or 12945.6, and the aggregate amount of parental leave shall not exceed 12 work weeks in a 12-month period. (Education Code 44977.5; Government Code 12945.2, 12945.6)

Verification Requirements

Note: Education Code 44978 **mandates** the Board to adopt regulations requiring proof of illness or injury and prescribing the means of verification. However, Education Code 44978 provides that these regulations shall not discriminate against evidence of treatment and the need for treatment by the practice of a well-recognized religion. For verification requirements for employees on leave pursuant to the Family and Medical Leave Act, see AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave. The following section should be modified to reflect district practice and any procedures which have been specified in bargaining agreements.

Labor Code 233 requires districts to allow their employees to use sick leave for the purposes specified in Labor Code 246.5, the paid sick leave law. Because the paid sick leave law is silent on requests for verification, and actually requires an employer to provide an employee with paid sick days upon oral or written request, districts should be cautious in requiring verification for sick leave used for the purposes specified in Labor Code 246.5 (items #7-8 in the section "Use of Sick Leave" above). Although a district is permitted to require verification from an employee who is a victim of domestic violence, sexual assault, or stalking, pursuant to Labor Code 230 and 230.1, a general insistence on verification could be deemed a violation of Labor Code 246.5. Any district with questions regarding its authority related to verification should consult legal counsel.

After any absence due to illness or injury, the employee shall verify the absence by submitting a completed and signed district absence form to **his/her the employee's** immediate supervisor.

The Superintendent or designee may require verification whenever an employee's absence record shows chronic absenteeism or a pattern of absences immediately before or after weekends and/or holidays or whenever available evidence clearly indicates that an absence is not related to illness or injury.

PERSONAL ILLNESS/INJURY LEAVE (continued)

In addition, the Superintendent or designee may require an employee to visit a physician selected by the district, at district expense, in order to receive a report on **the medical condition of the employee. The report shall include a statement as to** the employee's need for further leave of absence and a prognosis as to when the employee will be able to return to work. If the report concludes that the employee's condition does not warrant continued absence, the Superintendent or designee may, after giving notice to the employee, deny further leave.

Note: 42 USC 2000ff-1, the Genetic Information Nondiscrimination Act, and its implementing regulations, 29 CFR 1635.1-1635.12, specify that it is unlawful for a district to request, require, or purchase **an** employee **ss'** or **his/her** **their** family member's individual genetic information except in complying with the medical certification requirements for family care and medical leave purposes or with the employee's prior written authorization. See AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave. Pursuant to 29 CFR 1635.9, any such information received by the district must be kept confidential as specified below.

Any district request for additional verification by an employee's physician or a district-selected physician shall be in writing and shall specify that the report to be submitted to the district should not contain the employee's genetic information. Any genetic information received by the district on behalf of an employee shall be treated as a confidential medical record, maintained in a file separate from the employee's personnel file, and **shall** not be disclosed except in accordance with 29 CFR 1635.9.

Before returning to work, an employee who has been absent for surgery, hospitalization, or extended medical treatment may be asked to submit a letter from **his/her** **a** physician stating that **he/she** **the employee** is able to return to duty and stipulating any necessary restrictions or limitations.

(cf. 4032 - Reasonable Accommodation)

(cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)

Healthy Workplaces, Healthy Families Act Requirements

Note: Pursuant to Labor Code 245-249, all employers, including those that provide paid time off to their employees under existing policy or other law, must comply with the requirements specified in the following section. Pursuant to Labor Code 248.5, noncompliance with the Healthy Workplaces, Healthy Families Act could result in an enforcement action against the employer, including the imposition of civil and monetary penalties. Any district with questions regarding the applicability of this **new** law should consult its legal counsel.

No employee shall be denied the right to use accrued sick days, and the district shall not in any manner discriminate or retaliate against an employee for using or attempting to use sick leave, filing a complaint with the Labor Commissioner, or alleging district violation of Labor Code 245-249.

PERSONAL ILLNESS/INJURY LEAVE (continued)

To ensure the district's compliance with Labor Code 245-249, the Superintendent or designee shall:

1. At a conspicuous location in each workplace, display a poster on paid sick leave that includes the following information:
 - a. That an employee is entitled to accrue, request, and use paid sick days
 - b. The **amount number** of sick days provided by Labor Code 245-249
 - c. The terms of use of paid sick days
 - d. That discrimination or retaliation against an employee for requesting and/or using sick leave is prohibited by law and that an employee has the right to file a complaint with the Labor Commissioner if the district discriminates or retaliates against **him/her the employee**
2. Provide at least 24 hours or three days of paid sick leave to each eligible employee to use per year and allow eligible employees to use accrued sick leave upon reasonable request
3. Provide eligible employees written notice, on their pay stub or other document issued with their pay check, of the amount of paid sick leave they have available
(cf. 4112.9/4212.9/4312.9 - Employee Notifications)
4. Keep a record documenting the hours worked and paid sick days accrued and used by each eligible employee for three years

Legal Reference: (see next page)

PERSONAL ILLNESS/INJURY LEAVE (continued)

Legal Reference:

EDUCATION CODE

- 44964 *Power to grant leave of absence in case of illness, accident, or quarantine*
- 44965 *Granting of leaves of absence for pregnancy and childbirth*
- 44976 *Transfer of leave rights when school is transferred to another district*
- 44977 *Salary deduction during absence from duties up to five months after sick leave is exhausted*
- 44977.5 *Differential pay during parental leave up to 12 weeks after sick leave is exhausted*
- 44978 *Provisions for sick leave of certificated employees*
- 44978.1 *Inability to return to duty; placement in another position or on reemployment list*
- 44978.2 *Leave for military service connected disability*
- 44979 *Transfer of accumulated sick leave to another district*
- 44980 *Transfer of accumulated sick leave to a county office of education*
- 44981 *Leave of absence for personal necessity*
- 44983 *Exception to sick leave when district adopts specific rule*
- 44984 *Industrial accident or illness*
- 44986 *Leave of absence for disability allowance applicant*

GOVERNMENT CODE

- 12945.1-12945.2 *California Family Rights Act*
- 12945.6 *Parental leave*

LABOR CODE

- 220 *Sections inapplicable to public employees*
- 230 *Jury duty; legal actions by domestic violence, sexual assault and stalking victims, right to time off*
- 230.1 *Employers with 25 or more employees; domestic violence, sexual assault and stalking victims, right to time off*
- 233 *Illness of child, parent, spouse or domestic partner*
- 234 *Absence control policy*
- 245-249 *Healthy Workplaces, Healthy Families Act of 2014*

CODE OF REGULATIONS, TITLE 5

- 5601 *Transfer of accumulated sick leave*

UNITED STATES CODE, TITLE 29

- 2601-2654 *Family and Medical Leave Act of 1993, as amended*

UNITED STATES CODE, TITLE 42

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

CODE OF FEDERAL REGULATIONS, TITLE 29

- 825.100-825.702 *Family and Medical Leave Act of 1993*
- 1635.1-1635.12 *Genetic Information Nondiscrimination Act of 2008*

COURT DECISIONS

- Veguez v. Governing Board of Long Beach Unified School District, (2005) 127 Cal.App.4th 406

CSBA Sample

Administrative Regulation

Classified Personnel

AR 4261.1(a)

PERSONAL ILLNESS/INJURY LEAVE

Note: The following administrative regulation is subject to collective bargaining. Twelve days of paid personal illness or injury leave (sick leave) per year is the minimum prescribed by Education Code 45191 for classified employees employed five days a week in both merit and non-merit system districts. The Governing Board may allow more sick leave at its discretion; if it does so, the following paragraph should be revised accordingly.

Labor Code 245-249 (the Healthy Workplaces, Healthy Families Act) require districts to grant a minimum of one hour of paid sick leave for every 30 hours worked to their employees who work for 30 days within a year of their employment, including classified employees. Pursuant to Labor Code 246, a district may use a different sick leave accrual method which provides for the accrual to be on a regular basis so that ~~an~~ employees accrues at least 24 hours of sick leave or paid time off by the 120th calendar day of ~~his/her~~ **their** employment or each calendar year or 12-month period.

The provisions of Labor Code 245-249 are very broad and **only** district employees covered by a valid collective bargaining agreement may be exempted from them, if the collective bargaining agreement expressly provides paid sick leave in an amount equal to or exceeding the amount of leave required pursuant to Labor Code 246, includes final and binding arbitration of disputes regarding the application of the paid sick days provisions, and provides premium wage rates for all overtime hours worked and a regular hourly rate of pay of not less than 30 percent more than the state minimum wage rate. Since many districts may not satisfy all of the conditions for this exemption, this administrative regulation reflects the requirements of Labor Code 245-249. Any district ~~whose~~ **which has a** collective bargaining agreement **that** meets all of the conditions for exemption may modify this administrative regulation accordingly.

For additional requirements of Labor Code 245-249, see sections titled "Short-Term and Substitute Employees" and "Healthy Workplaces, Healthy Families Act Requirements" below. For sick leave for certificated employees, see AR 4161.1/4361.1 - Personal Illness/Injury Leave.

Classified employees employed five days a week are entitled to 12 days' leave of absence with full pay for personal illness or injury (sick leave) per fiscal year. Employees who work less than a full fiscal year or fewer than five days a week (part-time employees) shall be granted sick leave in proportion to the time they work. However, ~~any~~ **any** part-time employees ~~whose work hours are so few as to entitle him/her~~ **who are entitled** to less than 24 hours of paid sick leave per fiscal year **due to the amount of time worked** shall be granted sick leave pursuant to Labor Code 246, if ~~he/she is~~ **they are** eligible. (Education Code 45191; Labor Code 245-249)

(cf. 4161/4261/4361 - Leaves)

(cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)

Use of Sick Leave

Note: Items #1-8 below reflect allowable uses of sick leave specified in law. The district may expand this list to include any additional purposes authorized by law, authorized by the district, or included in a bargaining agreement.

A classified employee may use sick leave for absences due to:

PERSONAL ILLNESS/INJURY LEAVE (continued)

1. Accident or illness, whether or not the absence arises out of or in the course of employment, or by quarantine which results from contact **in the course of employment** with other persons having a contagious disease ~~during the employee's performance of his/her duties~~ (Education Code 45199)

2. Pregnancy, childbirth, and recovery (Education Code 45193)

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

3. Personal necessity as specified in Education Code 45207

(cf. 4161.2/4261.2/4361.2 - Personal Leaves)

Note: Optional item #4 below may be revised to specify a different minimum increment.

4. Medical ~~or~~ **and** dental appointments, in increments of not less than one hour
5. Industrial accident or illness when leave granted specifically for that purpose has been exhausted (Education Code 45192)

(cf. 4161.11/4261.11/4361.11 - Industrial Accident/Illness Leave)

Note: Pursuant to the Family and Medical Leave Act (FMLA) (29 USC 2612) and California Family Rights Act (CFRA) (Government Code 12945.2), a district is required to grant leave to an eligible employee to bond with a child after the birth, adoption, or foster care placement of the child, if the district employs 50 or more employees within 75 miles of the worksite where the employee requesting the leave is employed. For this purpose, employees may, but are not required to, use sick leave for any otherwise unpaid FMLA or CFRA leave.

Government Code 12945.6, as added by SB 63 (Ch. 686, Statutes of 2017) , extends the right to parental leave to an eligible employee who is not covered by FMLA or CFRA when the district employs 20-49 employees within 75 miles of the worksite where the employee requesting the leave is employed.

For further information regarding parental leave, see AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave.

6. Need of an employee to bond with a child within one year of the child's birth, adoption, or foster care placement (parental leave) (Education Code 45196.1; Government Code 12945.2, 12945.6; 29 USC 2612; 29 CFR 825.112)

Note: Pursuant to Labor Code 233, any district that provides sick leave to its employees is required to permit them to use sick leave, in an amount not less than the sick leave that would be accrued during six months at the employee's then current rate of entitlement, for the purposes specified in items #7-8 below.

PERSONAL ILLNESS/INJURY LEAVE (continued)

For the purpose of using sick leave to attend to the health care needs of a family member, as specified in item #7 below, Labor Code 245.5 defines "family member" as an employee's spouse, registered domestic partner, child (biological, adopted, or foster child; stepchild; legal ward; or a child to whom the employee stands in loco parentis), parent (biological, adoptive, or foster parent; stepparent; legal guardian of an employee or the employee's spouse or registered domestic partner; or a person who stood in loco parentis when the employee was a minor child), grandparent, grandchild, or sibling.

For additional information about leaves for victims of domestic violence, sexual assault, or stalking granted in accordance with item #8 below, see AR 4161.2/4261.2/4361.2 - Personal Leaves.

7. Need of the employee or **his/her the employee's** family member, as defined in Labor Code 245.5, for the diagnosis, care, or treatment of an existing health condition or for preventive care (Labor Code 233, 246.5)
8. Need of the employee to seek or obtain any relief or medical attention specified in Labor Code 230(c) and 230.1(a) for the health, safety, or welfare of the employee, or **his/her the employee's** child, when the employee has been a victim of domestic violence, sexual assault, or stalking (Labor Code 233, 246.5)

For the purposes specified in items #7-8, an employee may use, in any calendar year, the amount of sick leave ~~he/she would~~ **that would be** accrued during six months at **his/her the employee's then** current rate of entitlement. (Labor Code 233)

An employee may take leave for personal illness or injury at any time during the year, even if credit for such leave has not yet been accrued. However, a new full-time classified employee shall not be entitled to more than six days of sick leave, **or the proportionate amount to which the employee may be entitled,** until ~~he/she~~ **the first day of the month after the employee** has completed six months of active service with the district. (Education Code 45191)

Unused days of sick leave shall be accumulated from year to year without limitation. (Education Code 45191)

Note: The following paragraph is **optional**.

An employee shall reimburse the district for any unearned sick leave used as of the date of **his/her** termination.

The district shall not require newly employed classified employees to waive leave accumulated in a previous district. However, if the employee's previous employment was terminated for cause, the transfer of the accumulated leave shall be made only if approved by the Governing Board. (Education Code 45202)

PERSONAL ILLNESS/INJURY LEAVE (continued)

Note: Pursuant to Education Code 45202, ~~a~~-classified employees who ~~is~~ **are** terminated after at least one year of employment for any reason unrelated to discipline ~~is~~ **are** entitled to have ~~his/her~~ **their** accumulated sick leave transferred with ~~him/her~~ **them** in certain circumstances. The following paragraph, which provides for the notification of employees as a way to implement this provision, is **optional** and may be revised to reflect district practice.

The Superintendent or designee shall notify any classified employee whose employment with the district is terminated after at least one calendar year for reasons other than for cause that, if ~~he/she~~ **the employee** accepts employment in another district, county office of education, or community college district within one year of the termination of employment, ~~he/she~~ **the employee** may request that the district transfer ~~his/her~~ **any** accumulated sick leave to the new employer. (Education Code 45202)

Additional Leave for Disabled Military Veterans

~~Note: Education Code 45191.5, as amended by SB 731 (Ch. 597, Statutes of 2017), provides that an employee who is a military veteran or is a former or current member of the California National Guard or federal reserve component is entitled to additional sick leave with pay for up to 12 days for the purpose of undergoing medical treatment for a qualifying military service-connected disability (i.e., an injury or disease that occurred during active duty or was made worse by active military service and that has a disability rating by the U.S. Department of Veterans Affairs of 30 percent or higher). As amended, Education Code 45191.5 provides that credit for such leave begins on the effective date of the employee's disability rating decision from the U.S. Department of Veterans Affairs or on the first day the employee begins or returns to employment after active duty, whichever is later.~~

In addition to any other entitlement for sick leave with pay, a classified employee who is a former active duty member of the U.S. Armed Forces or a former or current member of the California National Guard or a federal reserve component shall be entitled to sick leave with pay of up to 12 days for the purpose of undergoing medical treatment, including mental health treatment, for a military service-connected disability rated at 30 percent or higher by the U.S. Department of Veterans Affairs. An eligible employee who works less than five days per week shall be entitled to such leave in proportion to the time ~~he/she works~~ **worked**. (Education Code 45191.5)

The amount of leave shall be credited to the employee either on the date the employee receives confirmation of the submission of ~~his/her~~ **the** disability application to the U.S. Department of Veterans Affairs or on the first day the employee begins or returns to employment after active duty, whichever is later. When the employee receives ~~his/her~~ **the** disability rating decision, ~~he/she~~ **the employee** shall report that information to the Superintendent or designee. If the disability rating decision makes the employee eligible for the leave, the time used before the decision shall be counted toward the 12-day maximum leave. If the disability rating decision makes the employee ineligible for the leave, the district may change the sick leave time used before the disability rating decision to an alternative leave balance. (Education Code 45191.5)

PERSONAL ILLNESS/INJURY LEAVE (continued)

Note: Pursuant to Education Code 45191.5, the district may require proof that a leave granted under this law is used for treatment of a military service-connected disability. The following paragraph may be revised to reflect district practice.

The Superintendent or designee may require verification, in accordance with the section “Verification Requirements” below, that the employee used the leave to obtain treatment of a military service-connected disability.

Leave for military-service connected disability shall be available for 12 months following the first date that the leave was credited. Leave not used during the 12-month period shall not be carried over and shall be forfeited. (Education Code 45191.5)

Notification of Absence

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

An employee shall notify the Superintendent or the designated manager or supervisor of **his/her the** need to be absent as soon as such need is known so that the services of a substitute may be secured as necessary. This notification shall include an estimate of the expected duration of absence. If the absence becomes longer than estimated, the employee shall so notify the district. If the duration of absence becomes shorter than estimated, the employee shall notify the district not later than three o'clock in the afternoon of the day preceding the day on which **he/she the employee** intends to return to work. If the employee fails to notify the district and the failure results in a substitute being secured, the cost of the substitute shall be deducted from the employee's pay.

Continued Absence After Available Sick Leave Is Exhausted/Differential Pay

Note: Pursuant to Education Code 45196, **a district is authorized to pay any employees who has exhausted his/her paid leaves his/her salary minus the actual pay received by a substitute for the remainder of a five-month absence to which the employee is entitled- (Option 1 below). Alternatively, such an employee may be compensated at 50 percent or more of his/her salary for up to 100 working days, regardless of whether or not a substitute is hired (Option 2 below). districts may choose one of two methods for compensating classified employees who have exhausted their sick leave and continue to be absent due to illness or injury.**

Option 1 below is for use by districts that subtract the actual cost of a substitute from the absent employee's salary for up to five months. Pursuant to Education Code 45196, the amount paid to a substitute must be less than the absent employee's salary unless the Board has adopted a salary schedule for substitutes. In California School Employees Association v. Tustin Unified School District, the court ruled that a district could deduct from the absent employee's salary only the cost of an outside substitute employee, not the cost of existing classified employee(s) working additional hours to fill the position during the absence.

PERSONAL ILLNESS/INJURY LEAVE (continued)

Option 2 is mandated pursuant to Education Code 45196 for districts that annually credit regular classified employees with at least 100 working days of paid sick leave and, after they have exhausted all fully paid leaves, compensate them at 50 percent or more of their regular salary for the remainder of the 100 working days. Option 2 may be revised to specify more than 100 working days and/or the level of compensation the district will pay an employee, if it chooses to pay more than 50 percent of the employee's salary.

Districts that maintain a catastrophic leave program for their classified employees should specify how the program will affect the differential leave pay to which the employee may be entitled.

~~Note: Education Code 45196 authorizes, but does not require, a district to annually credit regular classified employees with at least 100 working days of paid sick leave, and to compensate any such employee at 50 percent or more of the employee's regular salary for the remainder of the 100 working days after the employee has exhausted all leaves for which he/she would be entitled to a full salary. Any district that chooses this option is **mandated** to adopt a rule to that effect. Such districts should note that this option is exclusive of other paid leave, holidays, or vacation. In California School Employees Association v. Colton Joint Unified School District, the court ruled that the district's practice of coordinating or combining vacation with the 100 days of differential leave contradicts the express provision of Education Code 45196. The following paragraph may be revised to specify more than 100 working days and/or the level of compensation the district will pay an employee, if it chooses to pay more than 50 percent of the employee's salary.~~

Each year, each regular classified employee shall be credited with no fewer than 100 working days of paid leave for personal illness or **accident injury**, including current year and accumulated days of leave. When the current year and accumulated days at full pay are exhausted, the remainder of the 100 days shall be compensated at **least** 50 percent of the employee's regular salary. Any of the 100 days of leave not used during the year in which they are credited shall be forfeited and shall not accumulate from year to year. This paid leave shall be exclusive of any other paid leave, holidays, vacation, or compensatory time to which the employee may be entitled. (Education Code 45196)

Parental Leave

Note: The following section is subject to any conflicting provision in a collective bargaining agreement that provides greater parental leave rights.

During each school year, a classified employee may use all available sick leave, including accumulated sick leave, for the purpose of parental leave for a period **of** up to 12 work weeks. The 12-week period shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of such parental leave. (Education Code 45196.1)

Note: Unlike leave taken pursuant to Government Code 12945.2, leave taken pursuant to Education Code 45196.1 does not require an employee to have at least 1,250 hours of service with the district during the previous 12-month period in order to be eligible for parental leave. See AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave for further information on requirements related to the California Family Rights Act.

PERSONAL ILLNESS/INJURY LEAVE (continued)

Eligibility for such leave shall not require 1,250 hours of service with the district during the previous 12 months. (Education Code 45196.1)

Note: Pursuant to Education Code 45196.1, the district is required to provide differential pay to a classified employee **for up to 12 work weeks when the employee** ~~when he/she~~ has exhausted all available sick leave, including accumulated sick leave, and continues to be absent due to parental leave pursuant to Government Code 12945.2. Such an employee is entitled to receive differential pay, calculated in the same manner described in Option 1 or 2 in the section "Continued Absence After Available Sick Leave Is Exhausted/Differential Pay" above, ~~for up to 12 work weeks.~~ **As amended by AB 2012 (Ch. 994, Statutes of 2018), Education Code 45196.1 requires that, regardless of the type of differential pay system used by the district, employees must receive at least 50 percent of their regular salary for any portion of the 12-week parental leave that remains following the exhaustion of sick leave. The following paragraph may be revised to specify a percentage higher than 50 percent in accordance with district practice.**

Since Education Code 45196.1 does not expressly require districts to provide differential pay to employees who are eligible for parental leave pursuant to Government Code 12945.6, ~~as added by SB 63 (Ch. 686, Statutes of 2017),~~ it is unclear whether such employees would be entitled to differential pay. Districts should consult legal counsel if they have questions regarding differential pay for such employees.

An employee who has exhausted all available sick leave, including accumulated sick leave, and continues to be absent on account of parental leave shall receive differential pay **of at least 50 percent of the employee's regular salary** for the remainder of the 12 work weeks. (Education Code 45196.1)

Parental leave taken pursuant to Education Code 45196.1 shall run concurrently with the parental leave taken pursuant to Government Code 12945.2 or 12945.6, and the aggregate amount of parental leave shall not exceed 12 work weeks in a 12-month period. (Education Code 45196.1; Government Code 12945.2, 12945.6)

Extension of Leave

Note: Pursuant to Education Code 45195, the following extension of leave may be either paid or unpaid, and the Board may grant full pay for the full 18 months' allowable absence, if desired.

A permanent employee who is absent because of a personal illness or injury and who has exhausted all available sick leave, vacation, compensatory overtime, and any other paid leave shall be so notified, in writing, and offered an opportunity to request additional leave. The Board may grant the employee additional leave, paid or unpaid, for a period not to exceed six months and may renew this leave for two additional six-month periods or for lesser periods. The total additional leave granted shall not exceed 18 months. (Education Code 45195)

(cf. 4216 - Probationary/Permanent Status)

PERSONAL ILLNESS/INJURY LEAVE (continued)

If the employee is still unable to ~~resume his/her duties~~ **return to work** after all available paid and unpaid leaves have been exhausted, the employee shall be placed on a reemployment list for a period of 39 months. If during this time the employee becomes **medically able**, ~~to resume the duties of his/her position, he/she~~ **the employee** shall be offered reemployment in the first vacancy in the classification of ~~his/her~~ **the employee's** previous assignment. During the 39 months, the employee's reemployment shall take preference over all other applicants except those laid off for lack of work or lack of funds, in which case the employee shall be ranked according to ~~his/her~~ seniority. (Education Code 45195)

Verification Requirements

Note: Education Code 45191 **mandates** the Board to adopt regulations that require proof of illness or injury and prescribe the means of verification. However, Education Code 45191 provides that these regulations shall not discriminate against evidence of treatment and the need for treatment by the practice of a well-recognized religion. The following section should be modified to reflect district practice and any procedures that have been specified in bargaining agreements.

Labor Code 233 requires districts to allow their employees to use sick leave for the purposes specified in Labor Code 246.5, the paid sick leave law. Because the paid sick leave law is silent on requests for verification, and actually requires an employer to provide an employee with paid sick days upon oral or written request, districts should be cautious in requiring verification for sick leave used for the purposes specified in Labor Code 246.5 (items #7-8 in the section "Use of Sick Leave" above). Although a district is permitted to require verification from an employee who is a victim of domestic violence, sexual assault, or stalking, pursuant to Labor Code 230 and 230.1, a general insistence on verification could be deemed a violation of Labor Code 246.5. Any district with questions regarding its authority related to verification should consult legal counsel.

After any absence due to illness or injury, the employee shall submit a completed and signed district absence form to ~~his/her~~ **the employee's** immediate supervisor.

The Superintendent or designee may require verification whenever an employee's absence record shows chronic absenteeism or a pattern of absences immediately before or after weekends and/or holidays or whenever available evidence clearly indicates that an absence is not related to illness or injury.

In addition, the Superintendent or designee may require an employee to visit a physician selected by the district, at district expense, in order to receive a report on the medical condition of the employee. The report shall include a statement as to the employee's need for additional leave of absence and a prognosis as to when the employee will be able to return to work. If the report concludes that the employee's condition does not warrant continued absence, the Superintendent or designee may, after giving notice to the employee, deny the request for additional leave.

PERSONAL ILLNESS/INJURY LEAVE (continued)

Note: 42 USC 2000ff-1, the Genetic Information Nondiscrimination Act, and its implementing regulations, 29 CFR 1635.1-1635.12, specify that it is unlawful for a district to request, require, or purchase an employee's or **his/her** family member's individual genetic information except in complying with the medical certification requirements for family care and medical leave purposes or with the employee's prior written authorization. See AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave. Pursuant to 29 CFR 1635.9, any such information received by the district must be kept confidential as specified below.

Any district request for additional verification by an employee's physician or a district-selected physician shall be in writing and shall specify that the report to be submitted to the district should not contain the employee's genetic information. Any genetic information received by the district on behalf of an employee shall be treated as a confidential medical record, maintained in a file separate from the employee's personnel file, and shall not be disclosed except in accordance with 29 CFR 1635.9.

Before returning to work, an employee who has been absent for surgery, hospitalization, or extended medical treatment may be asked to submit a letter from **his/her** a physician stating that **he/she** **the employee** is able to return to work and stipulating any **recommended necessary** restrictions or limitations.

(cf. 4032 - Reasonable Accommodation)

(cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)

Short-Term and Substitute Employees

Note: Pursuant to Labor Code 245-249, the district is required to grant a minimum of one hour of paid sick leave for every 30 hours worked by an employee who works for 30 days within a year of **his/her** employment. In implementing this requirement, Labor Code 246 permits the district to use any of the options specified below. Option 1 provides for paid leave accrual based on one hour for every 30 hours worked. Option 2 allows an accrual method that provides for a regular accrual basis and ensures that the employee receives 24 hours of paid sick leave by the 120th calendar day of **his/her** employment **or each calendar year or 12-month period**. Option 3 is for any district that credits employees with 24 hours **or three days** of paid sick leave at the beginning of each year and does not allow unused sick leave to carry over to the next year. In addition, pursuant to Labor Code 245.5, retired annuitants who have not reinstated to the applicable public retirement system are excluded from participation in these leave benefit provisions. The district should select the option below which corresponds to its approach under Labor Code 246.

See section below titled "Healthy Workplaces, Healthy Families Act Requirements" for additional requirements.

Except for a retired annuitant who is not reinstated to the retirement system, **any** short-term or substitute employees who works for 30 or more days within a year of **his/her** **their** employment shall be entitled to one hour of paid sick leave for every 30 hours worked. Accrued paid sick days shall carry over to the following year of employment, up to a maximum of 48 hours. (Labor Code 246)

PERSONAL ILLNESS/INJURY LEAVE (continued)

Any s Short-term or substitute employees may begin to use accrued paid sick days on the 90th day of his/her their employment, after which he/she they may use the sick days as they are accrued. (Labor Code 246)

Note: The following paragraph applies to all of the above options and reflects the intent of the Healthy Workplaces, Healthy Families Act to enable California workers to address their own and their family's health needs and to provide them with economic security when they need to take time off work for reasons of domestic violence, sexual assault, or stalking. The following paragraph may be revised to include additional reasons for which short-term or substitute employees may use sick leave, pursuant to district policy or practice. Pursuant to Labor Code 247.5, a district is not required to inquire into the purposes for which an employee uses paid leave.

A short-term or substitute employee may use accrued sick leave for absences due to: (Labor Code 246.5)

1. His/her The employee's own need or the need of a family member, as defined in Labor Code 245.5, for the diagnosis, care, or treatment of an existing health condition or for preventive care
2. Need of the employee to obtain or seek any relief or medical attention specified in Labor Code 230(c) and 230.1(a) for the health, safety, or welfare of the employee, or his/her the employee's child, when the employee has been a victim of domestic violence, sexual assault, or stalking

Healthy Workplaces, Healthy Families Act Requirements

Note: Pursuant to Labor Code 245-249, all employers, including those that provide paid time off to their employees under existing policy or other law, must comply with the requirements specified in the following section. Pursuant to Labor Code 248.5, noncompliance with the Healthy Workplaces, Healthy Families Act could result in an enforcement action against the employer, including the imposition of civil and monetary penalties. Any district with questions regarding the applicability of this new law should consult its legal counsel.

No employee, including a short-term or substitute employee, shall be denied the right to use accrued sick days and the district shall not in any manner discriminate or retaliate against an employee for using or attempting to use sick leave, filing a complaint with the Labor Commissioner, or alleging district violation of Labor Code 245-249.

To ensure the district's compliance with Labor Code 245-249, the Superintendent or designee shall:

1. At a conspicuous location in each workplace, display a poster on paid sick leave that includes the following information:
 - a. That an employee is entitled to accrue, request, and use paid sick days

PERSONAL ILLNESS/INJURY LEAVE (continued)

- b. The ~~amount~~ **number** of sick days provided by Labor Code 245-249
 - c. The terms of use of paid sick days
 - d. That discrimination or retaliation against an employee for requesting and/or using sick leave is prohibited by law and that an employee has the right to file a complaint with the Labor Commissioner if the district discriminates or retaliates against ~~him/her~~ **the employee**
- 2. Provide at least 24 hours or three days of paid sick leave to each eligible employee to use per year and allow eligible employees to use accrued sick leave upon reasonable request
 - 3. Provide eligible employees written notice, on their pay stub or other document issued with their pay check, of the amount of paid sick leave they have available
- (cf. 4112.9/4212.9/4312.9 - Employee Notifications)*
- 4. Keep a record documenting the hours worked and paid sick days accrued and used by each eligible employee for three years

Legal Reference: (see next page)

PERSONAL ILLNESS/INJURY LEAVE (continued)

Legal Reference:

EDUCATION CODE

45103 Substitute employees

45190 Leaves of absence and vacations

45191 Leaves of absence for illness and injury

45191.5 Leave for military service connected disability

45193 Leave of absence for pregnancy (re use of sick leave under certain circumstances)

45195 Additional leave for nonindustrial accident or illness; reemployment preference

45196 Salary; deductions during sick leave

45196.1 Differential pay during parental leave up to 12 weeks after sick leave is exhausted

45202 Transfer of accumulated sick leave and other benefits

GOVERNMENT CODE

12945.1-12945.2 California Family Rights Act

12945.6 Parental leave

LABOR CODE

230 Jury duty; legal actions by domestic violence, sexual assault and stalking victims, right to time off

230.1 Employers with 25 or more employees; domestic violence, sexual assault and stalking victims, right to time off

233 Illness of child, parent, spouse or domestic partner

245-249 Healthy Workplaces, Healthy Families Act of 2014

UNITED STATES CODE, TITLE 29

2601-2654 Family and Medical Leave Act of 1993, as amended

UNITED STATES CODE, TITLE 42

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

CODE OF FEDERAL REGULATIONS, TITLE 29

825.100-825.702 Family and Medical Leave Act of 1993

1635.1-1635.12 Genetic Information Nondiscrimination Act of 2008

COURT DECISIONS

California School Employees Association v. Colton Joint Unified School District, (2009) 170 Cal.App.4th 957

California School Employees Association v. Tustin Unified School District, (2007) 148 Cal.App.4th 510

ATTORNEY GENERAL OPINIONS

53 Ops. Cal. Atty. Gen. 111 (1970)

(3/17 3/18) 3/19

Policy Reference UPDATE Service

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CSBA Sample Administrative Regulation

Students

AR 5113(a)

ABSENCES AND EXCUSES

Excused Absences

Note: Items #1-~~11~~ **14** below reflect absences that are authorized by law to be considered as excused absences for purposes of enforcing the compulsory state attendance laws. **Pursuant to Education Code 48205, absences specified in items #1-10 are considered absences in computing average daily attendance and do not generate state apportionment payments.**

Subject to any applicable limitation, condition, or other requirement specified in law, a
A student's absence shall be excused for any of the following reasons:

1. Personal illness (Education Code 48205)
2. Quarantine under the direction of a county or city health officer (Education Code 48205)

(cf. 5112.2 - Exclusions from Attendance)

3. Medical, dental, optometrical, or chiropractic appointment (Education Code 48205)
4. Attendance at funeral services for a member of the **student's** immediate family (Education Code 48205)

~~, which~~ **Such absence** shall be limited to one day if the service is conducted in California or three days if the service is conducted out of state. (Education Code 48205)

~~Immediate family shall be defined as mother, father, grandmother, grandfather, spouse, son/son-in-law, daughter/daughter-in-law, brother, sister, or any relative living in the student's immediate household. (Education Code 45194, 48205)~~

5. Jury duty in the manner provided by law (Education Code 48205)

Note: Pursuant to Education Code 48205, absence due to the illness or medical appointment of a student's child is counted as an excused absence. As amended by AB 2289 (Ch. 942, Statutes of 2018), Education Code 48205 prohibits the district from requiring a physician's note for such absences. See the section "Method of Verification" below.

6. ~~The ill~~ **illness** or medical appointment of a child to whom the student is the custodial parent (Education Code 48205)

(cf. 5146 - Married/Pregnant/Parenting Students)

ABSENCES AND EXCUSES (continued)

7. Upon advance written request by the parent/guardian and the approval of the principal or designee, justifiable personal reasons including, but not limited to: (Education Code 48205)
 - a. Appearance in court
 - b. Attendance at a funeral service
 - c. ~~Observation~~ **Observance** of a **religious** holiday or ceremony ~~of his/her religion~~
 - d. Attendance at religious retreats for no more than four hours per semester
 - e. Attendance at an employment conference
 - f. Attendance at an educational conference ~~offered by a nonprofit organization~~ on the legislative or judicial process **offered by a nonprofit organization**
8. Service as a member of a precinct board for an election pursuant to Elections Code 12302 (Education Code 48205)

(cf. 6142.3 - Civic Education)

9. To spend time with an immediate family member who is an active duty member of the uniformed services, as defined in Education Code 49701, and has been called to duty for deployment to a combat zone or a combat support position or is on leave from or has immediately returned from such deployment (Education Code 48205)

Such absence shall be granted for a period of time to be determined at the discretion of the Superintendent or designee. (Education Code 48205)

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

Note: AB 1593 (Ch. 92, Statutes of 2016) amended Education Code 48205 to add attendance at the student's own naturalization ceremony as an excused absence.

10. ~~To attend his/her~~ **Attendance at a** naturalization ceremony to become a United States citizen. (Education Code 48205)

ABSENCES AND EXCUSES (continued)

Note: Education Code 46014 provides that absence for participation in religious instruction or exercises will not be considered an absence for state apportionment purposes if the student attends school for at least the minimum school day and is not absent for this purpose on more than four days per school month. Pursuant to Education Code 46112, 46113, 46117, and 46141, unless otherwise provided by law, the minimum school day is generally 180 minutes for kindergarten, 230 minutes for grades 1-3, and 240 minutes for grades 4-12. For further information, see AR 6112 - School Day.

Absence for student participation in religious exercises or instruction shall not be considered an absence for the purpose of computing average daily attendance if the student attends at least the minimum school day as specified in AR 6112 - School Day, and is not excused from school for this purpose on more than four days per school month. (Education Code 46014)

(cf. 6112 - School Day)

Note: As amended by AB 2289, Education Code 48205 clarifies that, in addition to the excused absences described in Education Code 48205 and 48225.5, students may be excused for other reasons at the discretion of school administrators.

14. Other reasons authorized at the discretion of the principal or designee based on the student's specific circumstances (Education Code 48205, 48260)

Note: AB 2289 amended Education Code 48205 to revise the definition of "immediate family" as provided in the following paragraph.

For the purpose of the absences described above, *immediate family* shall be defined as means the student's parent/guardian, mother, father, grandmother, grandfather, spouse, son/son-in-law, daughter/daughter-in-law, brother, or sister, **grandparent, or any other relative living in the student's immediate household. (Education Code 45194, 48205)**

Method of Verification

Note: Education Code 48205, as amended by AB 2289, prohibits the district from requiring a physician's note for absences due to the illness or medical appointment of the student's child. However, the district is authorized to require verification of other absences. The following section should be revised to reflect district-adopted methods of verification and to specify employee(s) assigned to verify absences. 5 CCR 420-421 provide guidelines for verifying absences due to illness; quarantine; medical, dental, or eye appointments; or **attending attendance at** a funeral service of a member of a student's immediate family. 5 CCR 421 authorizes a student's absence to be verified by a school or public health nurse, attendance supervisor, physician, principal, teacher, or any other qualified district employee assigned to make such verification. **The following section should be revised to reflect district adopted methods of verification and to specify employee(s) assigned to verify absences.**

ABSENCES AND EXCUSES (continued)

Student absence to care for a child for whom the student is the custodial parent shall not require a physician's note. (Education Code 48205)

For other absences, ~~When a student who has been absent returns to school, he/she shall the~~ **student shall, upon returning to school following the absence,** present a satisfactory explanation verifying the reason for the absence. Absences shall be verified by the student's parent/guardian, other person having **charge or** control of the ~~minor student~~, or the student if age 18 or older. (Education Code 46012; 5 CCR 306)

When an absence is planned, the principal or designee shall be notified prior to the date of the absence when possible.

The following methods may be used to verify student absences:

1. Written note, fax, email, or voice mail from parent/guardian or parent representative.
2. Conversation, in person or by telephone, between the verifying employee and the student's parent/guardian or parent representative. The employee shall subsequently record the following:
 - a. Name of student
 - b. Name of parent/guardian or parent representative
 - c. Name of verifying employee
 - d. Date(s) of absence
 - e. Reason for absence

(cf. 5113.11 - Attendance Supervision)

3. Visit to the student's home by the verifying employee, or any other reasonable method which establishes the fact that the student was absent for the reasons stated. The employee shall document the verification and include the information specified in item #2 above.

(cf. 5113.1 - Chronic Absence and Truancy)

(11/11 3/17) 12/18

CSBA Sample

Board Policy

Students

BP 5117(a)

INTERDISTRICT ATTENDANCE

Note: The Education Code provides a number of options under which a district may enroll a student whose parent/guardian does not reside within district boundaries. Under an "interdistrict attendance permit" or "reciprocal agreement" pursuant to Education Code 46600-~~46611~~**46610**, a student may attend school in a different district when both the district of residence and the district of proposed attendance agree (Option 1 below). Alternatively, pursuant to Education Code 48300-48317, the Governing Board may declare the district to be a "school district of choice" willing to accept a specific number of interdistrict transfers into the district through a random selection process (Option 2 below). In order to maintain the integrity of the random selection process, it is recommended that a school district of choice not also accept transfers under the interdistrict attendance permit option except when extraordinary circumstances exist, as provided in Option 2 below. Districts that wish to use both sources of authority should consult legal counsel.

In addition, pursuant to Education Code 48204, a district may authorize a student whose parent/guardian is employed within district boundaries to attend a school in the district (Allen bill transfer); see AR 5111.1 - District Residency. ~~A student attending a school identified as low achieving on the state's Open Enrollment List may transfer to a school in any other district in the state, pursuant to Education Code 48350-48361; see BP/AR 5118 - Open Enrollment Act Transfers.~~

The Governing Board recognizes that parents/guardians of students who reside within the geographic boundaries of one district may, for a variety of reasons, desire to enroll their children in a school in another district.

(cf. 5111.1 - District Residency)

(cf. 5116.1 - Intradistrict Open Enrollment)

~~*(cf. 5118 - Open Enrollment Act Transfers)*~~

Interdistrict Attendance **Agreements and Permits**

Note: The following section is for use by districts that have entered into an agreement with one or more other districts to accept **student** transfers through interdistrict attendance permits pursuant to Education Code 46600-~~46611~~ **46610**. Districts selecting this option should also select Option 1 in the accompanying administrative regulation.

The Board may enter into an agreement with any other school district, for a term not to exceed five school years, for the interdistrict attendance of students who are residents of the districts. (Education Code 46600)

Note: Education Code 46600 requires that the interdistrict attendance agreement specify the terms and conditions under which individual permits may be granted or denied. In addition, pursuant to Education Code 46600, students who have been granted an interdistrict attendance permit must be allowed to continue to attend the school without having to reapply unless the agreement between the two districts contains specific agreed-upon standards for reapplication; see the accompanying administrative regulation. Districts also may include in the agreement their agreed-upon standards for revocation of students' interdistrict attendance. Examples of conditions that may result in revocation include falsification of information stated on the permit application, unsatisfactory attendance, continual disruption, or poor academic achievement.

INTERDISTRICT ATTENDANCE (continued)

The agreement shall specify the terms and conditions under which interdistrict attendance shall be permitted or denied. It also may contain standards agreed to by both districts for reapplication and/or revocation of the student's permit. (Education Code 46600)

Note: Pursuant to Education Code 46600, it is the responsibility of the **attendance supervisor superintendent or designee** of the district of residence, subject to board policies of the district of residence and terms of the agreement, to issue an individual permit verifying the district's approval of an interdistrict transfer out of the district. The permit shall become valid when endorsed by the board's designee in the district of proposed **attendance enrollment**.

See the accompanying administrative regulation for procedures to follow when the permit is denied.

Upon receiving a permit for transfer into the district that has been approved by the student's district of residence, or upon receiving a written request from the parent/guardian of a district student who wishes to enroll in another district, the Superintendent or designee shall review the request and may approve or deny the permit subject to the terms and conditions of the interdistrict attendance agreement.

The Board shall, by resolution, annually establish the number of students who will be accepted into the district through this program based on recommendations by the Superintendent or designee as to the number of transfer students the district will be able to accept and the schools, grades, and programs that will be able to accept the students. Once established, the district shall accept all students who apply to transfer into the district until the district is at maximum capacity, **as required pursuant to** ~~;~~ (Education Code 48301).

Note: ~~Whenever the number of student applications exceeds the number of transfers that the Board has established,~~ Education Code 48301 requires a random, unbiased process for selecting students who will be admitted **through the school district of choice program** and prohibits consideration of certain **characteristics and factors in making the selections**. AB 99 (Ch. 15, Statutes of 2017) amended Education Code 48301 to expand the list of factors that must not be considered. Pursuant to Education Code 48301, family income may only be considered to the extent necessary to determine enrollment priority pursuant to Education Code 48306; see the accompanying administrative regulation.

~~The Board shall establish a selection process which ensures that students are~~ **Students shall be** admitted to district schools through an unbiased process that prohibits an inquiry into or evaluation or consideration of whether or not a student should be enrolled based upon **his/her the student's** academic or athletic performance, physical condition, proficiency in English, any of the individual characteristics set forth in Education Code 200, or family income. (Education Code 48301)

If the number of transfer applications exceeds the number of transfers the Board has elected to accept, approval for transfer shall be determined by a random drawing held in public at a regularly scheduled Board meeting. (Education Code 48301)

INTERDISTRICT ATTENDANCE (continued)

Note: Because the school district of choice program requires a random selection process, it is recommended that participating districts not admit students through the interdistrict attendance permit process described in Option 1 above except under extraordinary circumstances. Such circumstances might include approving interdistrict attendance permits for students who are victims of an act of bullying. Such students are given priority for interdistrict attendance permits pursuant to Education Code 46600; see the accompanying administrative regulation.

Because the district admits students in accordance with the school district of choice program, the Superintendent or designee shall not admit students based on individual interdistrict attendance permits pursuant to Education Code 46600-~~46611~~**46610** except under extraordinary circumstances.

~~Note: Education Code 48313 requires a school district of choice to maintain and report specified information regarding requests for transfers and the disposition of those requests. As amended by AB 99 (Ch. 15, Statutes of 2017), Education Code 48313 requires this report to include the eligibility for free or reduced-price meals of students transferring into or out of the district and the number of students provided transportation; see items #3 and 5 below.~~

The Superintendent or designee shall ~~maintain a record~~ **keep an accounting** of **all** requests for admittance **and a record of their disposition, including, that includes,** but ~~is~~ not limited to, all of the following: (Education Code 48313)

1. The number of requests granted, denied, or withdrawn and, for denied requests, the reason for the denial
2. The number of students transferred into and out of the district pursuant to this program
3. The race, ethnicity, gender, self-reported socioeconomic status, eligibility for free or reduced-price meals, and the district of residence for each student transferred into or out of the district pursuant to this program
4. The number of students transferred into or out of the district pursuant to this program who are classified as English learners or students with disabilities

Note: Education Code 48311 authorizes, but does not require, a school district of choice to provide transportation to participating students to the extent that the district provides transportation assistance to other students. See section on "Transportation" below. Item #5 may be deleted by districts that do not provide transportation.

5. As applicable, the number of students described in items #3 and 4 above who are provided transportation assistance to a district school or program, and the total number of students provided transportation assistance, pursuant to the school district of choice program

INTERDISTRICT ATTENDANCE (continued)

Note: AB 99 (Ch. 15, Statutes of 2017) amended Education Code 48313 to revise the deadline for submitting the above report and to delete the requirement to submit the report to the Department of Finance. As amended, Education Code 48313 requires the California Department of Education to collect and report statewide data on its web site and to share the information with specified state agencies.

The Superintendent or designee shall report to the Board, at a regularly scheduled meeting, the information specified in items #1-5 above. No later than October 15 of each year, the Superintendent or designee shall provide the same information for the current school year, as well as information regarding the district's status as a school district of choice in the upcoming school year, to each geographically adjacent school district, the county office of education, and the Superintendent of Public Instruction. (Education Code 48313)

The district's compliance with **specified** program requirements shall be **subject to reviewed as part of** the annual district audit conducted pursuant to Education Code 41020. (Education Code 48301)

(cf. 3460 - Financial Reports and Accountability)

Transportation

Note: The following **optional** section is for use by all districts and should be revised to reflect district practice. Districts are not required to provide transportation or transportation assistance to students admitted under an interdistrict attendance permit pursuant to Education Code 46600-~~46611~~ **46610**. Pursuant to Education Code 48311, a school district of choice is authorized, but not required, to provide transportation assistance to the extent that the district otherwise provides transportation assistance to students.

The district shall not provide transportation beyond any school attendance area. Upon request of a student's parent/guardian, the Superintendent or designee may authorize transportation for an interdistrict transfer student to and from designated bus stops within the attendance area of the school that the student attends if space is available.

Legal Reference next page

INTERDISTRICT ATTENDANCE (continued)

Legal Reference:

EDUCATION CODE

41020 Annual district audits

46600-~~46611~~ **46610** Interdistrict attendance agreements

48204 Residency requirements for school attendance

48300-48317 Student attendance alternatives, school district of choice program

~~48350-48361 Open Enrollment Act~~

48900 Grounds for suspension or expulsion; definition of bullying

48915 Expulsion; particular circumstances

48915.1 Expelled individuals: enrollment in another district

48918 Rules governing expulsion procedures

48980 Notice at beginning of term

48985 Notices to parents in language other than English

52317 Regional occupational center/program, enrollment of students, interdistrict attendance

CALIFORNIA CONSTITUTION

Article I, Section 31 Nondiscrimination on the basis of race, sex, color, ethnicity, or national origin

ATTORNEY GENERAL OPINIONS

87 *Ops.Cal.Atty.Gen.* 132 (2004)

84 *Ops.Cal.Atty.Gen.* 198 (2001)

COURT DECISIONS

Walnut Valley Unified School District v. the Superior Court of Los Angeles County, (2011) 192 Cal.App.4th 234

Crawford v. Huntington Beach Union High School District, (2002) 98 Cal.App.4th 1275

Management Resources:

WEB SITES

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

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

(12/15 10/17) 3/19

Policy Reference UPDATE Service

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CSBA Sample

Administrative Regulation

Students

AR 5117(a)

INTERDISTRICT ATTENDANCE

Interdistrict Attendance **Agreements and Permits**

Note: The following option is for use by districts that have entered into an agreement with one or more other school districts to accept transfers through the "interdistrict attendance permit" or "reciprocal agreement" process pursuant to Education Code 46600-~~46611~~ **46610**. (See Option 1 in the accompanying Board policy.) In 87 Ops.Cal.Atty.Gen. 132 (2004), the Attorney General opined that districts could not charge students a fee for processing applications for interdistrict attendance.

In accordance with an agreement between the Governing Board and the board of another district, a permit authorizing a ~~student's attendance outside his/her district of residence~~ **student of either district to enroll in the other district** may be issued upon approval of both **districts** ~~the district of residence and the district of attendance~~.

Note: Pursuant to Education Code 46600.2, as added by AB 2826 (Ch. 550, Statutes of 2018), districts are required to post on their web sites, in a manner accessible to the public without a password, the procedures and timelines regarding a request for an interdistrict transfer permit.

The district shall post on its web site the procedures and timelines for requesting an interdistrict transfer permit, including a link to BP 5117 - Interdistrict Attendance. The posted information shall include, but is not limited to: (Education Code 46600.1, 46600.2)

- 1. The date upon which the district will begin accepting and processing interdistrict transfer requests for the following school year**
- 2. The reasons for which the district may approve or deny a request, and any information or documents that must be submitted as supporting evidence**
- 3. If applicable, the process and timelines by which a denial of a request may be appealed within the district before the district renders a final decision**
- 4. A statement that failure of a parent/guardian to meet any timelines established by the district shall be deemed an abandonment of the request**
- 5. Applicable timelines for processing a request, including the following statements:**
 - a. For an interdistrict transfer request received by the district 15 or fewer calendar days before the commencement of instruction in the school year for which the transfer is sought, the district will notify the parent/guardian of its final decision within 30 calendar days from the date the request was received.**

INTERDISTRICT ATTENDANCE (continued)

- b.** For an interdistrict transfer request received by the district more than 15 days before the commencement of instruction in the school year for which the interdistrict transfer is sought, the district will notify the parent/guardian of its final decision as soon as possible, but no later than 14 calendar days after the commencement of instruction in the school year for which transfer is sought.

- 6.** The conditions under which an existing interdistrict transfer permit may be revoked or rescinded

The Superintendent or designee may approve an interdistrict attendance permit for a student for any of the following reasons when stipulated in the agreement:

Note: Education Code 46600 requires districts to give priority for interdistrict attendance permits to a student who is a victim of an act of bullying, as provided below. For this purpose, Education Code 48900(r) defines bullying to include, but not be limited to, bullying committed by means of an electronic act directed specifically toward the student; see AR 5144.1 - Suspension and Expulsion/Due Process.

- ~~1.~~ **When the Priority for interdistrict attendance shall be given to a** student **who** has been determined by staff of either the district of residence or district of proposed attendance enrollment to be a victim of an act of bullying, as defined in Education Code 48900(r), **committed by a student of the district of residence.** ~~Such a student shall be given priority for interdistrict attendance under any existing interdistrict attendance agreement or, in the absence of an agreement, shall be given consideration for the creation of a new permit.~~ (Education Code 46600)

(cf. 5131.2 - Bullying)

In addition, ~~t~~The Superintendent or designee may approve an interdistrict attendance permit for a student for any of the following reasons when stipulated in the agreement:

Note: **Optional** items ~~#2-12~~ **1-11** below should be revised and/or deleted to reflect district practice.

- 2.1.** To meet the child care needs of the student, ~~Such a student may be allowed to continue to attend district schools only as long as he/she continues to use a~~ **the student's** child care provider **remains** within district boundaries.

(cf. 5148 - Child Care and Development)

- 3.2.** To meet the student's special mental or physical health needs as certified by a physician, school psychologist, or other appropriate school personnel.

(cf. 6159 - Individualized Education Program)

INTERDISTRICT ATTENDANCE (continued)

- 4.3.** When the student has a sibling attending school in the receiving district, to avoid splitting the family's attendance;
- 5.4.** To allow the student to complete a school year when ~~his/her~~ **the student's** parents/guardians have moved out of the district during that year;
- 6.5.** To allow the student to remain with a class graduating that year from an elementary, middle, or senior high school;
- 7.6.** To allow a high school senior to attend the same school ~~he/she~~ attended as a junior, even if ~~his/her~~ **the student's** family moved out of the district during the junior year;
- 8.7.** When the parent/guardian provides written evidence that the family will be moving into the district in the immediate future and would like the student to start the **school** year in the district;
- 9.8.** When the student will be living out of the district for one year or less;
- 10.9.** When recommended by the school attendance review board or by county child welfare, probation, or social service agency staff in documented cases of serious home or community problems which make it inadvisable for the student to attend the school of residence;

(cf. 5113.1 - Chronic Absence and Truancy)

(cf. 5113.12 - District School Attendance Review Board)

- 11.10.** When there is valid interest in a particular educational program not offered in the district of residence;
- 12.11.** To provide a change in school environment for reasons of personal and social adjustment;

<p>Note: In 84 Ops.Cal.Atty.Gen. 198 (2001), the Attorney General opined that a lack of school facilities is a justifiable reason for denial of the interdistrict attendance permit request. However, according to the Attorney General, once the student is admitted, the district may not later deny the student continued attendance at a district school because of overcrowding. Although Attorney General opinions are not binding on the courts, they are generally afforded deference in the court when there is no specific statutory or case law to the contrary. The following paragraph is based on this Attorney General opinion.</p>

The Superintendent or designee may deny initial requests for interdistrict attendance permits due to limited district resources, overcrowding of school facilities at the relevant grade level, or other considerations that are not arbitrary. However, once a student is admitted, the district ~~may~~ **shall** not deny ~~him/her~~ continued attendance because of overcrowded facilities at the relevant grade level.

INTERDISTRICT ATTENDANCE (continued)

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

Note: Education Code 46600.2, as added by AB 2826, establishes the following timelines for notifying a student's parents/guardians of the district's final decision regarding the interdistrict transfer request.

If the transfer request is for a school year that begins within 15 calendar days of the receipt of the request, the Superintendent or designee shall notify the parent/guardian of the final decision within 30 calendar days of receiving the request. If the transfer request is for a school year that begins more than 15 calendar days after the receipt of the request, the parent/guardian shall be notified of the final decision as soon as possible, but no later than 14 calendar days after the commencement of instruction during that school year. (Education Code 46600.2)

~~Note: Education Code 46601 requires that, within 30 days of a request for an interdistrict permit, parents/guardians whose permit application was denied must be informed about their right to appeal to the County Board of Education. This notice shall be provided by the district denying the request, or, in the absence of an agreement between the districts, by the district of residence. Education Code 46600.2, as added by AB 2826, requires a district that denies a request for an interdistrict transfer to give written notice to the parent/guardian of the right to appeal to the County Board of Education.~~

~~Pursuant to Education Code 46601, parents/guardians may submit their appeal to the County Board within 30 calendar days of the failure or refusal to issue district's final denial of the permit. The County Board then has 30 calendar days, unless extended by an additional five school days for good cause, to make its determination as to whether the student should be allowed to attend the district of proposed enrollment and the applicable period of attendance his/her choice. However, as amended by SB 344 (Ch. 461, Statutes of 2017), Education Code 46601 allows a class 1 county (i.e., a county with a 1994-95 average daily attendance (ADA) of 500,000 or more for all districts in the county), until July 1, 2023, 60 calendar days to make its determination, and a class 2 county (i.e., a county with a 1994-95 ADA of 180,000-499,999) 45 calendar days to make its determination.~~

~~Pursuant to Education Code 46602, if the County Board determines that the student should be permitted to attend the district of his/her choice proposed enrollment, the district shall admit the student without delay.~~

Within 30 calendar days of a request for an interdistrict permit, If a student's interdistrict transfer request is denied, the Superintendent or designee shall, in writing, notify the parents/guardians of a student who is denied interdistrict attendance regarding the process for their right to appeal to the County Board of Education as specified in Education Code 46601 within 30 calendar days from the date of the final denial. (Education Code 46600.2-46601)

(cf. 5145.6 - Parental Notifications)

All notices to parents/guardians regarding the district's decision on any request for interdistrict transfer shall conform to the translation requirements of Education Code 48985, and may be provided by regular mail, electronic format if the parent/guardian provides an email address, or by any other method normally used to communicate with parents/guardians in writing. (Education Code 46600.2)

INTERDISTRICT ATTENDANCE (continued)

Pending a decision by the two districts or ~~an appeal~~ by the County Board ~~on appeal~~, the Superintendent or designee may provisionally admit a student who resides in another district for a period not to exceed two school months, **provided the district is the district of proposed enrollment. If the decision has not been rendered by the conclusion of two school months and the districts or County Board is still operating within the prescribed timelines, the student shall not be allowed to continue attending the district school to which the student was provisionally admitted.** (Education Code 46603)

Students who are under consideration for expulsion or who have been expelled may not appeal interdistrict attendance denials or ~~decisions~~ **rescissions** while expulsion proceedings are pending or during the term of the expulsion. (Education Code 46601)

(cf. 5119 - Students Expelled from Other Districts)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

Note: Pursuant to Education Code 46600, once an interdistrict permit is granted and the student is enrolled in the new school, the district of enrollment (1) may not require the student to reapply; (2) must allow the student to continue to attend the school, unless the permit contains specific standards for reapplication; and (3) along with the district of residence, may not revoke the student's existing permit if he/she is entering grade 11 or 12. Therefore, even if an interdistrict attendance agreement between the two districts has expired, the student may be allowed to continue attending the school to which he/she has transferred, unless the agreement contains specific language requiring reapplication.

Once a student is admitted to a school on the basis of an interdistrict attendance permit, ~~he/she~~ **the student** shall not be required to reapply for an interdistrict transfer and shall be allowed to continue to attend the school ~~in which he/she is enrolled~~ **of enrollment**, unless reapplication standards are otherwise specified in the interdistrict attendance agreement. Existing interdistrict attendance permits shall not be rescinded **after June 30 following a student's completion of grade 10 or for any students** entering grade 11 or 12 in the subsequent school year. (Education Code 46600)

~~Note: The following paragraph may be revised to reflect district practice. Education Code 48312, as amended by AB 99 (Ch. 15, Statutes of 2017), requires a school district of choice to make public announcements regarding district schools, programs, policies, and procedures, including transportation options. Education Code 48302, as amended by AB 99, encourages districts to hold informational meetings and make public announcements regarding the current educational programs offered by the district so that parents/guardians may make informed decisions regarding their child's education and provide input on methods to improve the current programs.~~

The Superintendent or designee shall also make public announcements regarding district schools, programs, policies, and procedures, including transportation options if applicable, during the enrollment period. (Education Code 48312)

INTERDISTRICT ATTENDANCE (continued)

Note: The following **optional** paragraph reflects Education Code 48302, which encourages districts to hold informational meetings as described below, and may be revised to reflect district practice..

The Superintendent or designee may hold informational meetings on the district's current educational programs, so that parents/guardians can provide input to the district on methods to improve current programs and make informed decisions regarding their children's education. (Education Code 48302)

Note: Education Code 48301, as amended by AB 99 (Ch. 15, Statutes of 2017), requires that application information be posted on the district's web site.

The process for student transfers into the district under the school district of choice program, including, but not limited to, any applicable form, the timeline for a transfer, and an explanation of the selection process, shall be posted on the district's web site. (Education Code 48301)

(cf. 1113 - District and School Web Sites)

Parents/guardians shall submit applications for interdistrict attendance to the district office **by before** January 1 of the school year preceding the school year for which the student **may is requesting to** be transferred. The application deadline may be waived upon agreement between the district and the student's district of residence. (Education Code 48308)

The application deadline shall not apply to an application requesting a transfer if the parent/guardian with whom the student resides is enlisted in the military and was relocated by the military within 90 days prior to submitting the application. (Education Code 48308)

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

Note: Education Code 48306, as amended by AB 99 (Ch. 15, Statutes of 2017), adds a requirement that second priority for admission under the school district of choice program be given to students who are eligible for free and reduced price meals and that third priority be given to children of military personnel.

Priority for transfer under the school district of choice program shall be granted as follows: (Education Code 48306)

1. — First priority shall be given to siblings of students already in attendance in the district.

2. — Second priority shall be given to students eligible for free or reduced price meals.

(cf. 3553 - Free and Reduced Price Meals)

3. — Third priority shall be given to children of military personnel.

INTERDISTRICT ATTENDANCE (continued)

Note: Pursuant to Education Code 48305, if the district chooses to use existing entrance criteria for specialized schools or programs, then the criteria must be uniformly applied. The following **optional** paragraph is for use by districts that choose to use existing entrance criteria.

Any existing entrance criteria for specialized schools or programs shall be uniformly applied to all applicants. (Education Code 48305)

~~Note: Items #1-2 below are **optional** and may be revised to reflect district practice. Education Code 48303 provides that a district may not deny a transfer because the additional cost of educating the student would exceed the amount of additional state aid to be received. However, pursuant to Education Code 48303, a transfer may be rejected if it would require the district to create a new program to serve the student, as specified in item #1.~~

The district may deny a transfer into the district under the school district of choice program ~~under either of the following circumstances: 1. The~~ **if the** transfer into the district would require the district to create a new program to serve that student, except that the district shall not reject the transfer of a student with disabilities or an English learner. (Education Code 48303)

~~Note: Pursuant to Education Code 48307, a school district of choice may prohibit a transfer into the district if the Governing Board determines that the transfer would negatively impact a court-ordered desegregation plan, a voluntary desegregation plan, or the racial and ethnic balance of the district. In *Crawford v. Huntington Beach Union High School District*, a California appellate court held that a district's intradistrict open enrollment policy, which contained a racial and ethnic balance component as authorized by Education Code 35160.5, was unconstitutional. According to the court, because the constitutional provisions added by Proposition 209 in 1996 (California Constitution, Article 1, Section 31) prohibit discrimination against or preferential treatment for any individual or group on the basis of race, sex, color, ethnicity, or national origin, a district must not adopt a policy containing different admission criteria on the basis of race. However, pursuant to Education Code 48307, as amended by AB 99 (Ch. 15, Statutes of 2017), denial of transfers on the basis of a voluntary desegregation plan or the racial and ethnic balance of the district must be consistent with the provisions of Proposition 209. It is recommended that the district consult legal counsel before adopting a policy to allow the denial of transfers on either of these bases.~~

~~For language regarding student transfers out of the district for any of the reasons specified in item #2a-e, see section "Transfers Out of the District" below.~~

2. ~~The Board determines that the transfer into the district would negatively impact any of the following: (Education Code 48307)~~

a. ~~A court-ordered desegregation plan~~

b. ~~A voluntary desegregation plan of the district, consistent with the California Constitution, Article 1, Section 31~~

e. ~~The racial and ethnic balance of the district, consistent with the California Constitution, Article 1, Section 31~~

INTERDISTRICT ATTENDANCE (continued)

Whenever the number of transfer applications exceeds the number of interdistrict transfers that may be accepted as annually determined by the Governing Board, students accepted for transfer shall be selected by a random drawing held in public at a regularly scheduled Board meeting **before February 15 of the school year preceding the school year for which the transfer is sought.** (Education Code 48301)

Priority for transfer under the school district of choice program shall be granted as follows: (Education Code 48306)

1. First priority shall be given to siblings of students already in attendance in the district.
2. Second priority shall be given to students eligible for free or reduced-price meals.

(cf. 3553 - Free and Reduced Price Meals)

3. Third priority shall be given to children of military personnel.

~~Note: Education Code 48308, as amended by AB 99 (Ch. 15, Statutes of 2017), requires that parents/guardians of students who have requested a transfer be provided the following notice by February 15:~~

~~Between January 1 and No later than~~ February 15 of the school year preceding the school year for which the student is requesting to be transferred, the Superintendent or designee shall notify the parent/guardian in writing whether the application has been provisionally accepted or rejected or of the student's position on any waiting list. (Education Code 48308)

~~Note: Education Code 48308, as amended by AB 99 (Ch. 15, Statutes of 2017), requires the following notifications to the district of residence.~~

If a student's application for transfer is accepted, the Superintendent or designee shall so notify the student's district of residence no later than February 15 of the school year preceding the school year for which the student is requesting to be transferred. (Education Code 48308)

The number of students accepted for transfer into the district, by school and grade level, shall be reported to the district of residence on or before February 15. (Education Code 48308)

If a student's application is denied, the Superintendent or designee shall notify the student's parents/guardians that the number of students requesting to transfer exceeded the district's capacity and that the student was not selected during the random drawing. **The Such** determination shall be accurately recorded in the minutes of the Board meeting at which the determination was made. (Education Code 48308)

(cf. 9324 - Minutes and Recordings)

INTERDISTRICT ATTENDANCE (continued)

For a student whose parent/guardian was relocated by the military **less than** 90 days prior to the submission of the application, the district shall make a final decision to accept or reject the application within 90 days of its receipt. If the student's application has been submitted less than 90 days prior to the beginning of the school year, then the district shall accept or deny the application before the school year begins. Upon **his/her** acceptance, the student may immediately enroll in a district school. (Education Code 48308)

Vacancies may be filled from the waiting list until May 1 of the school year preceding the school year for which students are requesting to be transferred. (Education Code 48308)

The final number of students ~~accepted for transfer~~ **enrolled** into the district **through the school district of choice program**, by school and grade level, along with the names of the students, shall be reported to the district of residence on or before May 2. (Education Code 48308)

Students admitted through the school district of choice program are deemed to have fulfilled district residency requirements pursuant to Education Code 48204. (Education Code 48301)

(cf. 5111.1 - District Residency)

(cf. 5116.1 - Intradistrict Open Enrollment)

Final acceptance of the transfer is applicable for one school year and shall be renewed automatically each year unless the Board, by adoption of a resolution, withdraws from participation in the program and no longer accepts transfer students from other districts. (Education Code 48308)

Note: The following paragraph may be revised by districts that do not maintain high schools.

Even if the district withdraws from participation in the program, students who attended or received a notice of acceptance into the district before the Board's resolution of withdrawal shall be permitted to attend school in the district, and admitted high school students may continue attending school in the district until they graduate from high school. (Education Code 48307, 48308)

The district may accept any completed coursework, attendance, and other academic progress credited to an accepted student by any district(s) **the student** ~~he/she~~ has previously attended and may grant academic standing to the student based upon the district's evaluation of the student's academic progress. (Education Code 48309)

(cf. 6146.3 - Reciprocity of Academic Credit)

INTERDISTRICT ATTENDANCE (continued)

The district may revoke a student's enrollment if **he/she the student** is recommended for expulsion pursuant to Education Code 48918. (Education Code 48309)

Transfers Out of the District

Note: The following **optional** section is for use by all districts.

~~Pursuant to Education Code 48307, a district must not deny a student whose parent/guardian is in active military duty from transferring out of the district to any other district. In addition, Education Code 46600, as amended by AB 2659 (Ch. 186, Statutes of 2016), provides that a district must not prohibit the transfer of such a student out of the district to any other district that approves the transfer, regardless of whether or not an interdistrict transfer agreement exists or a permit is issued.~~

A student whose parent/guardian is in active military duty shall not be prohibited from transferring out of the district, provided the school district of proposed enrollment approves the application for transfer. (Education Code 46600, 48307)

The district may limit transfers out of the district to a school district of choice under any of the following circumstances: (Education Code 48307)

Note: Even if a district has not designated itself as a school district of choice, it has the authority pursuant to Education Code 48307 to limit the number of students transferring out of the district into other districts that have designated themselves as school districts of choice. A district with an ADA of more than 50,000 may annually limit the number of such transfers to one percent of its current year estimated ADA. A district with an ADA of 50,000 or less may limit the number of such transfers to three percent of its current estimated ADA and may limit the maximum number of such transfers for the duration of the program to 10 percent of the ADA for that period. In Walnut Valley Unified School District v. Superior Court of Los Angeles County, the appellate court held that the 10 percent cap on outbound transfers "for the duration of the program" should be based on the district's ADA over the entire life of the district of choice program (i.e., from the program's inception in 1994 until the present day). The district may revise item #1 to reflect the applicable percentage in Education Code 48307 based on its ADA.

1. The number of student transfers out of the district to a school district of choice has reached the limit specified in Education Code 48307 based on the district's average daily attendance.
2. The County Superintendent of Schools has given the district a negative budget certification or has determined that the district will not meet the state's standards and criteria for fiscal stability in the subsequent fiscal year exclusively as a result of student transfers from this district to a school district of choice.

(cf. 3100 - Budget)

INTERDISTRICT ATTENDANCE (continued)

Note: Item #3 is **optional** and should be revised to reflect district practice. ~~As noted above in the section "Option 2: School District of Choice Program,"~~ Education Code 48307 authorizes the district to prohibit a transfer ~~in or~~ out of the district under the school district of choice program if the Board determines that the transfer would negatively impact a court-ordered desegregation plan, a voluntary desegregation plan, or the racial and ethnic balance of the district. ~~As amended by AB 99 (Ch. 15, Statutes of 2017),~~ Education Code 48307 provides that denial of transfers on the basis of a voluntary desegregation plan or the racial and ethnic balance of the district must be consistent with the constitutional provisions added by Proposition 209 in 1996 (California Constitution, Article 1, Section 31). It is recommended that districts consult legal counsel before adopting policy to allow denial of transfers on either of these bases.

3. The Board determines that the transfer would negatively impact any of the following:
(Education Code 48307)
 - a. A court-ordered desegregation plan
 - b. A voluntary desegregation plan of the district, consistent with the California Constitution, Article 1, Section 31
 - c. The racial and ethnic balance of the district, consistent with the California Constitution, Article 1, Section 31

(7/12 10/17) 3/19

CSBA Sample

Administrative Regulation

Students

AR 5131.41(a)

USE OF SECLUSION AND RESTRAINT

Note: Pursuant to Education Code 49005-49006.4, as added by AB 2657 (Ch. 998, Statutes of 2018), seclusion and behavioral restraint, as defined below, are prohibited as a means of student discipline. Seclusion and restraint must be avoided whenever possible and may be used only to control behavior that poses a clear and present danger of serious physical harm to a student or others and that cannot be immediately prevented by a less restrictive response.

Pursuant to Education Code 49005.1 and 49006.4, these requirements apply to all students in grades preK-12 and students with disabilities. For additional procedures applicable to students with disabilities, see AR 6159.4 - Behavioral Interventions for Special Education Students.

District staff shall enforce standards of appropriate student conduct in order to provide a safe and secure environment for students and staff on campus, but are prohibited from using seclusion and behavioral restraint to control student behavior except to the limited extent authorized by law.

(cf. 5131 - Conduct)

(cf. 5131.1 - Bus Conduct)

(cf. 6159.4 - Behavioral Interventions for Special Education Students)

Definitions

Behavioral restraint includes mechanical restraint or physical restraint used as an intervention when a student presents an immediate danger to self or to others. Behavioral restraint does not include postural restraints or devices used to improve a student's mobility and independent functioning rather than to restrict movement. (Education Code 49005.1)

Mechanical restraint means the use of a device or equipment to restrict a student's freedom of movement. Mechanical restraint does not include the use of devices as prescribed by an appropriate medical or related services professional, including, but not limited to, adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment; vehicle safety restraints during the transport of a student; restraints for medical immobilization; or orthopedically prescribed devices which permit a student to participate in activities without risk of harm. Mechanical restraint also does not include the use of devices by peace officers or security personnel for detention or for public safety purposes. (Education Code 49005.1)

(cf. 3515.3 - District Police/Security Department)

Physical restraint means a personal restriction that immobilizes or reduces the ability of a student to move the torso, arms, legs, or head freely. Physical restraint does not

USE OF SECLUSION AND RESTRAINT (continued)

include a physical escort in which a staff member temporarily touches or holds the student's hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is acting out to walk to a safe location. Physical restraint also does not include the use of force by peace officers or security personnel for detention or for public safety purposes. (Education Code 49005.1)

Prone restraint means the application of a behavioral restraint on a student in a facedown position. (Education Code 49005.1)

Seclusion means the involuntary confinement of a student alone in a room or an area from which the student is physically prevented from leaving. Seclusion does not include a timeout involving the monitored separation of the student in an unlocked setting, which is implemented for the purpose of calming the student. (Education Code 49005.1)

Prohibitions

Seclusion and behavioral restraint of students shall not be used in any form as a means of coercion, discipline, convenience, or retaliation. (Education Code 49005.8)

(cf. 5144 - Discipline)

In addition, staff shall not take any of the following actions: (Education Code 49005.2, 49005.8)

1. Administer a drug that is not a standard treatment for a student's medical or psychiatric condition in order to control the student's behavior or restrict the student's freedom of movement
2. Use locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use as a locked room
3. Use a physical restraint technique that obstructs a student's respiratory airway or impairs a student's breathing or respiratory capacity, including a technique in which a staff member places pressure on the student's back or places his/her body weight against the student's torso or back
4. Use a behavioral restraint technique that restricts breathing, including, but not limited to, the use of a pillow, blanket, carpet, mat, or other item to cover a student's face
5. Place a student in a facedown position with the student's hands held or restrained behind the student's back

USE OF SECLUSION AND RESTRAINT (continued)

6. Use a behavioral restraint for longer than is necessary to contain the behavior that poses a clear and present danger of serious physical harm to the student or others

Limited Use of Seclusion or Restraint

Staff shall avoid the use of seclusion and behavioral restraint of students whenever possible. Seclusion or behavioral restraint may be used only to control student behavior that poses a clear and present danger of serious physical harm to the student or others, which cannot be prevented by a response that is less restrictive. (Education Code 49005.4, 49005.6, 49005.8)

(cf. 5131.4 - Student Disturbances)

(cf. 5131.7 - Weapons and Dangerous Instruments)

If a student is put in seclusion, the student shall be under constant, direct observation of a staff member. Such observation may be through a window or another barrier through which the staff member is able to make direct eye contact with the student, but shall not be made through indirect means such as a security camera or closed-circuit television. (Education Code 49005.8)

If a student is restrained, staff shall afford the student the least restrictive alternative and the maximum freedom of movement, and shall use the least number of restraint points, while ensuring the physical safety of the student and others. (Education Code 49005.8)

If a prone restraint technique is used on a student, a staff member shall observe the student for any signs of physical distress throughout the use of the restraint. Whenever possible, the staff member monitoring the student shall not be involved in restraining the student. (Education Code 49005.8)

Reports

Note: Pursuant to Education Code 49006, as added by AB 2657, districts are required to collect data and report to the California Department of Education (CDE) annually in regard to the use of seclusion and behavioral restraints for district students, as specified below. CDE is required to post the data from the report on its web site within three months after the report is due to CDE.

The Superintendent or designee shall annually collect data on the number of times that seclusion, mechanical restraint, and physical restraint were used on students and the number of students subjected to such techniques. The data shall be disaggregated by race/ethnicity and gender, and reported for students with a Section 504 plan, students with an individualized education program, and all other students. This report shall be

USE OF SECLUSION AND RESTRAINT (continued)

submitted to the California Department of Education no later than three months after the end of each school year, and shall be available as a public record pursuant to Government Code 6250-6270. (Education Code 49006)

(cf. 1340 - Access to District Records)

(cf. 3580 - District Records)

(cf. 6159 - Individualized Education Program)

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

Legal Reference:

EDUCATION CODE

49001 Prohibition against corporal punishment

49005-49006.4 Seclusion and restraint

56520-56525 Behavioral interventions, students with disabilities, especially:

56521.1 Emergency interventions when behavior poses threat to student or others

56521.2 Prohibited interventions

GOVERNMENT CODE

6250-6270 California Public Records Act

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act

UNITED STATES CODE, TITLE 29

794 Section 504 of the Rehabilitation Act of 1973

Management Resources:

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Restraint and Seclusion: Resource Document, May 2012

WEB SITES

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

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

CSBA Sample

Board Policy

Students

BP 5141.52(a)

SUICIDE PREVENTION

Note: Education Code 215, ~~as added by AB 2246 (Ch. 642, Statutes of 2016)~~, **mandates** that the Governing Board of any district serving students in grades 7-12 adopt a policy on student suicide prevention, intervention, and postvention (i.e., intervention conducted after a suicide) with specified components. Those components are addressed in the following policy and the accompanying administrative regulation. ~~Also see the California Department of Education's model policy required by Education Code 215.~~ **Although not required by law, districts serving students in grades K-6 may adapt this policy for use in elementary schools.**

The following policy and accompanying administrative regulation should be revised to reflect district practice. Pursuant to Education Code 215, the policy must be developed in consultation with school and community stakeholders, school-employed mental health professionals, and suicide prevention experts. It is recommended that districts also consult with legal counsel and the district's risk manager or insurance carrier, as appropriate.

Also see the California Department of Education's model policy required by Education Code 215.

The Governing Board recognizes that suicide is a leading cause of death among youth and that school personnel who regularly interact with students are often in a position to recognize the warning signs of suicide and to offer appropriate referral and/or assistance. ~~To~~ **In an attempt effort** to reduce suicidal behavior and its impact on students and families, the Superintendent or designee shall develop measures and strategies for suicide prevention, intervention, and postvention.

In developing measures and strategies for use by the district, the Superintendent or designee may consult with school health professionals, school counselors, school psychologists, school social workers, administrators, other staff, parents/guardians, students, **suicide prevention experts**, local health agencies, mental health professionals, and community organizations.

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

(cf. 1220 - Citizen Advisory Committees)

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

Such measures and strategies shall include, but are not limited to:

Note: Education Code 215, ~~as added by AB 2246 (Ch. 642, Statutes of 2016)~~, **mandates** that the district's policy address any training to be provided to teachers of students in grades 7-12 on suicide awareness and prevention. See the accompanying administrative regulation for additional language fulfilling this mandate. In addition, Education Code 49604 encourages each district to provide suicide prevention training at least once to each middle, junior high, and high school counselor. Item #1 may be revised to specify other categories of employees who will receive the training.

SUICIDE PREVENTION (continued)

1. Staff development on suicide awareness and prevention for teachers, school counselors, and other district employees who interact with students ~~in the secondary grades~~

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Note: Items #2-7 below reflect optional strategies for suicide prevention, intervention, and postvention and may be revised to reflect district practice.

2. Instruction to students in problem-solving and coping skills to promote students' mental, emotional, and social health and well-being, as well as instruction in recognizing and appropriately responding to warning signs of suicidal intent in others

(cf. 6142.8 - Comprehensive Health Education)

3. Methods for promoting a positive school climate that enhances students' feelings of connectedness with the school and that is characterized by caring staff and harmonious interrelationships among students

(cf. 5131 - Conduct)

(cf. 5131.2 - Bullying)

(cf. 5137 - Positive School Climate)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.9 - Hate-Motivated Behavior)

4. The provision of information to parents/guardians regarding risk factors and warning signs of suicide, the severity of the ~~youth~~-suicide problem **among youth**, the district's suicide prevention curriculum, basic steps for helping suicidal youth, and/or school and community resources that can help youth in crisis
5. Encouragement for students to notify appropriate school personnel or other adults when they are experiencing thoughts of suicide or when they suspect or have knowledge of another student's suicidal intentions
6. Crisis intervention procedures for addressing suicide threats or attempts
7. Counseling and other postvention strategies for helping students, staff, and others cope in the aftermath of a student's suicide

SUICIDE PREVENTION (continued)

Note: Education Code 215, ~~as added by AB 2246 (Ch. 642, Statutes of 2016)~~, **mandates** that the district's policy specifically address the needs of high-risk groups, including, but not limited to, those listed in the following paragraph. See the accompanying administrative regulation for additional language fulfilling this mandate.

As appropriate, these measures and strategies shall specifically address the needs of students who are at high risk of suicide, including, but not limited to, students who are bereaved by suicide; students with disabilities, mental illness, or substance use disorders; students who are experiencing homelessness or who are in out-of-home settings such as foster care; and students who are lesbian, gay, bisexual, transgender, or questioning youth. (Education Code 215)

Note: Pursuant to Education Code 215, as amended by AB 2639 (Ch. 437, Statutes of 2018), boards that serve students in grades 7-12 are required to review, and if necessary update, the district's student suicide prevention policy at least every five years.

The Board shall review, and update as necessary, this policy at least every five years. (Education Code 215)

Legal Reference:

EDUCATION CODE

215 Student suicide prevention policies

215.5 Suicide prevention hotline contact information on student identification cards

216 Suicide prevention online training programs

32280-32289 Comprehensive safety plan

49060-49079 Student records

49602 Confidentiality of student information

49604 Suicide prevention training for school counselors

GOVERNMENT CODE

810-996.6 Government Claims Act

PENAL CODE

11164-11174.3 Child Abuse and Neglect Reporting Act

WELFARE AND INSTITUTIONS CODE

5698 Emotionally disturbed youth; legislative intent

5850-5883 **Children's** Mental Health Services Act

COURT DECISIONS

Corales v. Bennett (Ontario-Montclair School District), (2009) 567 F.3d 554

Management Resources: (see next page)

SUICIDE PREVENTION (continued)

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Health Education Content Standards for California Public Schools, Kindergarten Through Grade Twelve, 2008

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

CENTERS FOR DISEASE CONTROL AND PREVENTION PUBLICATIONS

School Connectedness: Strategies for Increasing Protective Factors Among Youth, 2009

NATIONAL ASSOCIATION OF SCHOOL PSYCHOLOGISTS PUBLICATIONS

Preventing Suicide: Guidelines for Administrators and Crisis Teams, 2015

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES PUBLICATIONS

National Strategy for Suicide Prevention: Goals and Objectives for Action, rev. 2012

Preventing Suicide: A Toolkit for High Schools, 2012

National Strategy for Suicide Prevention: Goals and Objectives for Action, rev. 2012

WEB SITES

American Association of Suicidology: <http://www.suicidology.org>

American Foundation for Suicide Prevention: <https://afsp.org>

American Psychological Association: <http://www.apa.org>

American School Counselor Association: <https://www.schoolcounselor.org>

California Department of Education, Mental Health: <http://www.cde.ca.gov/ls/cg/mh>

California Department of Health Care Services, Suicide Prevention Program: <http://www.dhcs.ca.gov/services/MH/Pages/SuicidePrevention.aspx>

Centers for Disease Control and Prevention, Mental Health: <http://www.cdc.gov/mentalhealth>

National Association of School Psychologists: <https://www.nasponline.org>

National Institute for Mental Health: <http://www.nimh.nih.gov>

Trevor Project: <http://thetrevorproject.org>

U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration: <http://www.samhsa.gov>

(7/09 3/17) 12/18

CSBA Sample Administrative Regulation

Students

AR 5141.52(a)

SUICIDE PREVENTION

Note: Pursuant to Education Code 215, ~~as added by AB 2246 (Ch. 642, Statutes of 2016)~~, districts serving students in grades 7-12 are **mandated** to adopt a policy on student suicide prevention, intervention, and postvention (i.e., intervention conducted after a suicide). See the accompanying Board policy. The following administrative regulation provides additional strategies that fulfill the mandate and may be revised to reflect district practice.

Examples of suicide prevention strategies are **also** available in the California Department of Education's (CDE) model policy ~~created in response to AB 2246~~, the U.S. Department of Health and Human Services publication Preventing Suicide: A Toolkit for High Schools, and resources issued by other state and federal agencies and organizations. For further information about strategies to protect students from bullying, cyberbullying, and other harassment, see BP 5131 - Conduct, BP 5131.2 - Bullying, BP 5145.3 - Nondiscrimination/Harassment, and BP 5145.9 - Hate-Motivated Behavior.

Effective July 1, 2019, Education Code 215.5, as added by SB 972 (Ch. 460, Statutes of 2018), requires districts that issue or reissue student identification cards to have printed on either side of the card the telephone number of the National Suicide Prevention Lifeline (1-800-273-8255), and allows to have printed on the card the Crisis Text Line (texting HOME to 741741) and/or a local suicide prevention hotline telephone number. If, as of July 1, 2019, the district has unissued student identification cards that do not comply with the above requirements, the cards should be issued until the supply is depleted.

Student identification cards shall include the National Suicide Prevention Lifeline telephone number and may also include the Crisis Text Line and/or a local suicide prevention hotline telephone number. (Education Code 215.5)

Staff Development

Note: Education Code 215, ~~as added by AB 2246 (Ch. 642, Statutes of 2016)~~, **mandates** that the district's policy and procedures address any training to be provided to teachers of students in grades 7-12 on suicide awareness and prevention. In addition, Education Code 49604 encourages each district to provide suicide prevention training at least once to each middle, junior high, and high school counselor. The following section may be revised to reflect district practice.

Education Code 216, as added by AB 1808 (Ch. 32, Statutes of 2018), requires CDE to identify evidence-based online training program(s), aligned with the requirements of Education Code 215, that districts can use to train students and staff. Additionally, dependent upon funds being appropriated in the annual Budget Act, CDE will provide grants, upon application, to county offices of education for the acquisition of such training programs to disseminate to districts at no cost.

Suicide prevention training shall be provided to teachers, counselors, and other district employees who interact with students ~~at the secondary level~~. The training shall be offered under the direction of a district counselor/psychologist and/or in cooperation with one or more community mental health agencies.

SUICIDE PREVENTION (continued)

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Materials for training shall include how to identify appropriate mental health services at the school site and within the community, and when and how to refer youth and their families to those services. Materials also may include programs that can be completed through self-review of suitable suicide prevention materials. (Education Code 215)

Staff development shall include research and information related to the following topics:

Note: Education Code 215, as added by AB 2246 (Ch. 642, Statutes of 2016), mandates that the district's policy specifically address the needs of high-risk groups; see the accompanying Board policy. One strategy to specifically address their needs is to increase staff awareness of the higher rates of suicide among these groups, as provided in item #1 below.

1. The higher risk of suicide among certain groups, including, but not limited to, students who are bereaved by suicide; students with disabilities, mental illness, or substance use disorders; students who are experiencing homelessness or who are in out-of-home settings such as foster care; and students who are lesbian, gay, bisexual, transgender, or questioning youth

Note: Staff development may include training about individual risk factors associated with suicide, as provided in item #2 below. Information about risk factors is available from the CDE, Centers for Disease Control and Prevention, American Association of Suicidology, American Foundation for Suicide Prevention, Trevor Project, and other agencies and organizations.

2. Individual risk factors such as previous suicide attempt(s) or self-harm, history of depression or mental illness, family history of suicide or violence, feelings of isolation, interpersonal conflicts, a recent severe stressor or loss, family instability, impulsivity, and other factors

(cf. 5131.6 - Alcohol and Other Drugs)

3. Warning signs that may indicate depression, emotional distress, or suicidal intentions, such as changes in students' personality or behavior and verbalizations of hopelessness or suicidal intent
4. Protective factors that may help to decrease a person's student's suicide risk, such as resiliency, problem-solving ability, access to mental health care, and positive connections to family, peers, school, and community
5. Instructional strategies for teaching the suicide prevention curriculum and promoting mental and emotional health

SUICIDE PREVENTION (continued)

6. School and community resources and services, including resources and services that meet the specific needs of high-risk groups

(cf. 5141.6 - School Health Services)

(cf. 6164.2 - Guidance/Counseling Services)

7. **Appropriate ways to interact with a student who is demonstrating emotional distress or is suicidal and District** procedures for intervening when a student attempts, threatens, or discloses the desire to die by suicide, **including, but not limited to, appropriate protocols for monitoring the student while the immediate referral of the student to medical or mental health services is being processed**

8. **District procedures for responding after a suicide has occurred**

Instruction

Note: The state's content standards for health education include voluntary standards pertaining to mental, emotional, and social health at selected elementary and secondary grades and suicide prevention instruction at grade 7 or 8 and in high school. **The district may revise the following paragraph to reflect grade levels offered by the district.**

The district's comprehensive health education program shall promote the healthy mental, emotional, and social development of students and shall be aligned with the state content standards and curriculum framework. Suicide prevention instruction shall be incorporated into the health education curriculum at appropriate secondary grades and shall be designed to help students:

1. Identify and analyze signs of depression and self-destructive behaviors and understand how feelings of depression, loss, isolation, inadequacy, and anxiety can lead to thoughts of suicide
2. Develop coping and resiliency skills and self-esteem
3. Learn to listen, be honest, share feelings, and get help when communicating with friends who show signs of suicidal intent
4. Identify trusted adults, school resources, and/or community crisis intervention resources where youth can get help and recognize that there is no stigma associated with seeking services for mental health, substance abuse, and/or suicide prevention

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

(cf. 5131.6 - Alcohol and Other Drugs)

(cf. 5141.6 - School Health Services)

(cf. 6142.8 - Comprehensive Health Education)

(cf. 6164.2 - Guidance/Counseling Services)

SUICIDE PREVENTION (continued)**Intervention**

Note: Education Code 215, as added by AB 2246 (Ch. 642, Statutes of 2016), **mandates** that the district's policy and procedures address suicide intervention. The following section should be revised to reflect district practice.

In addition, the district may choose to incorporate crisis intervention strategies in its comprehensive school safety plan adopted pursuant to Education Code 32280-32289; see BP/AR 0450 - Comprehensive Safety Plan.

Students shall be encouraged to notify a teacher, principal, counselor, or other adult when they are experiencing thoughts of suicide or when they suspect or have knowledge of another student's suicidal intentions.

Every statement regarding suicidal intent shall be taken seriously. Whenever a staff member suspects or has knowledge of a student's suicidal intentions based on the student's verbalizations or act of self-harm, **he/she the staff member** shall promptly notify the principal or school counselor, **who shall implement district intervention protocols as appropriate.**

Note: Education Code 49602 generally protects the confidentiality of information of a personal nature disclosed to a school counselor by a student age 12 years or older or by a parent/guardian. However, in certain circumstances, the counselor may disclose such information to avert a clear and present danger to the health, safety, or welfare of the student **or others within in the school community.** Also see BP 6164.2 - Guidance/Counseling Services.

Although any personal information that a student discloses to a school counselor shall generally not be revealed, released, referenced, or discussed with third parties, the counselor may report to the principal or student's parents/guardians when **he/she has there is** reasonable cause to believe that disclosure is necessary to avert a clear and present danger to the health, safety, or welfare of the student **or others within the school community.** In addition, the counselor may disclose information of a personal nature to psychotherapists, other health care providers, or the school nurse for the sole purpose of referring the student for treatment. (Education Code 49602)

(cf. 5141 - Health Care and Emergencies)

A sSchool employees shall act only within the authorization and scope of **their his/her** credential or license. An employee is not authorized to diagnose or treat mental illness unless **he/she is** specifically licensed and employed to do so. (Education Code 215)

Whenever schools establish a peer counseling system to provide support for students, peer counselors shall receive training that includes identification of the warning signs of suicidal behavior and referral of a suicidal student to appropriate adults.

SUICIDE PREVENTION (continued)

(cf. 5138 - Conflict Resolution/Peer Mediation)

When a suicide attempt or threat is reported, the principal or designee shall ensure student safety by taking the following actions:

1. Immediately securing medical treatment and/or mental health services as necessary
2. Notifying law enforcement and/or other emergency assistance if a suicidal act is being actively threatened
3. Keeping the student under continuous adult supervision until the parent/guardian and/or appropriate support agent or agency can be contacted and has the opportunity to intervene
4. Removing other students from the immediate area as soon as possible

(cf. 0450 - Comprehensive Safety Plan)

(cf. 5141 - Health Care and Emergencies)

The principal or designee shall document the incident in writing, including the steps that the school took in response to the suicide attempt or threat.

(cf. 5125 - Student Records)

Note: The following paragraph is **optional**. If a student's parents/guardians refuse or neglect to access treatment for a student who has been identified to be at risk for suicide, the Superintendent or designee shall consider whether a referral to child protective services for child neglect is needed. Pursuant to Penal Code 11164-11174.3, the Child Abuse and Neglect Reporting Act, school employees who are mandated reporters are required to report child abuse or neglect, as defined in law, when they have knowledge of or reasonably suspect that a child is a victim of child abuse or neglect. See BP/AR 5141.4 - Child Abuse Prevention and Reporting.

The Superintendent or designee shall follow up with the parent/guardian and student in a timely manner to provide referrals to appropriate services as needed. If the parent/guardian does not access treatment for the student, the Superintendent or designee may meet with the parent/guardian to identify barriers to treatment and assist the family in providing follow-up care for the student. If follow-up care is still not provided, the Superintendent or designee shall consider whether ~~he/she is required~~ **it is necessary**, pursuant to laws for mandated reporters of child neglect, to refer the matter to the local child protective services agency.

(cf. 5141.4 - Child Abuse Prevention and Reporting)

For any student returning to school after a mental health crisis, the principal or designee and/or school counselor may meet with the parents/guardians and, if appropriate, with the student to discuss re-entry and appropriate next steps to ensure the student's readiness for return to school **and determine the need for ongoing support.**

SUICIDE PREVENTION (continued)

Postvention

Note: Education Code 215, as added by AB 2246 (Ch. 642, Statutes of 2016), mandates that the district's policy and procedures address suicide postvention. The following section should be revised to reflect district practice.

In the event that a student dies by suicide, the Superintendent or designee shall communicate with the student's parents/guardians to offer condolences, assistance, and resources. In accordance with the laws governing confidentiality of student record information, the Superintendent or designee shall consult with the parents/guardians regarding facts that may be divulged to other students, parents/guardians, and staff.

Note: Research has identified an increased risk of suicide among youth who are grieving the suicide of another (so-called "suicide contagion"). The National Association of School Psychologists, in its Preventing Suicide: Guidelines for Administrators and Crisis Teams, recommends that memorials should be implemented with care so as not to sensationalize or glamorize suicide and thereby increase the suicide risk to other students. If a memorial is conducted for a student who dies by suicide, the association suggests a living memorial, such as making donations to a local crisis center, participating in an event that raises awareness about suicide prevention, or providing other opportunities for service activities in the school **that emphasize the importance of students taking care of each other.**

The Superintendent or designee shall implement procedures to address students' and staff's grief and to minimize the risk of imitative suicide or suicide contagion. **He/she The Superintendent or designee** shall provide students, parents/guardians, and staff with information, counseling, and/or referrals to community agencies as needed. School staff may receive assistance from school counselors or other mental health professionals in determining how best to discuss the suicide or attempted suicide with students.

Any response to media inquiries shall be handled by the district-designated spokesperson who shall not divulge confidential information. The district's response shall not sensationalize suicide and shall focus on the district's postvention plan and available resources.

(cf. 1112- Media Relations)

After any suicide or attempted suicide by a student, the Superintendent or designee shall provide an opportunity for all staff who responded to the incident to debrief, evaluate the effectiveness of the strategies used, and make recommendations for future actions.

(7/09 3/17) 12/18

CSBA Sample

Board Policy

Students

BP 5144(a)

DISCIPLINE

Note: The following policy is **optional**. Pursuant to Education Code 52060-52077, the Governing Board is required to adopt a local control and accountability plan (LCAP) that includes a description of the specific actions that the district intends to take in order to achieve its annual goals in specific priority areas, including student engagement and school climate. See BP/AR 0460 - Local Control and Accountability Plan.

Since a district's ability to meet its goals around these priorities is impacted by its student discipline policies and practices, the Board must be careful to enact rules that are effective in maintaining safety and order on campus and in correcting student misbehavior without unnecessarily excluding students from school or participation in instruction. State law specifies behaviors for which a student may be suspended and/or recommended for expulsion (see BP/AR 5144.1 - Suspension and Expulsion/Due Process) and authorizes the use of age-appropriate alternatives designed to address a student's specific misbehavior, including those listed in Education Code 48900.5 and 48900.6.

In addition, the U.S. Department of Justice's Civil Rights Division 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, state that studies have suggested 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, 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 misbehavior.

The Governing Board is committed to providing a safe, supportive, and positive school environment which is conducive to student learning **and achievement** and **to preparing desires to prepare** students for responsible citizenship by fostering self-discipline and personal responsibility. The Board believes that high expectations for student behavior, use of effective school and classroom management strategies, provision of appropriate intervention and support, and parent/**guardian** involvement can minimize the need for disciplinary measures that exclude students from instruction as a means for correcting student misbehavior.

(cf. 5113.1 - Chronic Absence and Truancy)

(cf. 5131 - Conduct)

(cf. 5131.1 - Bus Conduct)

(cf. 5131.2 - Bullying)

(cf. 5137 - Positive School Climate)

(cf. 5145.9 - Hate-Motivated Behavior)

(cf. 6020 - Parent Involvement)

The Superintendent or designee shall develop effective, age-appropriate strategies for maintaining a positive school climate and correcting student misbehavior at district schools.

DISCIPLINE (continued)

The strategies shall focus on providing students with needed supports; communicating clear, appropriate, and consistent expectations and consequences for student conduct; and ensuring equity and continuous improvement in the implementation of district discipline policies and practices.

(cf. 5138 - Conflict Resolution/Peer Mediation)
(cf. 6164.2 - Guidance/Counseling Services)

In addition, the Superintendent or designee's strategies for correcting student misconduct shall reflect the Board's preference for the use of positive interventions and alternative disciplinary measures over exclusionary discipline measures.

Disciplinary measures that may result in loss of instructional time or cause students to be disengaged from school, such as detention, suspension, and expulsion, shall be imposed only when required or permitted by law or when other means of correction have been documented to have failed. (Education Code 48900.5)

(cf. 5020 - Parent Rights and Responsibilities)
(cf. 5144.1 - Suspension and Expulsion/Due Process)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))
(cf. 6159.4 - Behavioral Interventions for Special Education Students)
(cf. 6164.5 - Student Success Teams)

Note: Pursuant to Education Code 49557.5, as added by SB 250 (Ch. 726, Statutes of 2017), districts must ensure that any discipline imposed on a student does not result in the denial or delay of a nutritionally adequate meal. The following paragraph is for use by districts participating in the National School Lunch and/or Breakfast Program (42 USC 1751-1769j, 1773), or any district in which there is a school required to serve a free or reduced price meal during the school day pursuant to Education Code 49550.

School personnel and volunteers shall not allow any disciplinary action taken against a student to result in the denial or delay of a school meal. (Education Code 49557.5)

(cf. 3550 - Food Service/Child Nutrition Program)
(cf. 3551 - Food Service Operations/Cafeteria Fund)
(cf. 3553 - Free and Reduced Price Meals)

Note: Pursuant to Education Code 49005.2, as added by AB 2657 (Ch. 998, Statutes of 2018), use of seclusion and behavioral restraint as a means of discipline is prohibited. Education Code 49005.4, as added by AB 2657, provides that seclusion or behavioral constraint may only be used to control behavior that poses a clear and present danger of serious physical harm to a student or others that cannot be immediately prevented by a less restrictive response. See AR 5131.41 - Use of Seclusion and Restraint.

Seclusion and behavioral restraint are prohibited as a means of discipline and shall not be used to correct student behavior except as permitted pursuant to Education Code 49005.4 and in accordance with district regulations. (Education Code 49005.2)

(cf. 5131.41 - Use of Seclusion and Restraint)

DISCIPLINE (continued)

Note: The following **optional** paragraph may be revised to reflect district practice. According to Public Counsel's model policy issued as part of the Fix School Discipline Project, a discipline matrix that lists violations and consequences could be a useful guide to school site administrators with regard to when suspension or expulsion referrals should be utilized.

The Superintendent or designee shall create a model discipline matrix that lists violations and the consequences for each as allowed by law.

Note: Education Code 35291.5 authorizes, but does not require, school sites to adopt rules and procedures for student discipline. Pursuant to Education Code 32282, any adopted site-level discipline rules must be included in the comprehensive safety plan; see BP/AR 0450 - Comprehensive Safety Plan. The following paragraph is **optional**.

The administrative staff at each school may develop disciplinary rules to meet the school's particular needs consistent with law, Board policy, and district regulations. The Board, at an open meeting, shall review the approved school discipline rules for consistency with Board policy and state law. Site-level disciplinary rules shall be included in the district's comprehensive safety plan. (Education Code 32282, 35291.5)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 9320 - Meetings and Notices)

At all times, the safety of students and staff and the maintenance of an orderly school environment shall be priorities in determining appropriate discipline. When misconduct occurs, staff shall attempt to identify the causes of the student's behavior and implement appropriate discipline. When choosing between different disciplinary strategies, staff shall consider the effect of each option on the student's health, well-being, and opportunity to learn.

Staff shall enforce disciplinary rules fairly, consistently, and in accordance with the district's nondiscrimination policies.

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

(cf. 0415 - Equity)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

The Superintendent or designee shall provide professional development as necessary to assist staff in developing the skills needed to effectively **and equitably** implement the disciplinary strategies adopted for district schools, including, but not limited to, **knowledge of consistent** school and classroom management skills **and their consistent application**, effective accountability and positive intervention techniques, and **development of the tools to form** strong, cooperative relationships with parents/guardians.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

DISCIPLINE (continued)

(cf. 4331 - Staff Development)

Note: Pursuant to Education Code 52060, the district must annually adopt an LCAP that includes a description of district goals for improving school climate, as provided in the following paragraph.

District goals for improving school climate, based on suspension and expulsion rates, surveys of students, staff, and parents/guardians regarding their sense of school **safety and connectedness to the school community**, and other local measures, shall be included in the district's local control and accountability plan, as required by law.

(cf. 0460 - Local Control and Accountability Plan)

(cf. 3100 - Budget)

At the beginning of each school year, the Superintendent or designee shall report to the Board regarding disciplinary strategies used in district schools in the immediately preceding school year and their effect on student learning.

Legal Reference:

EDUCATION CODE

32280-~~32288~~ **32289** School safety plans

35146 Closed sessions

35291 Rules

35291.5-35291.7 School-adopted discipline rules

37223 Weekend classes

44807.5 Restriction from recess

48900-48926 Suspension and expulsion

48980-48985 Notification of parent/guardian

49005-49006.4 Seclusion and restraint

49330-49335 Injurious objects

49550-~~49562~~ **49564.5** Meals for needy students

52060-52077 Local control and accountability plan

CIVIL CODE

1714.1 Parental liability for child's misconduct

CODE OF REGULATIONS, TITLE 5

307 Participation in school activities until departure of bus

353 Detention after school

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act

UNITED STATES CODE, TITLE 29

794 Section 504 of the Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42

1751-1769j School Lunch Program

1773 School Breakfast Program

Management Resources: (see next page)

DISCIPLINE (continued)

Management Resources:

CSBA PUBLICATIONS

Recent Legislation on Discipline: AB 240, Fact Sheet, March 2015

The Case for Reducing Out-of-School Suspensions and Expulsions, Fact Sheet, April 2014

Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014

Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011

Maximizing Opportunities for Physical Activity during the School Day, Fact Sheet, 2009

CALIFORNIA DEPARTMENT OF EDUCATION PROGRAM ADVISORIES

Classroom Management: A California Resource Guide for Teachers and Administrators of Elementary and Secondary Schools, 2000

STATE BOARD OF EDUCATION POLICIES

01-02 School Safety, Discipline, and Attendance, March 2001

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

Public Counsel: <http://www.fixschooldiscipline.org>

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

(4/14 12/17) 12/18

CSBA Sample Exhibit

Students

E 5145.6(a)

PARENTAL NOTIFICATIONS

Cautionary Notice: Government Code 17581.5 releases districts from the obligation to perform specified mandated activities when the Budget Act does not provide reimbursement during that fiscal year. The Budget Act of 2018 (SB 840, Ch. 29, Statutes of 2018) extends the suspension of these requirements through the 2018-19 fiscal year. As a result, certain provisions of the following Exhibit related to scoliosis screening and bus safety instruction may be suspended.

Note: The following exhibit lists notices which the law explicitly requires be provided to parents/guardians. See the referenced Board policy, administrative regulation, or Board bylaw for further information about related program and notice requirements. For example, see AR 1312.3 - Uniform Complaint Procedures for the contents of the annual notice regarding uniform complaint procedures as mandated by 5 CCR 4622.

The exhibit does not include other notices that are recommended throughout CSBA's sample policy manual but are not required by law. The district may revise the exhibit to reflect additional notifications provided by the district.

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. Annually			
Beginning of each school year	Education Code 222.5	BP 5146	Rights and options for pregnant and parenting students
Beginning of each school year	Education Code 234.7	BP 0410	Right to a free public education regardless of immigration status or religious beliefs
Beginning of each school year	Education Code 310	BP 6142.2 AR 6174	Information on the district's language acquisition programs
Beginning of each school year	Education Code 17611.5, 17612, 48980.3	AR 3514.2	Use of pesticide product, active ingredients, Internet address to access information, and, if district has no web site and uses certain pesticides, integrated pest management plan
By February 1	Education Code 35256, 35258	BP 0510	School Accountability Report Card provided
Beginning of each school year	Education Code 35291, 48980	AR 5144 AR 5144.1	District and site discipline rules

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. Annually (continued)			
Beginning of each school year	Education Code 44050	BP 4119.21 4219.21 4319.21	Code of conduct addressing employee interactions with students
Beginning of each school year	Education Code 46010.1	AR 5113	Absence for confidential medical services
Beginning of each school year, if district has adopted policy on involuntary transfer of students convicted of certain crimes when victim is enrolled at same school	Education Code 48929, 48980	BP 5116.2	District policy authorizing transfer
Beginning of each school year	Education Code 48980	BP 6111	Schedule of minimum days and student-free staff development days
Beginning of each school year	Education Code 48980, 231.5; 5 CCR 4917	AR 5145.7	Copy of sexual harassment policy as related to students
Beginning of each school year	Education Code 48980, 32255-32255.6	AR 5145.8	Right to refrain from harmful or destructive use of animals
Beginning of each school year	Education Code 48980, 35160.5, 46600-46611, 48204, 48301, 48350-48361	BP 5111.1 AR 5116.1 AR 5117	All statutory attendance options, available local attendance options, options for meeting residency, form for changing attendance, appeals process
Beginning of each school year, if Board allows such absence	Education Code 48980, 46014	AR 5113	Absence for religious exercises or purposes
Beginning of each school year	Education Code 48980, 48205	AR 5113 BP 6154	Excused absences; grade/credit cannot be reduced due to excused absence if work or test has been completed; full text of Education Code 48205

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. Annually (continued)			
Beginning of each school year	Education Code 48980, 48206.3, 48207, 48208	AR 6183	Availability of home/hospital instruction for students with temporary disabilities
Beginning of each school year	Education Code 48980, 49403	BP 5141.31	School immunization program
Beginning of each school year	Education Code 48980, 49423, 49480	AR 5141.21	Administration of prescribed medication
Beginning of each school year	Education Code 48980, 49451; 20 USC 1232h	AR 5141.3	Right to refuse consent to physical examination
Beginning of each school year	Education Code 48980, 49471, 49472	BP 5143	Availability of insurance
Beginning of each school year	Education Code 49013; 5 CCR 4622	AR 1312.3	Uniform complaint procedures, available appeals, civil law remedies
Beginning of each school year	Education Code 49063	AR 5125 AR 5125.3	Challenge, review, and expunging of records
Beginning of each school year	Education Code 49063, 49069; 20 USC 1232g; 34 CFR 99.7	AR 5125	Student records: inspect and review, access, types, location, persons responsible, location of log, access criteria, cost of copies, amendment requests, criteria to determine legitimate educational interest, course prospectus availability
Beginning of each school year	Education Code 49063, 49073; 20 USC 1232g; 34 CFR 99.37	AR 5125.1	Release of directory information
Beginning of each school year and at least one more time during school year using specified methods	Education Code 49428	None	How to access mental health services at school and/or in community

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. Annually (continued)			
Beginning of each school year	Education Code 49520, 48980; 42 USC 1758; 7 CFR 245.5	AR 3553	Eligibility and application process for free and reduced-price meals
Beginning of each school year	Education Code 51513; 20 USC 1232h	AR 5022 BP 6162.8	Notice of privacy policy and dates of activities re: survey, health examination, or collection of personal information for marketing; process to opt out of such activities; inspection rights and procedures
Beginning of each school year	Education Code 56301	BP 6164.4	Parental rights re: special education identification, referral, assessment, instructional planning, implementation and review, and procedures for initiating a referral for assessment
Beginning of each school year	Education Code 58501, 48980	AR 6181	Alternative schools
Beginning of each school year	Health and Safety Code 104855	AR 5141.6	Availability of dental fluoride treatment; opportunity to accept or deny treatment
Annually	5 CCR 852; Education Code 60615	AR 6162.51	Student's participation in state assessments; option to request exemption from testing
Beginning of each school year, if district receives Title I funds	20 USC 6312; 34 CFR 200.48	BP 4112.2 AR 4222	Right to request information re: professional qualifications of child's teacher and paraprofessional
Beginning of each school year	34 CFR 104.8, 106.9	BP 0410 BP 6178	Nondiscrimination
Beginning of each school year to parent, teacher, and employee organizations or, in their absence, individuals	40 CFR 763.84, 763.93	AR 3514	Availability of asbestos management plan; any inspections, response actions or post-response actions planned or in progress

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. Annually (continued)			
Beginning of each school year	USDA SP-23-2017	AR 3551	District policy on meal payments
II. At Specific Times During the Student's Academic Career			
Beginning in grade 7, at least once prior to course selection and career counseling	Education Code 221.5, 48980	BP 6164.2	Course selection and career counseling
Upon a student's enrollment	Education Code 310	BP 6142.2 AR 6174	Information on the district's language acquisition programs
When child first enrolls in a public school, if school offers a fingerprinting program	Education Code 32390, 48980	AR 5142.1	Fingerprinting program
When participating in driver training courses under the jurisdiction of the district	Education Code 35211	None	Civil liability, insurance coverage
Upon registration in K-6, if students have not previously been transported	Education Code 39831.5	AR 3543	School bus safety rules and information, list of stops, rules of conduct, red light crossing instructions, bus danger zones, walking to and from stops
Beginning of each school year for high school students, if high school is open campus	Education Code 44808.5, 48980	AR BP 5112.5	Open campus
Beginning of each school year in grades 9-12, if district allows career technical education (CTE) course to satisfy graduation requirement	Education Code 48980, 51225.3	AR 6146.1	How each graduation requirement does or does not satisfy college entrance a-g course criteria; district CTE courses that satisfy a-g criteria
Upon a student's enrollment	Education Code 49063	AR 5125 AR 5125.3	Specified rights related to student records
When students enter grade 7	Education Code 49452.7	AR 5141.3	Specified information on type 2 diabetes

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
II. At Specific Times During the Student's Academic Career (continued)			
When in kindergarten, or first grade if not previously enrolled in public school	Education Code 49452.8	AR 5141.32	Requirement for oral health assessment, explanation of law, importance of oral health, agency contact, privacy rights
Beginning of each school year for students in grades 9-12	Education Code 51229, 48980	AR 6143	College admission requirements, UC and CSU web sites that list certified courses, description of CTE, CDE Internet address, how students may meet with counselors
Beginning of each school year for students in grades 7-12, or at time of enrollment if after beginning of year	Education Code 51938, 48980	AR 6142.1	Sexual health and HIV prevention education, right to view A/V materials, whether taught by district staff or outside consultants, right to request specific Education Code sections, right to excuse
Within 20 working days of receiving results of standardized achievement tests or, if results not available in school year, within 20 working days of start of next school year	Education Code 60641; 5 CCR 863	AR 6162.51	Results of tests; test purpose, individual score and intended use
By October 15 for students in grade 12	Education Code 69432.9	AR 5121 AR 5125	Forwarding of student's grade point average to Cal Grant program; timeline to opt out
When child is enrolled or reenrolled in a licensed child care center or preschool	Health and Safety Code 1596.7996	AR 5148	Information on risks and effects of lead exposure, blood lead testing
When child is enrolled in kindergarten	Health and Safety Code 124100, 124105	AR 5141.32	Health screening examination
To students in grades 11-12, early enough to enable registration for fall test	5 CCR 11523	AR 6146.2	Notice of proficiency examination provided under Education Code 48412

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
II. At Specific Times During the Student's Academic Career (continued)			
To secondary students, if district receives Title I funds	20 USC 7908	AR 5125.1	Request that district not release name, address, phone number of child to military recruiters without prior written consent
III. When Special Circumstances Occur			
In the event of a breach of security of district records, to affected persons	Civil Code 1798.29	BP 3580	Types of records affected, date of breach, description of incident, contact information for credit reporting agencies
Upon receipt of a complaint alleging discrimination	Education Code 262.3	AR 1312.3	Civil law remedies available to complainants
When determining whether an English learner should be reclassified as fluent English proficient	Education Code 313; 5 CCR 11303	AR 6174	Description of reclassification process, opportunity for parent/guardian to participate
When student is identified as English learner and district receives Title I or Title III funds for English learner programs, not later than 30 days after beginning of school year or within two weeks of placement if identified during school year	Education Code 313.2, 440; 20 USC 6312	AR 6174	Reason for classification, level of English proficiency, identification as long-term English learner, description of program(s), option to decline program or choose alternate, option to remove student from program at any time, exit requirements of program
When homeless or foster youth applies for enrollment in before/after school program	Education Code 8483	AR 5148.2	Right to priority enrollment; how to request priority enrollment
Before high school student attends specialized secondary program on a university campus	Education Code 17288	None	University campus buildings may not meet Education Code requirements for structural safety
At least 72 hours before use of pesticide product not included in annual list	Education Code 17612	AR 3514.2	Intended use of pesticide product
To members of athletic teams	Education Code 32221.5	AR 5143	Offer of insurance; no-cost and low-cost program options

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
Annually to parents/guardians of student athletes before they participate in competition	Education Code 33479.3	AR 6145.2	Information on sudden cardiac arrest
If school has lost its WASC accreditation status	Education Code 35178.4	BP 6190	Loss of status, potential consequences
When district has contracted for electronic products or services that disseminate advertising	Education Code 35182.5	BP 3312	Advertising will be used in the classroom or learning center
At least six months before implementing uniform policy	Education Code 35183	AR 5132	Dress code policy requiring schoolwide uniform
Before implementing a year-round schedule	Education Code 37616	BP 6117	Public hearing on year-round schedule
When interdistrict transfer is requested and not approved or denied within 30 days	Education Code 46601	AR 5117	Appeal process
Before early entry to kindergarten, if offered	Education Code 48000	AR 5111	Effects, advantages and disadvantages of early entry
When student identified as being at risk of retention	Education Code 48070.5	AR 5123	Student at risk of retention
When student excluded due to quarantine, contagious or infectious disease, danger to safety or health	Education Code 48213	AR 5112.2 BP 5141.33	Student has been excluded from school
Before already admitted student is excluded for lack of immunization	Education Code 48216; 17 CCR 6040	AR 5141.31	Need to submit evidence of immunization or exemption within 10 school days; referral to medical care
When a student is classified as truant	Education Code 48260.5, 48262	AR 5113.1	Truancy, parental obligation, availability of alternative programs, student consequences, need for conference

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
When a truant is referred to a SARB or probation department	Education Code 48263	AR 5113.1	Name and address of SARB or probation department and reason for referral
When a school is identified on the state's Open Enrollment List	Education Code 48354; 5 CCR 4702	AR 5118	Student's option to transfer to another school
Within 60 days of receiving application for transfer out of open enrollment school	Education Code 48357; 5 CCR 4702	AR 5118	Whether student's transfer application is accepted or rejected; reasons for rejection
When student requests to voluntarily transfer to continuation school	Education Code 48432.3	AR 6184	Copy of district policy and regulation on continuation education
Prior to involuntary transfer to continuation school	Education Code 48432.5	AR 6184	Right to request meeting prior to involuntary transfer to continuation school
To person holding educational rights, prior to recommending placement of foster youth outside school of origin	Education Code 48853.5	AR 6173.1	Basis for the placement recommendation
When student is removed from class and teacher requires parental attendance at school	Education Code 48900.1	AR 5144.4	Parental attendance required; timeline for attendance
Prior to withholding grades, diplomas, or transcripts	Education Code 48904	AR 5125.2	Damaged school property
When withholding grades, diplomas or transcripts from transferring student	Education Code 48904.3	AR 5125.2	Next school will continue withholding grades, diplomas, or transcripts
When student is released to peace officer	Education Code 48906	BP 5145.11	Release of student to peace officer for the purpose of removing minor from school, unless taken into custody as victim of suspected child abuse
At time of suspension	Education Code 48911	BP 5144.1 AR 5144.1	Notice of suspension

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
When original period of suspension is extended	Education Code 48911	AR 5144.1	Extension of suspension
At the time a student is assigned to a supervised suspension classroom	Education Code 48911.1	AR 5144.1	The student's assignment to a supervised suspension classroom
Before holding a closed session re: suspension	Education Code 48912	AR 5144.1	Intent to hold a closed session re: suspension
When student expelled from another district for certain acts seeks admission	Education Code 48915.1, 48918	BP 5119	Hearing re: possible danger presented by expelled student
When readmission is denied	Education Code 48916	AR 5144.1	Reasons for denial; determination of assigned program
When expulsion occurs	Education Code 48916	AR 5144.1	Readmission procedures
At least 10 calendar days before expulsion hearing	Education Code 48918	AR 5144.1	Notice of expulsion hearing
When expulsion or suspension of expulsion occurs	Education Code 48918	AR 5144.1	Decision to expel; right to appeal to county board; obligation to inform new district of status
Before involuntary transfer of student convicted of certain crime when victim is enrolled at same school	Education Code 48929, 48980	BP 5116.2	Right to request a meeting with principal or designee
One month before the scheduled minimum day	Education Code 48980	BP 6111	When minimum days are scheduled after beginning of the school year
When parents/guardians request guidelines for filing complaint of child abuse at a school site	Education Code 48987	AR 5141.4	Guidelines for filing complaint of child abuse at a school site with local child protective agencies
When student in danger of failing a course	Education Code 49067	AR 5121	Student in danger of failing a course

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
When student transfers from another district or private school	Education Code 49068	AR 5125	Right to receive copy of student's record and to challenge its content
When parent/guardian's challenge of student record is denied and parent/guardian appeals	Education Code 49070	AR 5125.3	If board sustains allegations, the correction or destruction of record; if denied, right to submit written objection
When district is considering program to gather safety-related information from students' social media activity	Education Code 49073.6	BP 5125	Opportunity for input on proposed program
When district adopts program to gather information from students' social media activity, and annually thereafter	Education Code 49073.6	AR 5125	Information is being gathered, access to records, process for removal or corrections, destruction of records
Within 24 hours of release of information to a judge or probation officer	Education Code 49076	AR 5125	Release of student record to a judge or probation officer for conducting truancy mediation program or for presenting evidence at a truancy petition
Before release of information pursuant to court order or subpoena	Education Code 49077	AR 5125	Release of information pursuant to court order or subpoena
When screening results in suspicion that student has scoliosis	Education Code 49452.5	AR 5141.3	Scoliosis screening
When test results in discovery of visual or hearing defects	Education Code 49456; 17 CCR 2951	AR 5141.3	Vision or hearing test results
Within 10 days of negative balance in meal account	Education Code 49557.5	AR 3551	Negative balance in meal account; encouragement to apply for free or reduced-price meals
Annually to parents/guardians of student athletes before their first practice or competition	Education Code 49475	AR 6145.2	Information on concussions and head injuries

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
Within 30 days of foster youth, homeless youth, former juvenile court school student, or child of military family, or migrant student being transferred between high schools after second year of high school, or immigrant student enrolled in newcomer program in grades 11-12	Education Code 51225.1	BP 6146.1 AR 6173 AR 6173.1 AR 6173.3 AR 6175	Exemption from local graduation requirements, effect on college admission, option for fifth year of high school
Before any test/survey questioning personal beliefs	Education Code 51513	AR 5022	Permission for test, survey questioning personal beliefs
At least 14 days before HIV prevention or sexual health instruction, if arrangement made for guest speaker after beginning of school year	Education Code 51938	AR 6142.1	Instruction in HIV prevention or sexual health by guest speaker or outside consultant
Prior to administering survey regarding health risks and behaviors to students in 7-12	Education Code 51938	AR 5022	Notice that the survey will be administered
Within 30 calendar days of receipt of results of assessment or reassessment of English proficiency	Education Code 52164.1, 52164.3; 5 CCR 11511.5	AR 6174	Results of state test of English proficiency
When migrant education program is established	Education Code 54444.2	BP 6175 AR 6175	Parent advisory council membership composition
When child participates in licensed child care and development program	Health and Safety Code 1596.857	AR 5148	Parent/guardian right to enter facility
When district receives Tobacco-Use Prevention Education Funds	Health and Safety Code 104420	AR 3513.3	The district's tobacco-free schools policy and enforcement procedures
When testing by community water system finds presence of lead exceeding specified level	Health and Safety Code 116277	AR 3514	Elevated lead level at school

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
When sharing student immunization information with an immunization system	Health and Safety Code 120440	AR 5125	Types of information to be shared, name and address of agency, acceptable use of the information, right to examine, right to refuse to share
At least 14 days prior to sex offender coming on campus as volunteer	Penal Code 626.81	AR 1240 BP 1250	Dates and times permission granted; obtaining information from law enforcement
When hearing is requested by person asked to leave school premises	Penal Code 627.5	AR 3515.2	Notice of hearing
When responding to complaint re: discrimination, special education, or noncompliance with law	5 CCR 4631	AR 1312.3	Findings, disposition of complaint, any corrective actions, appeal rights and procedures
When child participates in licensed child care and development program	5 CCR 18066	AR 5148	Policies re: excused and unexcused absences
Within 30 days of application for subsidized child care or preschool services	5 CCR 18094, 18118	AR 5148 AR 5148.3	Approval or denial of services
Upon recertification or update of application for child care or preschool services	5 CCR 18095, 18119	AR 5148 AR 5148.3	Any change in service, such as in fees, amount of service, termination of service
Upon child's enrollment in child care program	5 CCR 18114	AR 5148	Policy on fee collection
When payment of child care fees is seven days late	5 CCR 18114	AR 5148	Notice of delinquent fees
When district substantively changes policy on student privacy rights	20 USC 1232h	AR 5022	Notice of any substantive change in policy or regulation

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
For districts receiving Title I funds, when child has been assigned or taught for four or more consecutive weeks by a teacher who does not meet state certification requirements for the grade level/subject taught	20 USC 6312	AR 4112.2	Timely notice to parent/ guardian of child's assignment
For districts receiving Title I funds, not later than 30 days after beginning of school year, to parents/guardians of English learners	20 USC 6312	AR 6174	Reasons for placement, level of proficiency, instructional methods, how program meets child's strengths and teaches English, exit requirements, right to choose other program
For schools receiving Title I funds, upon development of parent involvement policy	20 USC 6318	AR 6020	Notice of policy
When household is selected for verification of eligibility for free or reduced-price meals	42 USC 1758; 7 CFR 245.6a	AR 3553	Need to submit verification information; any subsequent change in benefits; appeals
When student is homeless or unaccompanied minor	42 USC 11432; Education Code 48852.5	AR 6173	Educational and related opportunities; transportation services; placement decision and right to appeal
When student transfers out of state and records are disclosed without consent pursuant to 34 CFR 99.30	34 CFR 99.34	AR 5125	Right to review records
When district receives federal funding assistance for nutrition program	USDA FNS Instruction 113-1	BP 3555	Rights and responsibilities, nondiscrimination policy, complaint procedures
IV. Special Education Notices			
Prior to conducting initial evaluation	Education Code 56301, 56321, 56321.5, 56321.6, 56329; 20 USC 1415(d); 34 CFR 300.502, 300.503	BP 6159.1 AR 6159.1 AR 6164.4	Proposed evaluation plan, related parental rights, prior written notice, procedural safeguards

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
IV. Special Education Notices (continued)			
Before functional behavioral assessment begins	Education Code 56321	AR 6159.4	Notification and consent
24 hours before IEP when district intending to record	Education Code 56341.1	AR 6159	Intention to audio-record IEP meeting
Early enough to ensure opportunity for parent/guardian to attend IEP meeting	Education Code 56341.5; 34 CFR 300.322	AR 6159	Time, purpose, location, who will attend, participation of others with special knowledge, transition statements if appropriate
When parent/guardian orally requests review of IEP	Education Code 56343.5	AR 6159	Need for written request
Within one school day of emergency intervention or serious property damage	Education Code 56521.1	AR 6159.4	Emergency intervention
Whenever there is a proposal or refusal to initiate or change the identification, evaluation, placement, or FAPE, including when parent/guardian revokes consent for services	20 USC 1415(c); 34 CFR 300.300, 300.503	AR 6159 AR 6159.1	Prior written notice
Upon filing of state complaint	20 USC 1415(d); 34 CFR 300.504	AR 6159.1	Procedural safeguards notice
When disciplinary measures are taken or change in placement	20 USC 1415(k); 34 CFR 300.530	AR 5144.2	Decision and procedural safeguards notice
Upon requesting a due process hearing	20 USC 1415(k); 34 CFR 300.508	AR 6159.1	Student's name, address, school, description of problem, proposed resolution
Eligibility for services under Section 504	34 CFR 104.32, 104.36	AR 6164.6	District responsibilities, district actions, procedural safeguards

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
V. Classroom Notices			
In each classroom in each school	Education Code 8235.5 , 35186	AR 1312.4 E 1312.4	Complaints re: sufficiency of instructional materials, teacher vacancy or misassignment, maintenance of facilities subject to Williams uniform complaint procedures

CSBA Sample Administrative Regulation

Students

AR 5148(a)

CHILD CARE AND DEVELOPMENT

Note: The following administrative regulation is for use by districts that operate child care and development services through a contract with the California Department of Education (CDE) and reflects provisions generally applicable to programs under the Child Care and Development Services Act (Education Code 8200-8499.7). **Such programs include resource and referral programs (Education Code 8210-8216; 5 CCR 18240-18248), alternative payment programs (Education Code 8220-8227.7; 5 CCR 18220-18231), migrant child care and development programs (Education Code 8230-8233), California State Preschool Programs (CSPP) (Education Code 8235-8239.1), general child care and development programs (Education Code 8240-8244), and programs for children with special needs (Education Code 8250-8252).** The district may revise this regulation to reflect specific requirements for the program(s) it offers. See BP/AR 5148.2 - Before/After School Programs for requirements pertaining to the After-School Education and Safety program (Education Code 8482-8484.65) and 21st Century Community Learning Centers (Education Code 8484.7-8484.8), and BP/AR 5148.3 - Preschool/Early Childhood Education for **CSPP** requirements ~~pertaining to the California State Preschool Program (Education Code 8235-8239).~~

The following administrative regulation does not reflect all policy language mandated for each specific program. The district should be careful to include the mandates, if any, applicable to the program(s) it offers. For example, for the ~~Aa~~ alternative ~~Pp~~ payment ~~Pp~~ program ~~(Education Code 8220-8227.3; 5 CCR 18220-18231),~~ 5 CCR 18221 mandates a written policy statement that includes specified components, including, but not limited to, program purpose, enrollment priorities, reimbursement of providers, and family fee collection. For the ~~Rr~~ resource and ~~Rr~~ referral program ~~(Education Code 8210-8216; 5 CCR 18240-18248),~~ 5 CCR 18244 mandates written referral policies and written complaint procedures.

In addition to the program requirements described below, child care and development programs may be subject to other policies in the district's policy manual (e.g., ~~BP/AR 1240 - Volunteer Assistance,~~ AR 3514.2 - Integrated Pest Management, ~~BP/AR 1240 - Volunteer Assistance, 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 child care and development program.

Licensing

Note: Pursuant to 22 CCR 101156, all child care centers must be licensed by the California Department of Social Services (**CDSS**) unless exempted by law. Health and Safety Code 1596.792 and 22 CCR 101158 list exemptions from the licensure requirements including, but not limited to, any program that (1) is a "public recreation program" that meets the criteria specified in Health and Safety Code 1596.792, (2) is operated before and/or after school by qualified teachers employed by the district, (3) is a school parenting program or adult education child care program, (4) operates only one day per week for no more than four hours on that day, (5) offers temporary child care services to parents/guardians who are on the same premises as the child care site, ~~or~~ (6) provides activities that are of an instructional nature in a classroom-like setting when K-12 students are normally not in session and the sessions do not exceed a total of 30 days when only school-age children are enrolled or 15 days when younger children are enrolled, **or (7) is a CSPP program operated in a school building that meets specified health and safety requirements.** If the district offers only programs that are exempted from licensure, it should modify the following regulation accordingly.

Pursuant to Health and Safety Code 1596.951, as added by AB 605 (Ch. 574, Statutes of 2018), CDSS is required to adopt regulations by January 1, 2021 to create a new child care center license including

CHILD CARE AND DEVELOPMENT (continued)

components for serving infant, toddler, preschool, and school-age children; health and safety standards; and enhanced ability to transition children to the next age group. Pursuant to Health and Safety Code 1596.951, all child care centers are required to obtain this license by January 1, 2024.

All district child care and development services shall be licensed by the California Department of Social Services, unless exempted pursuant to Health and Safety Code 1596.792 or 22 CCR 101158.

The license shall be posted in a prominent, publicly accessible location in the facility. (Health and Safety Code 1596.8555)

Licensed child care centers shall be subject to the requirements of Health and Safety Code 1596.70-1597.21, 22 CCR 101151-101239.2, and, when applicable, 22 CCR 101451-101539.

Program Components

Note: Items #~~1-8~~ **1-7 and 9** below list components of child care and development programs required for all providers pursuant to 5 CCR 18272-18281. The Governing Board is required, pursuant to 5 CCR 18271, to approve goals and objectives addressing each of these program components; see the accompanying Board policy. The district may add components of other programs offered by the district.

The district's child care and development program shall include the following components:

1. The use of a developmental profile reflecting each child's physical, cognitive, social, and emotional development to plan and conduct developmentally and age appropriate activities (Education Code 8203.5; 5 CCR 18272)

Program staff shall complete the "Desired Results Developmental Profile," available from the California Department of Education (CDE), for each child who is enrolled in the program for at least 10 hours per week and for any child with disabilities regardless of the number of hours enrolled. The profile shall be completed within 60 days of enrollment and at least once every six months thereafter for children of all ages. (Education Code 8203.5; 5 CCR 18270.5, 18272)

2. An educational program that complies with 5 CCR 18273, including the provision of services that are developmentally, linguistically, and culturally appropriate and inclusive of children with special needs

(cf. 5148.2 - Before/After School Programs)

(cf. 5148.3 - Preschool/Early Childhood Education)

(cf. 6159 - Individualized Education Program)

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

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

(cf. 6174 - Education for English Learners)

CHILD CARE AND DEVELOPMENT (continued)

3. A staff development program which complies with 5 CCR 18274

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

4. Parent/guardian involvement and education that **complies** **comply** with 5 CCR 18275 and ~~involves parents/guardians through~~ **include** an orientation, at least two individual conferences per year, meetings with program staff, an advisory committee, participation in daily activities, and information regarding their child's progress

(cf. 6020 - Parent Involvement)

5. A health and social services component that complies with 5 CCR 18276 and includes referrals to appropriate community agencies as needed

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

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

(cf. 5141 - Health Care and Emergencies)

(cf. 5141.23 - Asthma Management)

(cf. 5141.6 - School Health Services)

6. A community involvement component that complies with 5 CCR 18277

Note: Health and Safety Code 1596.808 establishes beverage standards for licensed child care centers. **These standards require that children age 2 or older, with specified exceptions, be served only low fat or nonfat milk, no more than one serving per day of 100 percent juice, and no beverage with added sweetener and that clean and safe drinking water be readily available and accessible throughout the day.** In addition, centers that receive funding through the Child and Adult Care Food Program (42 USC 1766) must meet federal guidelines for meals, snacks, fluid milk or nutritionally equivalent milk substitutes, and drinking water.

7. **As applicable, a** ~~A~~ nutrition component that ensures children in the program are provided nutritious meals, beverages, and snacks that meet state and federal standards and have access to drinking water throughout the day, including meal times (Health and Safety Code 1596.808; 5 CCR 18278; 42 USC 1766)

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

(cf. 5030 - Student Wellness)

(cf. 5141.27 - Food Allergies/Special Dietary Needs)

Note: Item #9-8 below is **optional** and may be revised to reflect district practice. 42 USC 1766 encourages child care centers to provide opportunities for physical activity and to limit the amount of time spent in sedentary activities, such as time spent using electronic media.

- 9.8.** Programs that promote age-appropriate structured and unstructured opportunities for

CHILD CARE AND DEVELOPMENT (continued)

physical activity and that limit the amount of time spent in sedentary activities to an appropriate level

Note: 5 CCR 18279-18281 require an annual evaluation using the standardized "Desired Results for Children and Families" system developed by CDE. The system requires a program self-evaluation that includes, but is not limited to, a staff assessment, a parent/guardian survey, and an environment rating scale using forms selected by CDE. Each contractor is required to submit a summary of the self-evaluation findings to CDE by June 1 of each year. In addition, every three years, CDE conducts a Federal Program Monitoring/Contract Monitoring Review (FPM/CMR) process with each contract agency to review compliance with program requirements. The FPM/CMR instrument is available on the CDE's web site.

- 8.9.** An annual plan for program evaluation which conforms with the state's "Desired Results for Children and Families" system and includes, but is not limited to, a self-evaluation, parent/guardian survey, and environment rating scale using forms provided by the CDE (5 CCR 18270.5, 18279, 18280)

(cf. 0500 - Accountability)

Note: Item #9 below is ~~optional~~ and may be revised to reflect district practice. 42 USC 1766 encourages child care centers to provide opportunities for physical activity and to limit the amount of time spent in sedentary activities, such as time spent using electronic media.

- ~~9. Programs that promote age appropriate structured and unstructured opportunities for physical activity and that limit the amount of time spent in sedentary activities to an appropriate level~~

Staffing

The district's child care and development program shall maintain at least the minimum adult-child and teacher-child ratios specified in 5 CCR 18290-18292 based on the ages of the children served.

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 exceptions. 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 any child care facility other than a family day care home, including infant centers, preschools, extended day care facilities, and school age child care centers.

~~Any person~~ **All persons** employed at a **licensed** district child care center and ~~any~~ **all** volunteers who provides care and supervision to children at such a center shall be immunized against influenza, pertussis, and measles. If ~~a person meets~~ **they meet** all other requirements for employment or volunteering, as applicable, but needs additional time to obtain and

CHILD CARE AND DEVELOPMENT (continued)

provide ~~his/her~~ immunization records, ~~the person~~ **they** may be employed or volunteer conditionally for a maximum of 30 days upon signing and submitting a written statement attesting that ~~he/she has~~ **they have** been immunized as required. In addition, ~~each~~ employees and volunteers shall receive an influenza vaccination between August 1 and December 1 of each year. A person shall be exempt from these requirements only under any of the following circumstances: (Health and Safety Code 1596.7995)

1. The person submits a written statement from a licensed physician declaring either that immunization is not safe because of the person's physical condition or medical circumstances or that the person has evidence of current immunity to influenza, pertussis, and measles.
2. In the case of the influenza vaccine, the person submits a written declaration ~~that he/she has declined~~ **declining** the vaccination.
3. In the case of the influenza vaccine required during the first year of employment or volunteering, the vaccine is not timely because the person was hired after December 1 of the previous year and before August 1 of the current year.

(cf. 1240 - Volunteer Assistance)

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

Documentation of the required immunizations or exemptions from immunization shall be maintained in the employee's personnel file. (Health and Safety Code 1596.7995)

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

In addition to the above immunization requirements, teachers employed in a **licensed** child care center shall present evidence of a current tuberculosis clearance and meet other requirements specified in Health and Safety Code 1597.055. (Health and Safety Code 1597.055)

Eligibility and Enrollment

Note: CDE contracts provide funding only for services to families who meet the criteria for subsidized services as specified in Education Code 8263. The district may also provide services to nonsubsidized families provided the district uses other funding sources or the families pay the full cost of services; see section on "Fees and Charges" below.

Pursuant to 5 CCR 18105, districts contracting with CDE to offer child care services are **mandated** to develop written admissions policies and procedures that conform to requirements of 22 CCR 101218, including criteria designating those children whose needs can be met by the child care center's program and services and the ages of children who will be accepted.

The following section should be revised to reflect the district's contract(s) with CDE.

CHILD CARE AND DEVELOPMENT (continued)

The district's subsidized child care and development services may be available to infants and children through 12 years of age and to individuals with disabilities through 21 years of age in accordance with their individualized education program and Education Code 8208. (Education Code 8208, 8263.4; 5 CCR 18089, 18407, 18422)

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. The family's or child's eligibility must be certified by a person designated by the district.

Pursuant to Education Code 8263.1, as amended by AB 2626 (Ch. 945, Statutes of 2018), income eligibility is based on an adjusted monthly family income at or below 85 percent of the state median income, adjusted for family size, for purposes of establishing ongoing income eligibility after January 1, 2019 or initial eligibility after July 1, 2019.

Eligible families shall be those who document both an eligibility basis and a need for care, as follows: (Education Code 8263)

1. The family is eligible for subsidized services on the basis of being a current aid recipient, income eligible, or homeless and/or the family's children are recipients of protective services or have been identified as being or at risk of being abused, neglected, or exploited.
2. The family has a need for child care based on either of the following:
 - a. The unavailability of the parents/guardians to care for and supervise their children for some portion of the day because they are participating in vocational training leading directly to a recognized trade, paraprofession, or profession; **are engaged in an educational program for English language learners or to attain 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: 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 child care 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.~~

- b. 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

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

CHILD CARE AND DEVELOPMENT (continued)

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 Education Code 8263 and 5 CCR 18106.

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 shall be given to neglected or abused children who are recipients of child protective services, or children who are at risk of being neglected or abused, upon written referral from a legal, medical, or social services agency. 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 8263)

Second priority for enrollment shall be given to families who are income eligible, as defined in Education Code 8263.1. Families with the lowest gross monthly income in relation to family size shall be admitted first. If two or more families are in the same priority in relation to income, the family that has a child with disabilities shall be admitted first or, if there is no child with disabilities, the family that has been on the waiting list for the longest time shall be admitted first. (Education Code 8263, 8263.1)

The district shall allow eligible children 11-12 years of age to combine enrollment in a before-school or after-school program with subsidized child care services during the time that the before-school or after-school program does not operate. Children 11-12 years of age, except for children with disabilities, shall be eligible for subsidized child care services only for the portion of care needed that is not available in a before-school or after-school program. (Education Code 8263.4)

Note: The following **optional** paragraph may be revised to reflect additional enrollment priorities or criteria established by the district, such as priority for district students, children of district students, or children of district employees; see the accompanying Board policy.

After all children eligible for subsidized services have been enrolled, the district may enroll children in accordance with the priorities established by the Governing Board.

Note: 5 CCR 18094 and 18118 require the district to provide written notification to the parent/guardian as to whether **his/her** the application for subsidized services has been approved or denied. For this purpose, the district should use the Notice of Action form available on 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 "Rights of Parents/Guardians" below.

The district's decision to approve or deny services shall be communicated to the parent/guardian 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, 18118)

CHILD CARE AND DEVELOPMENT (continued)

(cf. 5145.6 - Parental Notifications)

Note: Pursuant to Education Code 8263, as amended by AB 2626, effective July 1, 2019, a family that establishes initial or ongoing eligibility for services, regardless of the basis of eligibility, is entitled to receive those services for at least 12 months before being recertified for eligibility, except when an increase in income results in the family income exceeding the threshold for ongoing eligibility.

Upon establishing eligibility for services, a family shall be eligible for and shall receive services for not less than 12 months before having the family's eligibility or need recertified and shall not be required to report changes to income or other changes for at least 12 months. However, a family establishing eligibility on the basis of income shall report any increases in income that exceed the threshold for ongoing income eligibility specified in Education Code 8263.1, and the family's ongoing eligibility shall be recertified at that time. At any time a family may voluntarily report income or other changes, which shall be used, as applicable, to reduce the family's fees, increase the family's services, or extend the period of eligibility before recertification. (Education Code 8263)

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 CDE's web site. Parents/guardians may appeal such actions pursuant to 5 CCR 18120-18122; see section "Rights of Parents/Guardians" 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 **made** during recertification or **the** 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~~ **the service is** no longer **wanted** ~~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

CHILD CARE AND DEVELOPMENT (continued)

The Superintendent or designee shall establish and maintain a basic data file for each family receiving child care and development services containing the completed and signed application for services, documentation used to determine the child's eligibility and need, and copies of all Notices of Action. (5 CCR 18081, 18095)

Fees and Charges

Note: Education Code 8273 requires the Superintendent of Public Instruction (SPI) to establish a fee schedule for families using child care services through a CDE contract, including families who are eligible for subsidized child care services based on the criteria specified in item #1 in the section "Eligibility and Enrollment" above. See CDE Management Bulletin 14-03a.

Pursuant to 5 CCR 18109 and CDE's Frequently Asked Questions to Management Bulletin 14-03a, the district may charge a full-time, part-time, or "cost of care" fee calculated pursuant to 5 CCR 18109, whichever is less, depending on the number of hours that a child will receive services.

Education Code 8250 and 5 CCR 18110 prohibit districts from assessing fees for children enrolled in a program for severely disabled children or a federally based migrant program. Districts may revise the following paragraph to reflect any such program(s) offered by the district. Districts that offer only programs prohibited from charging fees may delete the following section.

Except when offering a program that is prohibited by law from charging any fees, the Superintendent or designee may charge fees for services according to the fee schedule established by the Superintendent of Public Instruction, the actual cost of services, or the maximum daily/hourly rate specified in the contract, whichever is least. (Education Code 8250, 8263, 8273, 8273.1, 8273.2, 8447; 5 CCR 18078, 18108-18110)

However, no fee shall be charged to a family that is receiving CalWORKS cash aid, an income-eligible family whose child is enrolled in a part-day California State Preschool Program, or a family whose income level, in relation to family size, is less than the first entry in the fee schedule. (Education Code 8273.1; 5 CCR 18110)

In addition, any family receiving child care 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 child care services continue to be necessary, may be exempt from these fees for up to 12 months. Any family whose child is receiving child care 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. (Education Code 8273.1)

Note: Pursuant to Education Code 8273 and CDE Management Bulletin 14-03a, family fees must be assessed at initial enrollment and reassessed at recertification or when the family data file is updated due to a change in status.

CHILD CARE AND DEVELOPMENT (continued)

Pursuant to 5 CCR 18114, districts contracting with CDE to offer child care services are **mandated** to adopt a policy for the collection of fees in advance of providing services, as provided below. 5 CCR 18114 contains an alternative definition of delinquency for alternative payment programs offered pursuant to Education Code 8220-8224.

Fees shall be assessed at initial enrollment and reassessed when a family is recertified or experiences a change in status. Fees shall be considered delinquent after seven days from the date that fees are due. Parents/guardians shall be notified in the event that fees are delinquent.

If a reasonable plan for payment of the delinquent fees has not been provided by the parents/guardians, services shall be terminated if all delinquent fees are not paid within two weeks of such notification. Parents/guardians shall receive a copy of the district's regulations regarding fee collection at the time of initial enrollment into the program. (Education Code 8273; 5 CCR 18082, 18114, 18115)

Note: The following paragraph is for use by districts that contract with CDE to offer child care services and wish to require parents/guardians to provide diapers and/or to pay the costs of field trips (unless the program is exempt from fees), and may be modified to delete diapers as appropriate for the age of the children served. Education Code 8273.3 **mandates** that such districts have a written policy which includes parents/guardians in the decision-making process. Pursuant to Education Code 8273.3, the fees cannot exceed \$25 per child in the contract year.

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 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

Note: Education Code 8263.3 specifies the order by which families must be disenrolled from child care and development services when funding levels are reduced. Parents/guardians may appeal such actions pursuant to 5 CCR 18120-18122, but only on the grounds that the factors used to determine the family's disenrollment are incorrect. See section "Rights of Parents/Guardians" below.

When necessary due to a reduction in state reimbursements, families shall be disenrolled from subsidized child care and development services in the following order: (Education Code 8263.3)

1. Families with the highest income in relation to family size shall be disenrolled first.
2. If two or more families have the same income ranking, children without disabilities who have been enrolled in child care services the longest shall be disenrolled first.

CHILD CARE AND DEVELOPMENT (continued)

After all children without disabilities have been disenrolled, children with disabilities shall be disenrolled, with those who have been enrolled in child care services the longest being disenrolled first.

3. Families whose children are receiving child protective services or are at risk of neglect, abuse, or exploitation, regardless of family income, shall be disenrolled last.

Health Examination and Information

A physical examination and evaluation, including age-appropriate immunization, shall be required prior to or within ~~30 days~~ **six weeks** of enrollment. (Education Code 8263)

(cf. 5141.3 - Health Examinations)

(cf. 5141.31 - Immunizations)

Note: Education Code 8263 provides that the physical examination and evaluation, including immunizations, required of children enrolling in a child care center may be waived if a parent/guardian submits a letter stating that such examination is contrary to ~~his/her~~ **the parent/guardian's** religious beliefs. However, Health and Safety Code 120335, ~~as amended by SB 277 (Ch. 35, Statutes of 2015)~~, eliminated the personal beliefs exemption for immunization requirements unless the parent/guardian files a letter or affidavit prior to January 1, 2016 or a licensed physician indicates that a student should be exempted for medical reasons. An exemption granted for personal beliefs is only effective until the next grade span (i.e., birth through preschool, grades K-6, and grades 7-12). See BP/AR 5141.31 - Immunizations.

~~A physical examination and evaluation, including age-appropriate immunization, shall be required prior to or within 30 days of enrollment. (Education Code 8263)~~

The requirement for a physical examination and evaluation ~~may~~ **shall** be waived if a parent/guardian submits a letter stating that such examination is contrary to ~~his/her~~ **the parent/guardian's** religious beliefs. (Education Code 8263)

However, a A child may be exempted from the immunization requirements only if: (Education Code 8263; Health and Safety Code 120335)

1. A licensed physician indicates that immunization is not safe due to the physical condition or medical circumstances of the child.
2. The parent/guardian submitted a letter or affidavit prior to January 1, 2016 stating that such examination is contrary to ~~his/her~~ **the parent/guardian's** personal beliefs. An exemption from immunization granted for personal beliefs is effective only until the next grade span (i.e., birth through preschool, grades K-6, and grades 7-12).

(cf. 5141.22 - Infectious Diseases)

(cf. 5141.3 - Health Examinations)

(cf. 5141.31 - Immunizations)

CHILD CARE AND DEVELOPMENT (continued)

If there is good cause to believe that a child is suffering from a recognized contagious or infectious disease, the child shall be temporarily excluded from the child care and development program until it is determined that the child is not suffering from that contagious or infectious disease. (Education Code 8263)

(cf. 5141.22 - Infectious Diseases)

Note: Health and Safety Code 1596.7996, as added by AB 2370 (Ch. 676, Statutes of 2018), requires licensed child care programs to provide parents/guardians of enrolled children with a flyer developed by CDSS in conjunction with the California Department of Public Health, which contains specified information regarding lead exposure and blood testing. The flyer is available on the CDSS web site.

Pursuant to Health and Safety Code 1597.16, as added by AB 2370, a licensed child care center located in a building constructed before January 1, 2010 will be required to have its drinking water tested for lead contamination levels between January 1, 2020 and January 1, 2023, and every five years after the date of the initial test. At that time the child care center must notify parents/guardians of enrolled children of the requirement to test the drinking water and of the test results.

When a child enrolls or reenrolls in a licensed child care program, the center shall provide the child's parent/guardian with written information on the risks and effects of lead exposure, blood lead testing recommendations and requirements, and options for obtaining blood lead testing, including any state or federally funded programs that offer free or discounted tests. (Health and Safety Code 1596.7996)

Attendance

Sign-in and sign-out sheets shall be used daily for all children for attendance accounting purposes. Attendance records shall include verification of excused absences, including the child's name, date(s) of absence, specific reason for absence, and signature of parent/guardian or district representative. (5 CCR 18065, 18066)

Absences shall be excused for the following reasons:

1. Illness or quarantine of the child or of the parent/guardian (Education Code 8208)
2. Family emergency (Education Code 8208)

Note: Pursuant to 5 CCR 18066, districts contracting with CDE to offer child care services are **mandated to adopt policies delineating circumstances constituting an excused absence for a family emergency. The following paragraph may be revised to reflect district practice.**

A family emergency shall be considered to exist when unforeseen circumstances cause the need for immediate action, such as may occur in the event of a natural disaster or when a member of the child's immediate family dies, has an accident, or is required to appear in court.

CHILD CARE AND DEVELOPMENT (continued)

3. Time spent with a parent/guardian or other relative as required by a court of law (Education Code 8208)
4. Time spent with a parent/guardian or other relative which is clearly in the best interest of the child (Education Code 8208)

Note: 5 CCR 18066 **mandates** a policy that delineates circumstances constituting an excused absence "in the best interest of the child." The following paragraph may be revised to reflect district practice.

An absence shall be considered to be in the best interest of the child when the time is spent with the child's parent/guardian or other relative for reasons deemed justifiable by the program coordinator or site supervisor.

Except for children who are recipients of child protective services or are at risk of abuse or neglect, excused absences in the best interest of the child shall be limited to 10 days during the contract period. (5 CCR 18066)

Note: 5 CCR 18066 **mandates** that providers adopt a policy governing unexcused absences which may include reasonable limitations, if any. The following paragraph may be revised to reflect district practice.

Any absence due to a reason other than any of those stated above, or without the required verification, shall be considered an unexcused absence. After three unexcused absences during the year, the program coordinator or site supervisor shall notify the **child's** parents/guardians. Children who continue to have excessive unexcused absences may be removed from the program at the discretion of the program coordinator in order to accommodate other families on the waiting list for admission.

Parents/guardians shall be notified of the policies and procedures related to excused and unexcused absences for child care and development services. (5 CCR 18066)

Rights of Parents/Guardians

Note: The following two paragraphs are **is** for use by districts that operate one or more licensed child care centers (see "Licensing" section above), but may be used by license-exempt providers.

At the time a child is accepted into a licensed child care and development center, the child's parent/guardian or authorized representative shall be notified of **his/her the** rights **as** specified in 22 CCR 101218.1, including, but not limited to, the right to enter and inspect the child care facility and the right to be informed, upon request, of the name and type of association to the center of any adult who has been granted a criminal record exemption. (Health and Safety Code 1596.857; 22 CCR 101218.1)

CHILD CARE AND DEVELOPMENT (continued)

The written notice of parent/guardian rights also shall be permanently posted within the facility in a location accessible to parents/guardians. Notwithstanding these rights, access to the facility may be denied to an adult whose behavior presents a risk to children present in the facility or to noncustodial parents/guardians when so requested by the responsible parent/guardian. (Health and Safety Code 1596.857)

Note: The remainder of this section is for use by all districts and applies to licensed and unlicensed child care programs.

In addition, if a parent/guardian disagrees with any district action to deny **his/her a** child's eligibility for subsidized child care 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 the parent/guardian** 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 the parent/guardian** may, within 14 calendar days, appeal the decision to the CDE. (5 CCR 18120-18122)

Records

Note: CDE contracts require the district to submit data on both subsidized and nonsubsidized families served by child care centers. In addition, the district is required to provide monthly reports, through CDE's online management information system, regarding any families receiving subsidized services during that month.

The Superintendent or designee shall maintain records of enrollment, attendance, types of families served, income received from all families participating in the district's child care and development program, and any other records required by CDE.

(cf. 3580 - District Records)

(cf. 5125 - Student Records)

(7/15 10/16) 3/19

CSBA Sample

Board Policy

Instruction

BP 6142.3(a)

CIVIC EDUCATION

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

Education Code 51470-51474, as added by AB 24 (Ch. 604, Statutes of 2017), establish the State Seal of Civic Engagement, a voluntary program to recognize high school graduates who have demonstrated excellence in civic education and participation, as well as an understanding of the U.S. Constitution, the California Constitution, and the democratic system of government. The Superintendent of Public Instruction will provide an insignia that can be affixed to the diploma or transcript of eligible students. Criteria for the award will be approved by the State Board of Education by January 31, 2021.

The Governing Board recognizes that **citizen** involvement in civic and political institutions is essential to a democratic government and desires to provide a comprehensive civic education program to help students acquire the knowledge, skills, and principles essential for informed, **engaged, and** responsible citizenship.

Note: State standards and guidelines for **instruction in** civics and government are included in the standards and curriculum framework for history-social science. **The history-social science curriculum framework contains suggestions for lessons and activities that include simulations of government, student-led debates, research projects, voter education, and service learning.** In addition, the Center for Civic Education has developed voluntary National Standards for Civics and Government describing what students should know and be able to do in the field of civics and government **by the end of grades 4, 8, and 12 in grades K-4, 5-8, and 9-12.**

The Board shall approve, upon the recommendation of the Superintendent or designee, academic standards and curriculum in civics and government that are aligned with state academic standards and curriculum frameworks.

(cf. 6000 - Concepts and Roles)

(cf. 6011 - Academic Standards)

(cf. 6141 - Curriculum Development and Evaluation)

(cf. **6142.94 - History-Social Science Instruction**)

(cf. 9000 - Role of the Board)

The Superintendent or designee shall determine specific courses within the K-12 curriculum in which civic education and government may be explicitly and systematically taught. He/she **also** shall **also** encourage the integration of civic education into other subjects as appropriate.

(cf. 6143 - Courses of Study)

(cf. 6146.1 - High School Graduation Requirements)

CIVIC EDUCATION (continued)

The district's civic education program shall provide students with an understanding of the rights and responsibilities of citizens in American democracy and the workings of federal, state, and local governments. As appropriate, instruction should include an examination of fundamental American documents, including, but not limited to, the Declaration of Independence, the United States Constitution, the Federalist Papers, and other significant writings and speeches. Instruction ~~also~~ should **also** promote a student's understanding of shared democratic principles and values, such as personal responsibility, justice, equality, respect for others, civic-mindedness, and patriotism, and enable students to make their own commitment to these civic values.

~~To develop a sense of political effectiveness, instruction should develop students' understanding of the importance of civic participation in a democratic society. Service learning, extracurricular and cocurricular activities, class and school elections,~~ **simulations of government, student-led debates, voter education,** and observation of local government processes may be used to reinforce classroom instruction by linking civic knowledge to practical experience and encouraging civic involvement.

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

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

(cf. 6145 - Extracurricular and Cocurricular Activities)

(cf. 9150 - Student Board Members)

~~Instruction also should promote a student's understanding of shared democratic principles and values, such as personal responsibility, justice, equality, respect for others, civic-mindedness, and patriotism, and enable students to make their own commitment to these civic values.~~

Whenever civic education includes topics that may be controversial due to political beliefs or other influences, instruction shall be presented in a balanced manner that does not promote any particular viewpoint. Students shall not be discriminated against for expressing their ideas and opinions and shall be encouraged to respect different points of view.

(cf. 5145.2 - Freedom of Speech/Expression)

(cf. 6144 - Controversial Issues)

Constitution/Citizenship Day

Each year on or near September 17, in commemoration of Constitution and Citizenship Day, the district shall hold an educational program for students in grades K-12 pertaining to the United States Constitution which shall include exercises and instruction in the purpose, meaning, and importance of the Constitution, including the Bill of Rights. (Education Code 37221; ~~P.L. 108-447, Sec. 111~~ **36 USC 106 Note**)

(cf. 6115 - Ceremonies and Observances)

CIVIC EDUCATION (continued)

Student Voter Registration

Note: The following section is for use by districts that maintain high schools. Elections Code 2146 requires the California Secretary of State to annually provide high schools with voter registration forms in numbers specifically requested by the school.

To encourage students to participate in the elections process when they are of voting age, the Superintendent or designee shall provide high school students with voter registration information, including information regarding the state's online voter registration system.

The Superintendent or designee shall identify an employee at each high school whom the California Secretary of State may contact to facilitate the distribution of voter registration forms to eligible students. The Superintendent or designee shall provide the business address, phone number, and email address of each contact person to the Secretary of State. (Elections Code 2148)

Note: The following optional paragraph reflects examples of methods of distributing voter registration forms as specified in Elections Code 2146 and may be revised to reflect district practice.

The designated employee shall determine the most effective means of distributing voter registration forms provided by the Secretary of State, which may include, but are not limited to, distributing the forms at the start of the school year with orientation materials, placing voter registration forms at central locations, including voter registration forms with graduation materials, and/or providing links and the web site address of the Secretary of State's online voter registration system on the district's web site and in email notices sent to students.

The principal or designee may appoint one or more students enrolled at each high school to serve as voter outreach coordinators at that school. The voter outreach coordinator(s) may coordinate voter registration activities at the school to encourage eligible persons to register to vote. With the approval of the principal or designee, the voter outreach coordinator(s) may also coordinate election-related activities on campus, including voter registration drives, mock elections, debates, and other election-related student outreach activities. (Education Code 49041)

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 5145.13 - Response to Immigration Enforcement)

Note: Education Code 49040 designates the last two full weeks in April and the last two full weeks in September as "high school voter education weeks" during which elections officials may, at their discretion, visit high school campuses to register students and school personnel to vote. This does not preclude registration events on a high school campus as otherwise permitted by the Elections Code.

CIVIC EDUCATION (continued)

During the last two full weeks in April and September, in areas on each high school campus that are reasonably accessible to all students as designated by the principal or designee, the county elections official shall be allowed to register students and school personnel to vote. (Education Code 49040)

Legal Reference:

EDUCATION CODE

54 Student service on boards and commissions

233.5 Teaching of principles

33540 Standards for government and civics instruction

37221 Commemorative exercises including anniversary of U.S. Constitution

48205 Absence from school for jury duty or precinct board service

49040-49041 Student voter registration

51210 Courses of study, grades 1-6

51220 Courses of study, grades 7-12

51470-51474 State Seal of Civic Engagement

ELECTIONS CODE

2146 Student voter registration

2148 Student voter registration, contact person

12302 Precinct boards, appointment of students

UNITED STATES CODE, TITLE 20

6711-6716 Education for Democracy Act

UNITED STATES CODE, TITLE 36

101-144 Patriotic observances

Management Resources:

CSBA PUBLICATIONS

School Board Leadership: The Role and Function of California's School Boards, 1996

FEDERAL REGISTER

77 Fed. Reg. 29727 Constitution Day and Citizenship Day

AMERICAN BAR ASSOCIATION PUBLICATIONS

Essentials of Law-Related Education, rev. 2003

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

History-Social Science Content Standards

History-Social Science Framework for California Public Schools

CENTER FOR CIVIC EDUCATION PUBLICATIONS

Education for Democracy: California Civic Education Scope & Sequence, 2003

National Standards for Civics and Government, 1994

NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS (NAEP) PUBLICATIONS

1998 Civics Report Card for the Nation, November 18, 1999

Civics Assessment

WEB SITES

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

American Bar Association, Law-Related Education Projects : <http://www.abanet.org/publiced/lre>

http://www.americanbar.org/groups/public_education.html

CIVIC EDUCATION (continued)

Management Resources: (continued)

WEB SITES (continued)

American Political Science Association: <http://www.apsanet.org>

Bill of Rights Institute: <http://www.billofrightsinstitute.org>

California Association of Student Leaders: <http://www.casl1.org>

California Council for the Social Studies: <http://www.ccss.org>

California Secretary of State Online Voter Registration: <https://registertovote.ca.gov>

Center for California Studies: <http://www.csus.edu/calst>

Center for Civic Education: <http://www.civiced.org>

Center for Information and Research on Civic Learning and Engagement: <http://www.civicyouth.org>

~~Center for Youth Citizenship: <http://www.youthcitizenship.org>~~

Constitutional Rights Foundation: <http://www.crf-usa.org>

*National Assessment of Educational Progress (**NAEP**), Civics Assessment:
<https://nces.ed.gov/nationsreportcard/civics>*

National Council for the Social Studies: <http://www.ncss.org>

CSBA Sample

Board Policy

Instruction

BP 6145.2(a)

ATHLETIC COMPETITION

Note: Pursuant to Education Code 35179, the Governing Board has control of and responsibility for all aspects of district interscholastic athletic policies, programs, and activities.

Pursuant to Education Code 51242, the Board may exempt any high school student engaged in a school-sponsored interscholastic athletic program after regular school hours from the requirement to attend physical education courses; see BP 6142.7 - Physical Education and Activity.

The Governing Board recognizes that the district's athletic program constitutes an integral component of the educational program and helps to build a positive school climate. The athletic program also promotes the physical, social, and emotional well-being and character development of participating students. The district's athletic program shall be designed to meet students' interests and abilities and shall be varied in scope to attract wide participation.

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

(cf. 5030 - Student Wellness)

(cf. 5137 - Positive School Climate)

(cf. 6142.7 - Physical Education and Activity)

(cf. 7110 - Facilities Master Plan)

All athletic teams shall be supervised by qualified coaches to ensure that student athletes receive appropriate instruction and guidance related to safety, health, sports skills, and sportsmanship. Athletic events shall be officiated by qualified personnel.

(cf. 4127/4227/4327 - Temporary Athletic Team Coaches)

The Board encourages business and community support for district athletic programs, subject to applicable district policies and regulations governing advertisements and donations.

(cf. 1260 - Educational Foundation)

(cf. 1321 - Solicitation of Funds from and by Students)

(cf. 1325 - Advertising and Promotion)

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

(cf. 3290 - Gifts, Grants and Bequests)

Nondiscrimination and Equivalent Opportunities in the Athletic Program

Note: Pursuant to Education Code 35179, the Board is responsible for ensuring that district and interscholastic athletic policies, programs, and activities are in compliance with ~~federal and state~~ law. Gender equity and nondiscrimination in district and interscholastic athletic programs and activities are governed by both federal ~~law and state laws~~ (Title IX, 20 USC 1681-1688) ~~and state law~~ (Education Code 200-262.4; 5 CCR 4900-4965).

ATHLETIC COMPETITION (continued)

In Mansourian v. Regents of University of California, the Ninth Circuit Court of Appeals ruled that a university receiving federal funds can be held liable for failing to effectively accommodate the athletic interests of both men and women even if the aggrieved women did not first provide the appropriate university officials with notice of their disadvantageous treatment and an opportunity to cure it. See the accompanying administrative regulation for factors the district must consider in determining whether equivalent opportunities are being provided.

Education Code 221.2-221.3 (the California Racial Mascot Act) declare the use of racially derogatory or discriminatory school or athletic team names, mascots, or nicknames in public schools to be contrary to an equal education and specifically prohibit public schools from using the term "Redskins" as a school or athletic team name, mascot, or nickname. The following paragraph includes an expansion of this prohibition to cover any racially derogatory or discriminatory athletic team name, mascot, or nickname and may be revised to reflect district practice. Also see BP 0410 - Nondiscrimination in District Programs and Activities.

The district's athletic program shall be free from discrimination and discriminatory practices prohibited by state and federal law, including, but not limited to, the use of any racially derogatory or discriminatory school or athletic team name, mascot, or nickname. The Superintendent or designee shall ensure that equivalent athletic opportunities are provided for males and females, and that students are permitted to participate in athletic activities consistent with their gender identity.

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

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

Any complaint **regarding alleging discrimination in** the district's athletic program shall be filed in accordance with the district's uniform complaint procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

California Interscholastic Federation

Note: The following **optional** section is for use by districts that maintain grades 9-12. Pursuant to Education Code 35179, the district may join an association, such as the California Interscholastic Federation (CIF), for the purpose of providing regional or statewide interscholastic athletic programs and activities for district students. Pursuant to Education Code 33353, CIF is responsible for setting rules governing interscholastic athletic programs. Students who attend schools that participate in interscholastic sports are therefore subject to CIF regulations as well as applicable district rules.

Any district school that participates in the California Interscholastic Federation (CIF) shall conduct its athletic activities in accordance with CIF bylaws and rules and any applicable district policy and regulation. The Superintendent or designee shall have responsibility for the district's interscholastic athletic program, while the principal or designee at each participating school shall be responsible for site-level decisions, as appropriate.

ATHLETIC COMPETITION (continued)

Note: Pursuant to CIF rules established in accordance with Education Code 33353, the Board is required to designate an individual from each school that participates in CIF sports to serve as a representative to the local CIF league. The name and contact information of these representatives must be annually reported to CIF. The following paragraph may be revised to reflect district practice.

The Board shall annually designate a representative to the local CIF league from each school that participates in CIF sports. The Superintendent or designee shall recommend a candidate for the position who demonstrates an understanding of the district's goals for student learning and interscholastic activities, knowledge of the athletic programs, awareness of the implications of league decisions for the school and the district, and interpersonal communication and leadership skills.

The designated representative(s) shall vote on issues that impact interscholastic athletics at the league and section levels, perform any other duties required by the CIF league, and report regularly to the Board on league, section, and statewide issues related to athletic programs.

(cf. 0500 - Accountability)

Student Eligibility

Note: The following section provides that student eligibility for participation in athletic programs shall be based on the same criteria adopted by the Board for all other extracurricular or cocurricular activities (see BP/AR 6145 - Extracurricular and Cocurricular Activities), and may be revised to reflect district practice.

Education Code 48850 specifies that a homeless student, or a foster youth whose residence changes pursuant to a court order or decision of a child welfare worker, shall be deemed to meet all residency requirements for participation in extracurricular activities and interscholastic sports; see AR 6173 - Education for Homeless Children and AR 6173.1 - Education for Foster Youth.

In addition, Education Code 49700-49701 establish a uniform means of assisting children of active duty military families transferred from one state to another, by reducing or eliminating the barriers to their educational success caused by the frequent moves and deployments of their parents/guardians; see BP/AR 6173.2 - Education of Children of Military Families. Among other things, Education Code 49701 requires flexibility of districts' local rules to facilitate eligibility for extracurricular activities of children of military personnel.

Eligibility requirements for student participation in the district's interscholastic athletic program, including requirements pertaining to academic achievement, shall be the same as those set by the district for participation in extracurricular and cocurricular activities.

(cf. 3530 - Risk Management/Insurance)

(cf. 5111.1 - District Residency)

(cf. 5121 - Grades/Evaluation of Student Achievement)

(cf. 6145 - Extracurricular and Cocurricular Activities)

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6173 - Education for Homeless Children)

(cf. 6173.1 - Education for Foster Youth)

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

ATHLETIC COMPETITION (continued)

Note: The following **optional** paragraph is for use by districts that participate in CIF. CIF bylaws specify eligibility criteria for participating student athletes, including criteria related to age, grade, attendance, scholastic achievement, residence, transfers, and discipline. In addition, in accordance with CIF bylaws, students in home schooling or home study/independent study programs are not eligible for CIF interscholastic competition unless they are enrolled in a program under the jurisdiction of a CIF member school district (i.e., a program in which the district approves the curriculum, administers the program, and evaluates the student).

In addition, the Superintendent or designee shall ensure that students participating in interscholastic athletics governed by CIF satisfy CIF eligibility requirements.

Note: Education Code 49010-49011 and the California Department of Education's (CDE) Fiscal Management Advisory 12-02, Pupil Fees, Deposits, and Other Charges, clarify that districts may not charge a fee for student participation in extracurricular activities, regardless of whether the activity is elective. Such prohibited fees include, but are not limited to, the cost of uniforms, locks, lockers, and equipment.

However, pursuant to Education Code 32220-32224, the district may charge a fee for required medical and accident insurance for athletic team members that is not paid for with school district or student body funds, as long as costs for insurance are covered for those determined to be financially unable to pay; see the accompanying administrative regulation and AR 5143 - Insurance. The district may also charge a fee for other students to attend athletic events as spectators since such attendance is not directly related to the educational program. Districts are advised to seek legal counsel before charging a fee for any activity which may be construed as related to the educational program.

Students shall not be charged a fee to participate in an athletic program, including, but not limited to, a fee to cover the cost of uniforms, locks, lockers, or athletic equipment.

(cf. 3260 - Fees and Charges)

(cf. 5143 - Insurance)

Sportsmanship

Note: CIF has adopted a set of principles entitled Pursuing Victory with Honor to provide the tools for teaching character development to student athletes. Districts that are not affiliated with CIF may delete or modify the following **optional** section to reflect district practice.

The Board values the quality and integrity of the athletic program and the character development of student athletes. Student athletes, coaches, parents/guardians, spectators, and others are expected to demonstrate good sportsmanship, ethical conduct, and fair play during all athletic competitions. They shall also abide by the core principles of trustworthiness, respect, responsibility, fairness, caring, and good citizenship, and the Code of Ethics adopted by CIF.

Students and staff shall be subject to disciplinary action for improper conduct.

(cf. 3515.2 - Disruptions)

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

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

ATHLETIC COMPETITION (continued)

(cf. 5131 - Conduct)

(cf. 5131.1 - Bus Conduct)

(cf. 5131.4 - Student Disturbances)

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

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

Health and Safety

Note: See the accompanying administrative regulation for additional requirements pertaining to the health and safety of student athletes, including students who experience concussions or other head injuries, heat illness, or sudden cardiac arrest.

The Board desires to give student health and safety the highest consideration in planning and conducting athletic activities.

Note: CIF requires students in grades 9-12 to undergo medical examinations before participating in interscholastic competition; see BP 5141.3 - Health Examinations. Pursuant to Education Code 49458, any examination required for participation in an interscholastic athletic program may be conducted by a physician or physician assistant.

Students shall have a medical clearance before participating in interscholastic athletic programs. Care shall be taken to ensure that all athletic trainings and competitions are conducted in a manner that will not overtax the physical capabilities of the participants. When appropriate, protective equipment shall be used to prevent or minimize injuries.

(cf. 5131.61 - Drug Testing)

(cf. 5131.63 - Steroids)

(cf. 5141.3 - Health Examinations)

(cf. 5141.6 - School Health Services)

(cf. 5141.7 - Sun Safety)

(cf. 5143 - Insurance)

Coaches and appropriate district employees shall take every possible precaution to ensure that athletic equipment is kept in safe and serviceable condition. The Superintendent or designee shall ensure that all athletic equipment is cleaned and inspected for safety before the beginning of each school year.

(cf. 5142 - Safety)

Note: Education Code 35179.4, as added by AB 2009 (Ch. 646, Statutes of 2018), requires any district that offers an interscholastic athletic program to develop a written emergency action plan, as provided below. A sample emergency action plan that may be used in the event of sudden cardiac arrest, catastrophic injury, or other medical emergency is available on CIF's web site.

ATHLETIC COMPETITION (continued)

The Superintendent or designee shall develop a written emergency action plan that describes the location of automated external defibrillator(s) and procedures to be followed in the event of sudden cardiac arrest or other medical emergency related to the athletic program's activities or events. The plan shall be posted in accordance with guidelines of the National Federation of State High School Associations. (Education Code 35179.4)

~~Note: Education Code 49475 requires that a student at any grade level who is suspected of sustaining a concussion be immediately removed from the athletic activity and not returned until a health care provider provides written clearance. Education Code 33479.5, as added by AB 1639 (Ch. 792, Statutes of 2016), and CIF bylaws require that a student athlete who passes out or faints, or is known to have passed out or fainted, while participating in or immediately following an athletic activity be removed from participation and not be allowed to return until he/she has been evaluated and given written clearance to return to participation by a health care provider. See the accompanying administrative regulation.~~

~~Education Code 33479.5 and 49475 specify that these requirements do not apply during an athletic activity occurring within the regular school day or in physical education class unless it constitutes a practice, interscholastic practice, or scrimmage. However, to promote student safety, it is recommended that district staff remove a student from an athletic activity at any time of day if he/she exhibits the symptoms of a concussion or sudden cardiac arrest.~~

In the event of **an a serious** injury or a perceived imminent risk to a student's health, **such as a concussion or passing out, fainting, or other sign of sudden cardiac arrest**, during or immediately after an athletic activity, the coach or any other district employee who is present shall remove the student athlete from the activity, observe universal precautions in handling blood or other bodily fluid, and/or seek medical treatment for the student as appropriate.

(cf. 4119.42/4219.42/4319.42 - Exposure Control Plan for Bloodborne Pathogens)

(cf. 4119.43/4219.43/4319.43 - Universal Precautions)

(cf. 5141 - Health Care and Emergencies)

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

(cf. 5141.22 - Infectious Diseases)

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

Whenever **an a serious** injury **or illness** is suffered by a student **athlete**, the Superintendent or designee shall notify the student's parent/guardian of the date, time, and extent of any injury **or illness** suffered by the student and any actions taken to treat the student.

Legal Reference: (see next page)

ATHLETIC COMPETITION (continued)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

17578 Cleaning and sterilizing of football equipment

17580-17581 Football equipment

32220-32224 Insurance for athletic teams, especially:

32221.5 Required insurance for athletic activities

33353-33353.5 California Interscholastic Federation; implementation of policies, insurance program

33354 California Department of Education authority over interscholastic athletics

33479-33479.9 The Eric Parades Sudden Cardiac Arrest Prevention Act

35160.5 District policies; rules and regulations

35179 Interscholastic athletics

35179.1 California High School Coaching Education and Training Program

35179.4 Emergency action plan

35179.5 Interscholastic athletics; limitation on full-contact practices

35179.6 Automated external defibrillator, athletic activities

48850 Interscholastic athletics; students in foster care and homeless students

48900 Grounds for suspension and expulsion

48930-48938 Student organizations

49010-49013 Student fees

49020-49023 Athletic programs; legislative intent, equal opportunity

49030-49034 Performance-enhancing substances

49458 Health examinations, interscholastic athletic program

49475 Health and safety, concussions and head injuries

49700-49701 Education of children of military families

51242 Exemption from physical education for high school students in interscholastic athletic program

HEALTH AND SAFETY CODE

1797.196 Automated external defibrillator

PENAL CODE

245.6 Hazing

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education programs, especially:

4920-4922 Nondiscrimination in intramural, interscholastic, and club activities

5531 Supervision of extracurricular activities of students

5590-5596 Employment of noncertificated coaches

UNITED STATES CODE, TITLE 20

1681-1688 Discrimination based on sex or blindness, Title IX

CODE OF FEDERAL REGULATIONS, TITLE 34

106.31 Nondiscrimination on the basis of sex in education programs or activities

106.33 Comparable facilities

106.41 Nondiscrimination in athletic programs

COURT DECISIONS

Mansourian v. Regents of University of California, (2010) 602 F. 3d 957

McCormick v. School District of Mamaroneck, (2004) 370 F.3d 275

Kahn v. East Side Union High School District, (2003) 31 Cal. 4th 990

Hartzell v. Connell, (1984) 35 Cal. 3d 899

ATHLETIC COMPETITION (continued)

Management Resources:

CSBA PUBLICATIONS

Updated Legal Guidance: Protecting Transgender and Gender Nonconforming Students Against Discrimination, March 2017

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Pupil Fees, Deposits, and Other Charges, Fiscal Management Advisory 12-02, April 24, 2013

CALIFORNIA INTERSCHOLASTIC FEDERATION PUBLICATIONS

Athletic Department Emergency Action Plan: Response Teams

California Interscholastic Federation Constitution and Bylaws

A Guide to Equity in Athletics

Guidelines for Gender Identity Participation

Keep Their Heart in the Game: A Sudden Cardiac Arrest Information Sheet for Athletes and Parents/Guardians

Event Emergency Guidelines, 2013

Pursuing Victory with Honor, 1999

CENTERS FOR DISEASE CONTROL AND PREVENTION PUBLICATIONS

Heads Up: Concussion in High School Sports, Tool Kit, June 2010

Heads Up: Concussion in Youth Sports, Tool Kit, July 2007

Acute Concussion Evaluation (ACE) Care Plan, 2006

NATIONAL FEDERATION OF STATE HIGH SCHOOL ASSOCIATIONS PUBLICATIONS

Emergency Action Planning Guide for After-School Practices and Events

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

Withdrawal of Dear Colleague Letter on Transgender Students, Dear Colleague Letter, February 22, 2017

Intercollegiate Athletics Policy Clarification: The Three-Part Test - Part Three, Dear Colleague Letter, April 20, 2010

WEB SITES

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

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

California Interscholastic Federation: <http://www.cifstate.org>

Centers for Disease Control and Prevention, Concussion Resources: <http://www.cdc.gov/concussion>

National Federation of State High School Associations: <http://www.nfhs.org>

National Operating Committee on Standards for Athletic Equipment: <http://www.nocsae.org>

U.S. Anti-Doping Agency: <http://www.usada.org>

U.S. Department of Education, Office for Civil Rights: <http://www2.ed.gov/ocr>

(11/11 5/17) 10/18

CSBA Sample Administrative Regulation

Instruction

AR 6145.2(a)

ATHLETIC COMPETITION

Nondiscrimination and Equivalent Opportunities in the Athletic Program

Note: The following section reflects pertinent provisions of ~~federal and~~ state ~~and federal~~ law regarding nondiscrimination (~~Title IX, 20 USC 1681-1688~~; Education Code 200-262.4; 5 CCR 4900-4965; **Title IX, 20 USC 1681-1688**). The Office for Civil Rights (OCR) in the U.S. Department of Education oversees complaints regarding violations of Title IX.

No student shall be excluded from participation in, be denied the benefits of, be denied equivalent opportunity in, or otherwise be discriminated against in interscholastic, intramural, or club athletics on the basis of actual or perceived sex, sexual orientation, gender, gender identity, gender expression, ethnic group identification, race, ancestry, national origin, religion, color, mental or physical disability, or any other basis specified in law. (Education Code 220, 221.5, 230; 5 CCR 4920; 34 CFR 106.41)

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

(cf. 5145.3 - Nondiscrimination/Harassment)

Note: 5 CCR 4921 and 34 CFR 106.41 authorize the establishment of separate teams for males and females where the selection of teams is based on competitive skills. 34 CFR 106.41 also authorizes single-sex teams for contact sports, as defined. Because state regulations do not address single-sex teams for contact sports, districts should consult legal counsel prior to establishing any such single-sex team for a contact sport for which selection is not based on competitive skills.

The Superintendent or designee may provide single-sex teams when selection for the teams is based on competitive skills. (5 CCR 4921; 34 CFR 106.41)

Note: Pursuant to Education Code 221.5, a district is required to permit a transgender student to participate in sex-segregated school programs and activities, including athletic teams and competitions, consistent with his/her gender identity, regardless of the gender listed in the student's records; see BP/AR 5145.3 - Nondiscrimination/Harassment. The California Interscholastic Federation's (CIF) bylaws and Guidelines for Gender Identity Participation contain procedures for addressing student complaints regarding gender identity-based participation in interscholastic sports. Also see CSBA's Updated Legal Guidance: Protecting Transgender and Gender Nonconforming Students Against Discrimination.

Each student shall be allowed to participate in any single-sex athletic program or activity consistent with his/her gender identity and for which he/she is otherwise eligible to participate, irrespective of the gender listed on the student's records. (Education Code 221.5)

(cf. 5125 - Student Records)

ATHLETIC COMPETITION (continued)

When a school provides only one team in a particular sport for members of one sex, but provides no team in the same sport for members of the other sex, and athletic opportunities in the total program for that sex have been previously limited, members of the excluded sex shall be allowed to try out and compete with the team. The same standards for eligibility shall be applied to every student trying out for the team, regardless of sex, sexual orientation, gender, gender identity, gender expression, or other protected group status. (5 CCR 4921; 34 CFR 106.41)

Note: 5 CCR 4922 and 34 CFR 106.41, as reflected in items #1-11 below, list factors that districts must consider when determining whether equivalent opportunities are being provided. The CIF's A Guide to Equity in Athletics suggests actions that districts can take for each of the factors to help the district meet its equivalence goals. Any district with questions about equivalent athletic opportunities for its students should consult legal counsel.

The Superintendent or designee shall ensure that equivalent opportunities are available to both sexes in athletic programs by considering, among other factors: (5 CCR 4922; 34 CFR 106.41)

1. Whether the offered selection of sports and levels of competition effectively accommodate the interests and abilities of both sexes

Note: Education Code 230 provides the following three-part test to determine if a district has effectively accommodated the interests and abilities of both sexes in athletics. This test is the same three-part test that is used by OCR for helping to determine equivalent opportunities under Title IX.

The athletic program may be found to effectively accommodate the interests and abilities of both sexes using any one of the following tests: (Education Code 230)

Note: CIF's A Guide to Equity in Athletics advises that, in order to meet the criterion specified in item #1a below, the ratio of male/female athletes should be within five percent of the ratio of male/female district enrollment.

- a. Whether the interscholastic-level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments
- b. Where the members of one sex have been and are underrepresented among interscholastic athletes, whether the district can show a history and a continuing practice of program expansion that is demonstrably responsive to the developing interests and abilities of the members of that sex

Note: In evaluating whether there is an unmet interest in a particular sport and sufficient ability to sustain a team in the sport (item #1c below), OCR considers (1) whether an institution uses nondiscriminatory methods of assessment when determining the athletic interests and abilities of its students, (2) whether a

ATHLETIC COMPETITION (continued)

viable team for the underrepresented sex was recently eliminated, (3) multiple indicators of interest, (4) multiple indicators of ability, and (5) frequency of conducting assessments. Thus, a student survey is one of multiple indicators that may be used. A letter issued by OCR in April 2010 provides information that the district might consider in developing its own survey. In addition, CIF's A Guide to Equity in Athletics provides sample surveys.

- c. Where the members of one sex are underrepresented among interscholastic athletes and the district cannot show a history and continuing practice of program expansion as required in item #1b above, whether the district can demonstrate that the interests and abilities of the members of that sex have been fully and effectively accommodated by the present program
2. The provision and maintenance of equipment and supplies
 3. Scheduling of games and practice times, selection of the season for a sport, and location of the games and practices
 4. Travel and per diem allowances
 5. Opportunities to receive coaching and academic tutoring
 6. Assignment and compensation of coaches and tutors
 7. Provision of locker rooms, practice facilities, and competitive facilities
 8. Provision of medical and training facilities and services
 9. Provision of housing and dining facilities and services
 10. Publicity

Note: 5 CCR 4922 clarifies that unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams shall not by itself constitute a failure to provide equivalent opportunities. However, the provision of necessary funding for teams of both sexes is a factor in the determination, as specified below.

11. Provision of necessary funds

Each school that offers competitive athletics shall, at the end of the school year, post on its school web site, or on the district web site if the school does not have a web site, the following information: (Education Code 221.9)

1. The total enrollment of the school, classified by gender

ATHLETIC COMPETITION (continued)

2. The number of students enrolled at the school who participate in competitive athletics, classified by gender
3. The number of boys' and girls' teams, classified by sport and by competition level

(cf. 1113 - District and School Web Sites)

The data reported for items #1-3 above shall reflect the total number of players on a team roster on the official first day of competition. The materials used to compile this information shall be retained by the school for at least three years after the information is posted on the web site. (Education Code 221.9)

(cf. 3580 - District Records)

Concussions and Head Injuries

Note: Education Code 49475 requires districts to distribute information on concussions and head injuries to student athletes and their parents/guardians. The district may use fact sheets developed by the Centers for Disease Control and Prevention (CDC), available on CIF's web site, or other resources to develop the information sheet.

The requirements of Education Code 49475 apply to any district that offers an athletic program at any grade level and for any sport. These requirements do not apply to students engaging in an athletic activity during the regular school day or as part of a physical education course.

The Superintendent or designee shall annually distribute to student athletes and their parents/guardians an information sheet on concussions and head injuries. The student and parent/guardian shall sign and return the information sheet before the student's initial practices or competition. (Education Code 49475)

(cf. 5145.6 - Parental Notifications)

Note: Education Code 49032 requires that each high school coach complete an education program that includes, but is not limited to, a basic understanding of the signs and symptoms of concussions and appropriate response to them. CIF makes free online courses available through its web site. Also see AR 4127/4227/4327 - Temporary Athletic Team Coaches.

The Superintendent or designee shall provide training to coaches and/or athletic trainers regarding concussion symptoms, prevention, and appropriate response. (Education Code 35179.1, 49032)

(cf. 4127/4227/4327 - Temporary Athletic Team Coaches)

Note: Education Code 49475 requires that a student at any grade level engaged in an athletic program apart from the regular school day or physical education course who is suspected of sustaining a concussion be

ATHLETIC COMPETITION (continued)

immediately removed from the athletic activity and not be allowed to return until a health care provider provides written clearance. CDC's web site includes an Acute Concussion Evaluation form which may be used to provide injured students and their parents/guardians with information about monitoring symptoms and the health care provider's recommendations regarding returning to daily activities, school, and sports. See **also** CIF's web site for additional information regarding concussions.

If a student athlete is suspected of sustaining a concussion or head injury in an athletic activity, he/she shall be immediately removed from the activity for the remainder of the day. The student shall not be permitted to return to the activity until he/she is evaluated by a licensed health care provider trained in the management of concussions and receives the health care provider's written clearance to return to the activity. If the health care provider determines that the athlete sustained a concussion or a head injury, the athlete shall also complete a graduated return-to-play protocol of no less than seven days in duration under the supervision of a licensed health care provider. (Education Code 49475)

Note: The following paragraph is for use by districts that offer a football program and may be revised to reflect the grade levels offered by the district.

A middle school or high school football team shall not hold a full-contact practice during the off-season and shall not conduct more than two full-contact practices per week during the preseason and regular season (from 30 days before the commencement of the regular season until the completion of the final interscholastic football game of that season). In addition, the full-contact portion of a practice shall not exceed 90 minutes in any single day. For these purposes, *full-contact practice* means a practice where drills or live action is conducted that involves collisions at game speed, where players execute tackles and other activity that is typical of an actual tackle football game. (Education Code 35179.5)

Heat Illness

Note: Pursuant to Education Code 35179.1, as amended by AB 2800 (Ch. 21, Statutes of 2018), effective January 1, 2019, the district or CIF-developed coaching education program required by Education Code 49032 must include training on the signs and symptoms of, and the appropriate response to, heat illness. The National Federation of State High Schools offers a free online course, available on CIF's web site, that fulfills these requirements.

The Superintendent or designee shall provide training to coaches and/or athletic trainers regarding the signs and symptoms of, and the appropriate response to, heat illness, including heat cramps, heat syncope, heat exhaustion, and exertional heat stroke. (Education Code 35179.1, 49032)

Note: The following optional paragraph reflects recommendations in CSBA's and CIF's joint publication Preventing Catastrophic Heat Illness, and may be expanded to include additional district strategies.

ATHLETIC COMPETITION (continued)

To assist in the prevention of heat illness, coaches and/or athletic trainers shall gradually increase the intensity and duration of exercise to acclimate student athletes to practice in the heat, provide adequate rest breaks, make water available during all athletic activities, and alter practice plans in extreme environmental conditions.

Sudden Cardiac Arrest

Note: Education Code 33479.3, ~~as added by AB 1639 (Ch. 792, Statutes of 2016)~~, requires that student athletes and their parents/guardians receive information on the nature and warning signs of sudden cardiac arrest, as provided below. This information is available from CIF or, if the athletic activity is not governed by CIF, on the California Department of Education's (CDE) web site. In addition, Education Code 33479.2, ~~as added by AB 1639~~, encourages districts to post on their web sites the information provided on CDE's web site pertaining to sudden cardiac arrest.

The Superintendent or designee shall distribute the California Interscholastic Federation (CIF) information sheet on sudden cardiac arrest to all student athletes who will be participating in a CIF-governed athletic activity and to their parents/guardians. The student and parent/guardian shall sign and return the information sheet prior to the student's participation in the athletic activity. If an athletic activity is not covered by ~~the~~ CIF, the student and his/her parent/guardian shall, prior to ~~participating~~ **the student's participation** in the athletic activity, sign and return an acknowledgement that they have received and reviewed the sudden cardiac arrest information posted on the California Department of Education's web site. (Education Code 33479.2, 33479.3)

Note: ~~Beginning July 1, 2017~~, Education Code 33479.6, ~~as added by AB 1639 (Ch. 792, Statutes of 2016)~~, requires the coach of an athletic activity to complete, every two years, a training course related to the nature and warning signs of sudden cardiac arrest. See AR 4127/4227/4327 - Temporary Athletic Team Coaches. CIF makes free online courses available through its web site.

The Superintendent or designee shall provide training to coaches and/or athletic trainers regarding the nature and warning signs of sudden cardiac arrest. (Education Code 33479.6, 33479.7, 35179.1, 49032)

Note: Education Code 33479.5, ~~as added by AB 1639 (Ch. 792, Statutes of 2016)~~, and CIF bylaws provide for a student's removal from participation in an athletic activity if he/she passes out or faints. As defined by Education Code 33479.1, ~~as added by AB 1639~~, an "athletic activity" includes (1) interscholastic athletics; (2) an athletic contest or competition sponsored by a school, including cheerleading and club-sponsored sports activities; (3) noncompetitive cheerleading sponsored by a school; and (4) practices, interscholastic practices, and scrimmages for all these activities. Pursuant to Education Code 33479.5, this requirement does not apply when a student engages in an athletic activity during the regular school day or as part of a physical education course, unless the activity constitutes a practice, interscholastic practice, or scrimmage. Furthermore, Education Code 33479.5 authorizes, but does not require, the removal of a student from an athletic activity if he/she exhibits symptoms of sudden cardiac arrest other than passing out or fainting, as provided below. However, to promote student safety, the district may choose to require its staff to remove a student from an athletic activity if he/she exhibits any symptom of sudden cardiac arrest at any time.

ATHLETIC COMPETITION (continued)

If a student athlete passes out or faints, or is known to have passed out or fainted, while participating in or immediately following his/her participation in an athletic activity, the student shall be removed from participation at that time. If a student exhibits any other symptoms of sudden cardiac arrest, including seizures during exercise, unexplained shortness of breath, chest pains, dizziness, racing heart rate, or extreme fatigue, he/she may be removed from participation by a coach or other employee who observes these symptoms. If any such symptoms are observed, notification shall be given to the student's parent/guardian so that the parent/guardian can determine the treatment, if any, the student should seek. A student who has been removed from participation shall not be permitted to return until he/she is evaluated and given written clearance to return to participation by a health care provider. (Education Code 33479.2, 33479.5)

Automated External Defibrillators

Note: Pursuant to Education Code 35179.6, as added by AB 2009 (Ch. 646, Statutes of 2018), effective July 1, 2019, a district that offers an interscholastic athletic program is required to make an automated external defibrillator (AED) available to coaches, athletic trainers, and/or other authorized persons at athletic activities or events. Education Code 35179.6 encourages districts to make AEDs available for emergency care or treatment within three to five minutes of sudden cardiac arrest to any person in attendance at an on-campus athletic activity or event.

Education Code 35179.6 clarifies that the district or district employee will not be liable for civil damages resulting from any act or omission in the rendering of emergency care or treatment provided that the employee complies with the requirements of Health and Safety Code 1797.196 and does not act with gross negligence or willful or wanton misconduct by using, attempting to use, or maliciously failing to use an AED to render emergency care or treatment.

The Superintendent or designee shall acquire at least one automated external defibrillator (AED) for each district school and shall make the AED(s) available to coaches, athletic trainers, and/or other authorized persons at athletic activities or events for the purpose of providing emergency care or treatment to students, spectators, and other individuals in attendance at athletic activities and events. (Education Code 35179.6)

(cf. 5141 - Health Care and Emergencies)

The district shall comply with all requirements of Health and Safety Code 1797.196 pertaining to any AED acquired by the district, including, but not limited to, regular maintenance and testing of the AED and the provision and posting of information regarding the proper use of the AED. (Education Code 35179.6; Health and Safety Code 1797.196)

ATHLETIC COMPETITION (continued)**Additional Parental Notifications**

Note: The following **optional** section lists notices that the district may send to parents/guardians of students participating in interscholastic athletics. This section should be revised to reflect district practice.

Before a student participates in interscholastic athletic activities, the Superintendent or designee shall, in addition to providing his/her parents/guardians with information on the signs and symptoms of concussions and sudden cardiac arrest as described above, send a notice to the student's parents/guardians which:

Note: Education Code 33353 requires CIF to provide information to students and parents/guardians about procedures for discrimination complaints arising from interscholastic athletic activities. Education Code 33354 allows a complainant to file a discrimination complaint directly with **the** CDE.

1. Contains information about the procedures for filing a discrimination complaint that arises out of an interscholastic athletic activity, including the name of the district's Title IX Coordinator

(cf. 1312.3 - Uniform Complaint Procedures)

Note: Education Code 221.61, ~~as added by SB 1375 (Ch. 655, Statutes of 2016)~~, requires districts to post specified information on their web sites related to Title IX. A district that does not maintain a web site may comply by posting the information on the web site of its county office of education. A comprehensive list of rights based on the provisions of the federal regulations implementing Title IX can be found in Education Code 221.8. See AR 5145.3 - Nondiscrimination/Harassment. **Optional** item #2 below provides that this information will also be provided in writing to the parents/guardians of student athletes.

2. Includes a copy of students' Title IX rights pursuant to Education Code 221.8

Note: In Kahn v. East Side Union High School District, the California Supreme Court analyzed the liability of a coach for an injury to a member of a high school diving team. The court acknowledged that some risk of injury is inherent in sports and part of a coach's job is to "push" a student athlete to advance his/her skill level and to undertake more difficult tasks. According to the court, a coach could be found liable only when he/she intentionally injures the student or engages in conduct that is so reckless that it is outside of the ordinary activity involved in teaching or coaching the sport.

The district may or may not wish to seek a waiver of liability for accidents or injuries resulting from participation in athletic activities. Whether a liability waiver is legally effective is likely to be determined on a case-by-case basis, and it is questionable whether a student's right to participate in extracurricular activities could be made contingent upon the submission of a waiver. Legal counsel should be consulted when addressing the complex issues related to liability waivers.

3. Explains that there is an element of risk associated with all athletic competitions and that the district cannot guarantee that students will not be injured, despite a commitment to every participant's health and welfare

ATHLETIC COMPETITION (continued)

(cf. 3530 - Risk Management/Insurance)

Note: Education Code 32221.5 requires the district to provide information about insurance protection to each student participating on a school athletic team. For specific language that must be contained in this statement, see AR 5143 - Insurance.

4. Provides information about insurance protection pursuant to Education Code 32221.5

(cf. 5143 - Insurance)

5. Requests parental permission for the student to participate in the program and, if appropriate, be transported by the district to and from competitions

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

Note: Pursuant to Education Code 48900, a student may be subject to suspension or expulsion if he/she engages, or attempts to engage, in hazing.

6. States the district's expectation that students adhere strictly to all safety rules, regulations, and instructions, as well as rules and guidelines related to conduct and sportsmanship

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

7. Includes a copy of the local **California Interscholastic Federation (CIF)** league rules

Note: Pursuant to Education Code 49033 and CIF bylaws, any student participating in athletics and his/her parent/guardian must sign a statement that the student will not use androgenic/anabolic steroids, unless he/she has a written prescription from a licensed health care practitioner, or dietary supplements banned by the U.S. Anti-Doping Agency as well as the substance synephrine. See BP/AR ~~4~~ 5131.63 - Steroids.

8. Includes information about the CIF bylaw and district policy requiring any student athlete and his/her parent/guardian to sign a statement that the student will not use steroids, unless prescribed by a licensed health care practitioner, or prohibited dietary supplements that include substances banned by the U.S. Anti-Doping Agency

(cf. 5131.63 - Steroids)

(10/15 5/17) 10/18

CSBA Sample

Board Policy

Instruction

BP 6152.1(a)

PLACEMENT IN MATHEMATICS COURSES

Note: Pursuant to Education Code 51224.7, ~~the~~ The Governing Board of a district which serves 9th-grade students ~~and has not adopted a mathematics placement policy~~ is **mandated pursuant to Education Code 51224.7, as added by SB 359 (Ch. 508, Statutes of 2015),** to develop and, at a regularly scheduled public Board meeting, adopt a fair, objective, and transparent mathematics placement policy with specified components, ~~before the 2016-17 school year. Even a district with an adopted mathematics placement policy must ensure that its policy includes components specified in Education Code 51224.7. Districts serving students that are transitioning between elementary and middle or junior high school are authorized, but not required, to adopt and implement a policy that satisfies the components specified in Education Code 51224.7.~~ **Although not required, districts serving students who are transitioning between elementary and middle or junior high schools are encouraged to adopt and implement policy to address the transition from elementary to secondary mathematics courses.**

Pursuant to Education Code 51225.3, high school graduation requirements include the completion of at least two mathematics courses in grades 9-12. Pursuant to Education Code 51224.5, ~~as amended by AB 220 (Ch. 165, Statutes of 2015),~~ one of those two courses must meet or exceed state content standards for Algebra I or Mathematics I. While the completion of Algebra I or Mathematics I coursework prior to 9th grade would satisfy this requirement, it does not exempt a student from the requirement to complete two mathematics courses in grades 9-12. See BP 6142.92 - Mathematics Instruction and BP 6146.1 - High School Graduation Requirements.

According to a report ~~released in 2013~~ by the Lawyers' Committee for Civil Rights of San Francisco Bay Area, **Held Back: Addressing Misplacement of 9th Grade Students in Bay Area School Math Classes**, ~~in many districts, high school freshmen place students who have successfully completed Algebra I in 8th grade are placed in 9th grade into Algebra I class again in 9th grade.~~ In adding Education Code 51224.7, the legislature declared that placement in appropriate mathematics courses is critically important for a student in his/her middle and high school years, and that misplacement in the sequence of mathematics courses creates barriers for educational success, especially for students of color.

The Governing Board believes that a sound educational program must include the study of subjects that prepare students for admission to higher education and/or ~~a~~ fulfilling careers. ~~To the extent possible, all~~ District students shall be provided an opportunity to complete a sequence of mathematics courses recommended for admission into the University of California and California State University systems.

(cf. 6141.5 - Advanced Placement)

(cf. 6142.92 - Mathematics Instruction)

(cf. 6143 - Courses of Study)

(cf. 6146.1 - High School Graduation Requirements)

Note: ~~Education Code 51224.7 requires the use of multiple objective academic measures for student placement in mathematics courses.~~ **The following paragraph may be revised to reflect district practice.** For nonunified districts, Education Code 51224.7 ~~also requires~~ **mandates that the policy address the consistency of mathematics placement policies between elementary and high school districts.**

PLACEMENT IN MATHEMATICS COURSES (continued)

The Superintendent or designee shall work with district teachers, counselors, and administrators and the representatives of feeder schools to develop **a well-articulated sequence of mathematics courses and** consistent protocols for placing students in mathematics courses offered at district high schools.

Note: Education Code 51224.7 mandates that the district's policy include the following statement. Also see the accompanying administrative regulation for further information regarding placement protocols.

Such placement protocols shall systematically take into consideration multiple objective academic measures that may include, but are not limited to, **statewide mathematics assessments, including state** interim and summative assessments; placement tests that are aligned to state-adopted content standards in mathematics; classroom assignment and grades; and report cards. **(Education Code 51224.7)**

(cf. 5121 - Grades/Evaluation of Student Achievement)

(cf. 6011 - Academic Standards)

(cf. 6162.5 - Student Assessment)

(cf. 6162.51 - State Academic Achievement Tests)

Note: The Lawyers' Committee for Civil Rights of San Francisco Bay Area's report, **Held Back: Addressing Misplacement of 9th Grade Students in Bay Area School Math Classes**, also found that the practice of having 9th graders **9th-grade students** repeat Algebra I disproportionately affects students of color and from low-income families, and could therefore be found to be discriminatory. For more information about the prohibition against discrimination in district programs and activities, see BP 0410 - Nondiscrimination in District Programs and Activities.

District staff shall implement the placement protocols uniformly and without regard to students' ~~race, sex, gender, nationality, ethnicity,~~ socioeconomic background, or ~~other subjective or discriminatory consideration in making placement decisions~~ **any characteristic specified in BP 0410 - Nondiscrimination in District Programs and Activities, including, but not limited to, race, sex, gender, nationality, and ethnicity.**

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

(cf. 0415 - Equity)

(cf. 6174 - Education for English Learners)

~~Students shall be enrolled in mathematics courses based on the placement protocols. No student shall repeat a mathematics course which he/she has successfully completed based on the district's placement protocols.~~

Note: ~~The following optional paragraph provides a limited exception to the use of objective measures for making placement decisions and may be revised to reflect district practice.~~

PLACEMENT IN MATHEMATICS COURSES (continued)

~~When a student does not qualify to be enrolled in a higher level mathematics course based on a consideration of the objective measures specified in the placement protocols, he/she may nevertheless be admitted to the course based on the recommendation of a teacher or counselor who has personal knowledge of the student's academic ability.~~

Note: Education Code 51224.7, as added by SB 359 (Ch. 508, Statutes of 2015), requires **mandates** that the district's policy include at least one placement checkpoint within the first month of the school year to ensure accurate placement and permit reevaluation of individual student progress.

The placement protocols shall ~~specify a time~~ **provide for at least one reevaluation** within the first month of the school year ~~when students shall be reevaluated~~ to ensure that ~~they~~ **students** are appropriately placed in mathematics courses and shall specify the criteria the district will use to make this determination. Any student found to be misplaced shall be promptly placed in the appropriate mathematics course.

Note: ~~The following paragraph contains timelines that may be revised to reflect district practice. Pursuant to Education Code 51224.7, as added by SB 359 (Ch. 508, Statutes of 2015), the district's policy must~~ **mandates that the district's policy** offer a clear and timely recourse for any student and his/her parent/guardian who question the student's placement. **See the accompanying administrative regulation for additional language implementing this requirement.**

If a student or parent/guardian questions the student's placement, he/she may appeal the decision to the Superintendent or designee. The decision of the Superintendent or designee shall be final.

~~Within 10 school days of an initial placement decision or a placement decision upon reevaluation, a student and his/her parent/guardian who disagree with the placement of the student may appeal the decision to the Superintendent or designee. The Superintendent or designee shall decide whether or not to overrule the placement determination within 10 school days of receiving the appeal. The decision of the Superintendent or designee shall be final.~~

~~(cf. 5123—Promotion/Acceleration/Retention)~~

Note: ~~The Lawyers' Committee for Civil Rights of San Francisco Bay Area's report also found that the practice of having 9th graders repeat Algebra I disproportionately affects students of color and from low-income families, and could therefore be found to be discriminatory. For more information about the prohibition against discrimination in district programs and activities, see BP 0410—Nondiscrimination in District Programs and Activities.~~

~~District staff shall implement the placement protocols uniformly and without regard to students' race, sex, gender, nationality, ethnicity, socioeconomic background, or other subjective or discriminatory consideration in making placement decisions.~~

~~(cf. 0410—Nondiscrimination in District Programs and Activities)~~

PLACEMENT IN MATHEMATICS COURSES (continued)

The Superintendent or designee shall ensure that all teachers, counselors, and other district staff responsible for determining students' placement in mathematics courses receive training on the placement protocols.

(cf. 4131 - Staff Development)

~~Prior to the beginning of each school year, the Superintendent or designee shall communicate the district's commitment to providing students with the opportunity to complete mathematics courses recommended for college admission, including approved placement protocols and the appeal process, to parents/guardians, students, teachers, school counselors, and administrators.~~

~~This policy and the district's mathematics placement protocols shall be posted on the district's web site. (Education Code 51224.7)~~

~~*(cf. 1113 - District and School Web Sites)*~~

Note: To ensure that students who are qualified to progress in mathematics courses based on their performance on district-selected objective academic measures are not unlawfully or inappropriately held back ~~in the manner specified in the following paragraph~~, Education Code 51224.7, ~~as added by SB 359 (Ch. 508, Statutes of 2015), requires~~ **mandates that the policy include a requirement for** an annual examination of aggregate student placement data which must be reported to the Board. **In addition, pursuant to Education Code 52060, districts must annually review their progress toward the student achievement goals in their local control and accountability plan using measures that include, as applicable, the percentage of students who have successfully completed courses that satisfy the requirements for entrance to the University of California and the California State University.**

~~Annually, the~~ The Board and the Superintendent or designee shall **annually** review student data related to placement ~~and advancement in the~~ mathematics courses offered at district high schools to ensure that students who are qualified to progress in mathematics courses based on their performance on objective academic measures are not **being** held back in a disproportionate manner on the basis of ~~their race, ethnicity, gender, or socioeconomic background~~ **any subjective or discriminatory basis, and shall develop strategies.** ~~The Board and Superintendent shall also consider appropriate recommendations~~ for removing any identified barriers to students' access to mathematics courses.

(cf. 0460 - Local Control and Accountability Plan)

(cf. 0500 - Accountability)

Legal Reference: (see next page)

PLACEMENT IN MATHEMATICS COURSES (continued)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

48070.5 Promotion and retention; required policy

51220 Areas of study, grades 7-12

51224.5 Completion of Algebra I or Mathematics I

51224.7 California Mathematics Placement Act of 2015

51225.3 High school graduation requirements

51284 Financial literacy

52060-52077 Local control and accountability plan

60605 State-adopted content and performance standards in core curricular areas

60605.8 Common Core standards

60640-60649 California Assessment of Student Performance and Progress

Management Resources:

CSBA PUBLICATIONS

Math Misplacement, Governance Brief, September 2015

~~*Governing to the Core, Governance Briefs*~~

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Mathematics Framework for California Public Schools: Kindergarten Through Grade Twelve, 2013

California Common Core State Standards: Mathematics, January 2013

COMMON CORE STATE STANDARDS INITIATIVE PUBLICATIONS

Appendix A: Designing High School Mathematics Courses Based on the Common Core State Standards

LAWYERS' COMMITTEE FOR CIVIL RIGHTS OF THE SAN FRANCISCO BAY AREA (LCCR)

Held Back - Addressing Misplacement of 9th Grade Students in Bay Area School Math Classes, 2013

WEB SITES

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

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

Common Core State Standards Initiative: <http://www.corestandards.org/math>

Lawyers' Committee for Civil Rights of the San Francisco Bay Area (LCCR): <http://www.lccr.com>

Northwest Evaluation Association, Measures of Academic Progress: <http://www.nwea.org>

University of California, Mathematics Diagnostic Testing Project: <http://mdtp.ucsd.edu>

CSBA Sample Administrative Regulation

Instruction

AR 6152.1(a)

PLACEMENT IN MATHEMATICS COURSES

Placement Protocols

Note: Education Code 51224.7 mandates that any district that serves 9th-grade students adopt protocols for student placement in mathematics courses based on multiple objective academic measures, such as statewide assessments, including interim and summative assessments; placement tests that are aligned to state-adopted content standards in mathematics; classroom assignment and grades; and report cards. Districts that serve students transitioning from elementary to middle or junior high school may also adopt a placement protocol based on similar measures. The following section should be revised to reflect the grade levels at which the placement protocols will be applied, specific tests and other measures used for placement purposes, and the performance level on each assessment or minimum grade that will be used to determine a student's readiness for specific mathematics courses.

In determining student placement in mathematics courses for students entering grade 9, the Superintendent or designee shall assess whether each student has the prerequisite skills for success in the course and consider student and parent/guardian requests. Such determinations shall be based on multiple measures, including, but not limited to, the following:

Note: Pursuant to Education Code 60640, mathematics assessments in the California Assessment of Student Performance and Progress are administered at grades 3-8 and 11.

1. Interim and summative grade 8 mathematics assessments from the California Assessment of Student Performance and Progress
2. For students with disabilities, an alternate test or other measures when designated in a student's individualized education program (IEP)
3. Other assessments such as Measures of Academic Progress, the readiness tests of the University of California's Mathematics Diagnosis Testing Project, and/or district benchmark assessments
4. The student's grades in his/her previous mathematics course
5. The final mathematics grade on the end-of-year report card

(cf. 5121 - Grades/Evaluation of Student Achievement)

(cf. 6142.92 - Mathematics Instruction)

(cf. 6143 - Courses of Study)

(cf. 6162.5 - Student Assessment)

(cf. 6162.51 - State Academic Achievement Tests)

PLACEMENT IN MATHEMATICS COURSES (continued)

Individual student performance data shall be analyzed each spring prior to scheduling and placing students into secondary mathematics courses.

No student shall be required to repeat a mathematics course which he/she has successfully completed in accordance with district's placement protocols.

Note: Recommendations by teachers or counselors are generally considered subjective and therefore do not meet the requirement of Education Code 51224.7 that placement in mathematics courses be based on objective measures. The following optional paragraph authorizes staff recommendations to be considered when placing a student in a higher level mathematics course than he/she would be assigned based on the district's protocol, but such recommendations should not be the sole basis for placing a student in a lower level class.

When a student does not qualify to be enrolled in a particular mathematics course based on a consideration of the objective measures specified in the placement protocol, he/she may nevertheless be admitted to the course based on the recommendation of a teacher or counselor who has personal knowledge of the student's academic ability.

Students who exhibit deficits in knowledge and skills needed to advance to a higher level mathematics course may receive supplemental instruction to improve achievement of mathematic content standards.

(cf. 6011 - Academic Standards)
(cf. 6179 - Supplemental Instruction)

Reevaluation

Within the first month of the school year, mathematics course placements shall be individually reevaluated to ensure placement in the most rigorous mathematics course for which the student has the potential for success.

Criteria for reevaluating each student's placement shall include, but are not limited to, course preassessment results, attendance, and student performance in the first month of the school year as determined by teacher observation and grades on assignments and tests. Student and parent/guardian request for course placement may also be considered.

Notification of Placement Protocol

The district's policy and protocols related to student placement in mathematics courses shall be posted on the district's web site. (Education Code 51224.7)

(cf. 1113 - District and School Web Sites)

PLACEMENT IN MATHEMATICS COURSES (continued)

The Superintendent or designee shall also make the district's placement policy, protocols, and course sequence readily accessible to students, parents/guardians, and staff at school sites and/or in student handbooks.

Appeals

Note: Education Code 51224.7 mandates that the district's policy or protocol offer a clear and timely recourse for any student and parent/guardian who question the student's placement. See the accompanying Board policy. The following paragraph contains timelines that may be revised to reflect district practice.

Within 10 school days of an initial placement decision or a placement decision upon reevaluation, a student and his/her parent/guardian who disagree with the placement may appeal the decision to the Superintendent or designee. The Superintendent or designee shall decide whether or not to overrule the placement determination within 10 school days of receiving the appeal.

CSBA Sample

Board Policy

Instruction

BP 6170.1(a)

TRANSITIONAL KINDERGARTEN

Note: The following policy is for use by districts that maintain kindergarten and may be revised to reflect district practice. Education Code 48000 provides that children are eligible for kindergarten enrollment if they have their fifth birthday on or before September 1 in that school year; see AR 5111 - Admission. Pursuant to Education Code 48000, any child whose **fifth** birthday is between September 2 and December 2 must be offered a transitional kindergarten (TK) program.

Education Code 48000 defines TK as the first year of a two-year kindergarten program that uses a modified kindergarten curriculum that is age and developmentally appropriate. Many of the requirements applicable to kindergarten (e.g., class size, minimum school day, facilities) are also applicable to TK. The district will receive funding based on average daily attendance (ADA) for students in a TK program that meets the requirements specified in Education Code 48000.

For guidance on implementing TK programs, see the [Transitional Kindergarten Implementation Guide: A Resource for California Public School District Administrators and Teachers](#), published by the California Department of Education (CDE).

The Governing Board desires to offer a high-quality transitional kindergarten (TK) program for eligible children who do not yet meet the minimum age criterion for kindergarten. The TK program shall assist students in developing the academic, social, and emotional skills they need to succeed in kindergarten and beyond.

The district's TK program shall be the first year of a two-year kindergarten program. (Education Code 48000)

The Board encourages ongoing collaboration among district preschool staff, other preschool providers, elementary teachers, administrators, and parents/guardians in the development, implementation, and evaluation of the district's TK program.

(cf. 1220 - Citizen Advisory Committees)

(cf. 6020 - Parent Involvement)

Eligibility

The district's TK program shall admit children whose fifth birthday is from September 2 through December 2. (Education Code 48000)

Note: The CDE's "Transitional Kindergarten FAQs" clarify that children are required to have documentation of required immunizations or a valid exemption prior to admission to TK. For information about required immunizations and exemptions, see BP/AR 5141.31 - Immunizations.

TRANSITIONAL KINDERGARTEN (continued)

Parents/guardians of eligible children shall be notified of the availability of the TK program and **the** age, residency, immunization, and any other enrollment requirements. Enrollment in the TK program shall be voluntary.

(cf. 5111 - Admission)

(cf. 5111.1 - District Residency)

(cf. 5141.22 - Infectious Diseases)

(cf. 5141.3 - Health Examinations)

(cf. 5141.31 - Immunizations)

(cf. 5141.32 - Health Screening for School Entry)

Note: The following paragraph is **optional**. If the district chooses to allow kindergarten-eligible children to enroll in the TK program, CDE recommends that the district establish criteria to determine selection requirements. The parent/guardian of a kindergarten-eligible child who is enrolled in TK must, at the end of the year, sign a Kindergarten Continuance Form verifying that he/she agrees to have the child **continue enroll** in kindergarten the following year; see section "Continuation in Kindergarten" below.

Upon request of a child's parents/guardians, the district may, on a case-by-case basis after the Superintendent or designee determines that it is in the child's best interest, admit into the district's TK program a child whose fifth birthday is on or before September 1 and who is therefore eligible for kindergarten.

Note: The following paragraph is **optional**. Pursuant to Education Code 48000, the district may, at its discretion, determine whether to allow admittance of children whose fifth birthday is after December 2. Such students may be admitted at any time during the school year, including at the beginning of the year. Education Code 48000 provides that districts will not receive ADA apportionment for a child whose birthday is after December 2 until the child reaches his/her fifth birthday.

At any time during the school year, the district may admit into the TK program a child whose fifth birthday is after December 2 of that same school year, provided that the Superintendent or designee recommends that enrollment in a TK program is in the child's best interest and the child's parents/guardians approve. Prior to such enrollment, the child's parents/guardians shall be provided information regarding the advantages and disadvantages and any other explanatory information about the effect of early admittance. (Education Code 48000)

Curriculum and Instruction

The district's TK program shall be based on a modified kindergarten curriculum that is age and developmentally appropriate. (Education Code 48000)

(cf. 6141 - Curriculum Development and Evaluation)

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

Note: Education Code 48000 states the Legislature's intent that the TK curriculum be aligned to the California Preschool Learning Foundations developed by CDE. 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.

TRANSITIONAL KINDERGARTEN (continued)

The program shall be aligned with the preschool learning foundations and preschool curriculum frameworks developed by the California Department of Education (CDE). It shall be designed to facilitate students' development in essential skills related to language and literacy, mathematics, physical development, health, visual and performing arts, science, history-social science, English language development, and social-emotional development.

(cf. 5148.3 - Preschool/Early Childhood Education)

(cf. 6011 - Academic Standards)

(cf. 6174 - Education for English Learners)

Note: The following **optional** paragraph may be revised to reflect district practice. Education Code 37202, as amended by AB 99 (Ch. 15, Statutes of 2017), permits districts to maintain TK and kindergarten classes for different lengths of time during the school day, either at the same or a different school site. Districts offering TK classes for different lengths of time are still required to meet the minimum and maximum length of school day provided in law. Pursuant to Education Code 46111, 46115, and 46117, at the kindergarten and TK level the minimum school day is three hours (180 minutes), including recess but excluding noon intermission, and the maximum school day is four hours (240 minutes), excluding recess, unless the district has adopted an extended-day kindergarten pursuant to Education Code 8973. However, pursuant to Education Code 46119, if the district has fewer than 40 kindergarten students, the Governing Board may apply to the Superintendent of Public Instruction to maintain two kindergarten classes of 150 minutes each, including recesses, taught on the same day by the same teacher. Also see AR 6112 - School Day.

Pursuant to Education Code 48003, districts are required to provide an annual report to CDE regarding the type of kindergarten program offered by the district, including part day, full day, or both. The School Information Form 2017, located on the CDE web site, requires a report on the type of TK program offered.

The Board shall establish the length(s) of the school day in the district's TK program. TK programs may be maintained for different lengths of time either at the same or different school sites, as long as the school day is at least three hours but no more than four hours. The Superintendent or designee shall annually report to the California Department of Education (CDE) as to whether the district's TK programs are offered full day, part day, or both. (Education Code 37202, 46111, 46115, 46117, 48003)

(cf. 6111 - School Calendar)

(cf. 6112 - School Day)

Note: The following **optional** paragraph may be revised to reflect district practice. According to CDE's "Transitional Kindergarten FAQs," it is the intent of the law to provide separate and unique experiences for TK and kindergarten students. However, districts have flexibility to determine how best to meet the curricular needs of each child and whether TK and kindergarten students may be enrolled in the same classrooms.

TK students may be placed in the same classrooms as kindergarten students when necessary, provided that the instructional program is differentiated to meet student needs.

TRANSITIONAL KINDERGARTEN (continued)

Note: AB 1808 (Ch. 32, Statutes of 2018) amended Education Code 8235 and 48000 to allow districts to place 4-year-old children enrolled in a California State Preschool Program into a TK program and to commingle children from both programs in the same classroom as long as all of the requirements of each program are met and the district adheres to specified requirements, including that the classroom does not contain children enrolled in TK for a second year or children enrolled in a regular kindergarten. Also see BP/AR 5148.3 - Preschool/Early Childhood Education.

TK students may be placed in a classroom commingled with 4-year-old students from a California State Preschool Program as long as the classroom does not include students enrolled in TK for a second year or students enrolled in a regular kindergarten. (Education Code 8235, 48000)

Staffing

Note: To be qualified to teach a TK class, the teacher must possess an appropriate multiple subjects or early childhood education credential issued by the Commission on Teacher Credentialing—**(CTC)**—authorizing instruction in TK. Education Code 48000 establishes additional requirements for credentialed teachers who are first assigned to a TK class after July 1, 2015, as provided below.

TK assignments are subject to assignment monitoring and reporting by the County Superintendent of Schools in accordance with Education Code 44258.9.

The Superintendent or designee shall ensure that teachers assigned to teach in TK classes possess a teaching credential or permit from the Commission on Teacher Credentialing (CTC) that authorizes such instruction.

(cf. 4112.2 - Certification)

A credentialed teacher who is first assigned to a TK class after July 1, 2015, shall, by August 1, 2020, have at least 24 units in early childhood education and/or child development, comparable experience in a preschool setting, and/or a child development teacher permit issued by **the** CTC. (Education Code 48000)

The Superintendent or designee may provide professional development as needed to ensure that TK teachers are knowledgeable about the standards and effective instructional methods for teaching young children.

(cf. 4131 - Staff Development)

Continuation to Kindergarten

Note: The following section is consistent with guidance in CDE's "Transitional Kindergarten FAQs."

Students who complete the TK program shall be eligible to continue in kindergarten the following school year. Parents/guardians of such students shall not be required to submit a signed Kindergarten Continuance Form for kindergarten attendance.

TRANSITIONAL KINDERGARTEN (continued)

Note: The following **optional** paragraph is for use by districts that allow kindergarten-eligible children to enroll in TK; see "Eligibility" section above. When such students are subsequently enrolled in kindergarten, the district is required to obtain a signed Kindergarten Continuance Form in order to receive kindergarten ADA for those children since they would otherwise be age-eligible for first grade. CDE recommends that approval for a student to continue in kindergarten not be sought until near the end of the year of TK, since permission obtained unreasonably far in advance could be found invalid.

However, whenever children who would otherwise be age-eligible for kindergarten are enrolled in TK, the Superintendent or designee shall obtain a Kindergarten Continuance Form signed by the parent/guardian near the end of the TK year consenting to the child's enrollment in kindergarten the following year.

Note: Pursuant to Education Code 46300, the district may not include for ADA purposes the attendance of any student for more than two years in a combination of TK and kindergarten.

A student shall not attend more than two years in a combination of TK and kindergarten. (Education Code 46300)

(cf. 5123 - Promotion/Acceleration/Retention)

Assessment

Note: The following section may be revised to reflect district practice. One assessment resource for TK students is CDE's Desired Results Developmental Profile, which is designed to assess the developmental progression of all children from early infancy to kindergarten entry.

The Superintendent or designee may develop or identify appropriate formal and/or informal assessments of TK students' development and progress. He/she shall monitor and regularly report to the Board regarding program implementation and the progress of students in meeting related academic standards.

(cf. 0500 - Accountability)
(cf. 6162.5 - Student Assessment)

Legal Reference: (see next page)

TRANSITIONAL KINDERGARTEN (continued)

Legal Reference:

EDUCATION CODE

8235 California State Preschool Program

8973 Extended-day kindergarten

37202 School calendar; equivalency of instructional minutes

44258.9 Assignment monitoring by county superintendent of schools

46111 Kindergarten, hours of attendance

46114-46119 Minimum school day, kindergarten

46300 Computation of ADA, inclusion of kindergarten and transitional kindergarten

48000 Age of admission, kindergarten and transitional kindergarten

48002 Evidence of minimum age required to enter kindergarten or first grade

48003 Kindergarten annual report

48200 Compulsory education, starting at age six

Management Resources:

CSBA PUBLICATIONS

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

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Transitional Kindergarten FAQs

Desired Results Developmental Profile, 2015

Transitional Kindergarten Implementation Guide: A Resource for California Public School District Administrators and Teachers, 2013

California Preschool Curriculum Framework, Vol. 3, 2013

California Preschool Learning Foundations, Vol. 3, 2012

California Preschool Curriculum Framework, Vol. 2, 2011

California Preschool Learning Foundations, Vol. 2, 2010

California Preschool Curriculum Framework, Vol. 1, 2010

California Preschool Learning Foundations, Vol. 1, 2008

WEB SITES

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

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

California Kindergarten Association: <http://www.ckanet.org>

Commission on Teacher Credentialing: <http://www.ctc.ca.gov>

Transitional Kindergarten California: <http://www.tkcalifornia.org>

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CSBA Sample

Administrative Regulation

Instruction

AR 6173.2(a)

EDUCATION OF CHILDREN OF MILITARY FAMILIES

Note: The following administrative regulation is **optional**. Pursuant to Education Code 49701, districts are required to be flexible in applying their local rules to children of military families in order to facilitate their enrollment, placement, advancement, eligibility for extracurricular activities, and on-time graduation.

In addition, Education Code 51251 authorizes the Governing Board to establish a course credit transfer policy, **provided that, under the policy, students would still be substantially meeting district graduation requirements. Pursuant to Education Code 51251, the district may** ~~and to~~ provide early entry transfer, pretranscript evaluation, student support services, and other similar assistance to any school-aged child of a military service member who is on active duty, or within one year of **his/her** discharge, or when the ~~child's~~ **student's** transfer to a new school is a direct result of the military transfer or discharge of **his/her** a parent/guardian.

Definitions

Children of military families are school-aged children in the household of: (Education Code 49701)

1. Members who are in full-time duty status in the active uniformed service of the United States, including any member of the National Guard and Reserve on active duty order pursuant to 10 USC 1209 or 1211
2. Members or veterans of the uniformed services who are severely injured and medically discharged or retired, for one year after their medical discharge or retirement
3. Members of the uniformed services who have died while on active duty or as a result of injuries sustained on active duty, for one year after their death

Enrollment **and Residency**

The Superintendent or designee shall facilitate the enrollment of children of military families and ensure that they are not placed at a disadvantage due to difficulty in the transfer of their records from previous school districts and/or variations in entrance or age requirements. (Education Code 49701)

~~Note: Pursuant to Education Code 48204.3, as amended by SB 455 (Ch. 239, Statutes of 2017), a student will be deemed to meet district residency requirements if his/her parent/guardian is transferred or is pending transfer to a military installation, as defined, within the state. See AR 5111.1 – District Residency.~~

EDUCATION OF CHILDREN OF MILITARY FAMILIES (continued)

A child of a military family shall be deemed to meet district residency requirements if **the his/her** parent/guardian, while on active military duty pursuant to an official military order, is transferred or is pending transfer to a military installation within the state. The Superintendent or designee shall accept electronic submission of such a student's application for enrollment, including enrollment in a specific school or program within the district, and for course registration. (Education Code 48204.3)

(cf. 5111.1 - District Residency)

When a child of a military family is transferring into the district, the Superintendent or designee **may shall** enroll the **child student** based **on unofficial education records, if official records are not yet available.** ~~on the child's placement in the previous district, pending receipt of the child's records.~~ Upon enrollment, the Superintendent or designee shall immediately request the student's **official** records from the student's previous district. The Superintendent or designee shall allow the student 30 days from the date of enrollment to obtain all required immunizations. (Education Code 49701)

(cf. 5111 - Admission)

(cf. 5125 - Student Records)

(cf. 5141- Health Care and Emergencies)

(cf. 5141.31- Immunizations)

Note: Education Code 48204.6, as added by AB 2949 (Ch. 327, Statutes of 2018), requires districts to allow a child of a military family to continue attending the school of origin (i.e., the school in which the student is enrolled at the time that a change in residence occurs), as specified below.

A child of a military family shall be allowed to continue attending the school of origin, regardless of any change of residence of the family during that school year, for the duration of the student's status as a child of a military family. (Education Code 48204.6)

Note: The following paragraph may be revised to reflect the grade levels offered by the district and feeder patterns with other districts. Unified school districts and high school districts may delete item #2 below.

To provide a child of a military family the benefit of matriculating with peers in accordance with the established feeder patterns of the district, the following shall apply: (Education Code 48204.6)

- 1. If the student is transitioning between grade levels, the student shall be allowed to continue in the school district of origin in the same school attendance areas.**

EDUCATION OF CHILDREN OF MILITARY FAMILIES (continued)

- 2. If the student is transitioning to a middle or high school and the school designated for matriculation is in another district, the student shall be allowed to continue to the school designated for matriculation in that school district.**

The principal or designee of the new school shall ensure that the student is immediately enrolled even if the student has outstanding fees, fines, textbooks, or other items or moneys due to the school last attended or is unable to produce clothing or records normally required for enrollment, such as previous academic records, medical records, including, but not limited to, records or other proof of immunization history pursuant to Health and Safety Code 120325-120480, proof of residency, other documentation, or school uniforms. (Education Code 48204.6)

Note: Items #1-2 may be revised to reflect the grade levels offered by the district.

If the student's status changes during a school year due to the end of military service of the student's parent/guardian, the following shall apply: (Education Code 48204.6)

- 1. If the student is in grades K-8, the student shall be allowed to continue attending the school of origin through the duration of that academic school year.**
- 2. If the student is in high school, the student shall be allowed to continue attending the school of origin through graduation.**

Note: Pursuant to Education Code 48307, ~~as amended by AB 99 (Ch. 15, Statutes of 2017)~~, a district must not deny a student whose parent/guardian is on active military duty from transferring out of the district to any other district. In addition, Education Code 46600, ~~as amended by AB 2659 (Ch. 186, Statutes of 2016)~~, provides that ~~a~~ districts must not prohibit the transfer of such a student out of the district to any other district that approves the transfer, regardless of whether or not an interdistrict transfer agreement exists or a permit is issued. Also see BP 5117 - Interdistrict Attendance.

A child of an active military duty parent/guardian shall not be prohibited from transferring out of the district, if the school district of proposed enrollment approves the application for transfer. (Education Code 46600, 48307)

(cf. 5117 - Interdistrict Attendance)

When a child of a military family is transferring out of the district, the Superintendent or designee shall provide the student's parents/guardians with a complete set of the student's records or, if the official student record cannot be released, an unofficial or "hand-carried" record. Upon request from the new district, the Superintendent or designee shall provide a copy of the student's record to the new district within 10 days. (Education Code 49701)

EDUCATION OF CHILDREN OF MILITARY FAMILIES (continued)**Placement**

Note: The following **optional** paragraph may be revised to reflect district practice. Pursuant to Education Code 51251, the district may provide pretranscript evaluations, as described below, in order to address the needs of children of military families.

Whenever a student's parent/guardian is serving on active duty or has been discharged from military service within the last year and the student transfers to a new school as the direct result of the military transfer or discharge, the Superintendent or designee may, prior to the receipt of official transcript(s) or the arrival of the student, review the student's coursework to date, including any unofficial transcript(s), to determine the appropriate placement of the student in classes. The evaluation shall also include communication with school counselors and teachers at the former school by videoconferencing, email, and/or telephone calls. (Education Code 51251)

The Superintendent or designee shall initially honor the placement of any child of a military family in educational courses and programs based on the **child's student's** enrollment and/or assessment in **his/her the** previous school. The Superintendent or designee may, to the extent permitted by Board policy, waive course or program prerequisites, preconditions, and/or application deadlines when making decisions regarding placement of children of military families and their eligibility for extracurricular academic, athletic, and social activities. (Education Code 49701)

(cf. 6141.5 - Advanced Placement)

(cf. 6145 - Extracurricular and Cocurricular Activities)

(cf. 6145.2 - Athletic Competition)

(cf. 6172 - Gifted and Talented Student Program)

(cf. 6174 - Education for English Learners)

Note: Pursuant to Education Code 49701, the district is required to provide a child of a military family who has been identified as a student with a disability eligible for services under the Individuals with Disabilities Education Act (20 USC 1400-1482) or Section 504 of the federal Rehabilitation Act (29 USC 794) with services based on **his/her the student's** current individualized education program or Section 504 plan, as appropriate. See BP/AR 6159 - Individualized Education Program and BP/AR 6164.6 - Identification and Education Under Section 504.

When a child of a military family transferring into the district has been identified as an individual with a disability pursuant to 20 USC 1400-1482, the Superintendent or designee shall provide comparable services **to the student** based on **his/her the student's** current **individualized education program IEP**. In addition, when the child of a military family transferring into the district is eligible for services under Section 504 of the federal Rehabilitation Act, the Superintendent or designee shall make reasonable accommodations and modifications to address the needs of the student subject to the student's existing Section 504 plan. The district may authorize subsequent evaluations of the student to ensure appropriate placement. (Education Code 49701)

EDUCATION OF CHILDREN OF MILITARY FAMILIES (continued)

(cf. 6159 - Individualized Education Program)

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

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

Transfer of Coursework and Credits

Note: The following section is for use by districts maintaining high schools. Education Code 51225.2, as amended by AB 365 (Ch. 739, Statutes of 2017), requires districts to issue credit for coursework satisfactorily completed at another school, as provided below.

When a child of a military family transfers into a district school, the district shall accept and issue full credit for any coursework that the student has satisfactorily completed while attending another public school, a nonpublic, nonsectarian school or agency, or a juvenile court school and shall not require the student to retake the course. (Education Code 51225.2)

(cf. 6146.3 - Reciprocity of Academic Credit)

(cf. 6159.2 - Nonpublic, Nonsectarian School ~~and or~~ Agency Services for Special Education)

If the student did not complete the entire course, ~~he/she~~ **the student** shall be issued partial credit for the coursework completed and shall be required to take only the portion of the course ~~that he/she did~~ not completed ~~d~~ at ~~his/her~~ **the** previous school. However, the district may require the student to retake the portion of the course completed if, in consultation with the student's parent/guardian, the district finds that the student is reasonably able to complete the requirements in time to graduate from high school. Whenever partial credit is issued, the student shall be enrolled in the same or equivalent course, if applicable, so that ~~he/she~~ **the student** may continue and complete the entire course. (Education Code 51225.2)

Note: Although Education Code 51225.2 requires districts to award partial credits to children of military families who transfer ~~from school to school~~ **between schools**, there is no uniform system for calculating and awarding partial credits. **The following optional paragraph reflects a** ~~A~~ recommendation for how to award partial credit ~~is available in~~ **by** the California Child Welfare Council's Partial Credit Model Policy and Practice Recommendations and should be revised to reflect district practice.

Partial credits shall be awarded on the basis of 0.5 credits for every seven class periods attended per subject. If the school is on a block schedule, each block schedule class period attended shall be equal to two regular class periods per subject.

In no event shall the district prevent a child of a military family from taking or retaking a course to meet the eligibility requirements for admission to the California State University or the University of California. (Education Code 51225.2)

(cf. 6143 - Courses of Study)

EDUCATION OF CHILDREN OF MILITARY FAMILIES (continued)

Absences

Note: The California Department of Education's (CDE) Final Report to the Legislature on the Interstate Compact on Educational Opportunity for Military Children, available on its web site, contains a sample letter that may be provided to parents/guardians to report deployment-related absences.

When a student's parent/guardian is an active duty member and is called to duty for, is on leave from, or is immediately returned from deployment to a combat zone or to combat support posting, the Superintendent or designee may grant additional excused absences to the student to visit with **his/her the** parent/guardian. (Education Code 49701)

(cf. 5113 - Absences and Excuses)

Graduation Requirements

~~Note: The following section is for use by districts maintaining high schools. Education Code 51225.1, as amended by AB 365 (Ch. 739, Statutes of 2017), exempts children of military families from district-established graduation requirements, under certain conditions, when they transfer after completing two years of high school. Also see BP 6146.1 - High School Graduation Requirements.~~

To obtain a high school diploma, a child of a military family shall complete all courses required by Education Code 51225.3 and **shall generally** fulfill any additional graduation requirements prescribed by the Governing Board.

(cf. 6146.1 - High School Graduation Requirements)

However, when a child of a military family who has completed **his/her the** second year of high school transfers into the district from another school district or transfers between high schools within the district, **he/she the student** shall be exempted from all district-adopted coursework and other district-established graduation requirements **that are in addition to the statewide coursework requirements specified in Education Code 51225.2**, unless the district makes a finding that the student is reasonably able to complete the additional requirements in time to graduate from high school by the end of **his/her the** fourth year of

high school. Within 30 calendar days of the student's transfer, the Superintendent or designee shall notify the student and **his/her** parent/guardian of the availability of the exemption and whether the student qualifies for it. If the Superintendent or designee fails to provide this notification, the student shall be eligible for the exemption once notified, even if the notification occurs after the student no longer meets the definition of a child of a military family pursuant to Education Code 49701. (Education Code 51225.1)

EDUCATION OF CHILDREN OF MILITARY FAMILIES (continued)

To determine whether a child of a military family is in **his/her the** third or fourth year of high school, the district shall use either the number of credits **he/she has** earned as of the date of the transfer or the length of **his/her** school enrollment, whichever qualifies **him/her the student** for the exemption. (Education Code 51225.1)

The Superintendent or designee shall notify any child of a military family who is granted an exemption and **his/her the student's** parent/guardian how any requirements that are waived will affect the student's ability to gain admission to a postsecondary educational institution and shall provide information about transfer opportunities available through the California Community Colleges. (Education Code 51225.1)

The district shall not require or request a child of a military family to transfer schools in order to qualify for an exemption, and no child of a military family or **his/her** parent/guardian shall be permitted to request a transfer solely to qualify for an exemption. (Education Code 51225.1)

If a child of a military family is exempted from local graduation requirements, the exemption shall continue to apply after the student no longer meets the definition of a child of a military family **while enrolled in school** or **if he/she upon** transfers to another school or school district. (Education Code 51225.1)

If the Superintendent or designee determines that a child of a military family is reasonably able to complete district graduation requirements within **his/her a** fifth year of high school, **he/she the Superintendent or designee** shall: (Education Code 51225.1)

1. Inform the student and, if under 18 years of age, **his/her the student's** parent/guardian of the option available to the student to remain in school for a fifth year to complete the district's graduation requirements and how that will affect **his/her the student's** ability to gain admission to a postsecondary educational institution
2. Provide information to the student about transfer opportunities available through the California Community Colleges
3. Upon agreement with the student, or with the parent/guardian if the student is under 18 years of age, permit the student to stay in school for a fifth year to complete the district's graduation requirements

EDUCATION OF CHILDREN OF MILITARY FAMILIES (continued)

Notification and Complaints

Note: Education Code 51225.1 and 51225.2, as amended by AB 365 (Ch. 739, Statutes of 2017), provide that complaints of noncompliance with specified requirements related to the educational rights of children of military families may be filed in accordance with the uniform complaint procedures specified in 5 CCR 4600-4687 4670. As with other complaints covered under the uniform complaint procedures, a complainant may appeal the district's decision to the CDE and, if the district or CDE finds any merit in the complaint, the district must provide a remedy to the affected student. See BP/AR 1312.3 - Uniform Complaint Procedures.

Information regarding the educational rights of children of military families, as specified in Education Code 51225.1 and 51225.2, shall be included in the annual uniform complaint procedures notification distributed to students, parents/guardians, employees, and other interested parties pursuant to 5 CCR 4622. (Education Code 51225.1, 51225.2)

Any complaint alleging that the district has not complied with requirements regarding the education of children of military families, as specified in Education Code 51225.1 or 51225.2, may be filed in accordance with the district's procedures in AR 1312.3 - Uniform Complaint Procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

CSBA Sample

Board Policy

Instruction

BP 6178(a)

CAREER TECHNICAL EDUCATION

Note: The following policy is for use by districts that maintain any of grades 7-12. Education Code 51220 requires that the adopted course of study for grades 7-12 include courses in career technical education (CTE); see BP/AR 6143 - Courses of Study.

The Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV) (20 USC 2301-2414) provides (1) state basic grants for local programs of CTE for secondary and postsecondary students, and (2) tech prep grants for programs that incorporate at least two years of secondary education with two years of postsecondary education in a sequential course of study. Funding for CTE programs may be available through the federal Strengthening Career and Technical Education for the 21st Century Act, sometimes referred to as Perkins V (20 USC 2301-2414, as amended by P.L. 115-224 and effective July 1, 2019), and state grant programs such as the California Career Pathways Trust pursuant to Education Code 53010-53016 and the California Career Technical Education Incentive Grant Program pursuant to Education Code 53070-53076.4, as amended by AB 1808 (Ch. 32, Statutes of 2018). In addition, secondary schools may offer CTE through partnership academies (Education Code 54690-54697), regional occupational centers and programs (ROC/Ps) (Education Code 52300-52335.12), and/or district-funded programs. Education Code 52372.5-52372.7, as amended by AB 790 (Ch. 616, Statutes of 2011), establish a pilot project to implement a limited number of districtwide "linked learning" programs integrating academic and technical study (sometimes called "multiple pathways") and describe components of such programs; see the accompanying administrative regulation.

The following policy should be revised to reflect program(s) offered by the district and grade levels at which such programs shall be offered.

The Governing Board desires to provide a comprehensive career technical education (CTE) program in the secondary grades which integrates core academic instruction with technical and occupational instruction in order to increase student achievement, graduation rates, and readiness for postsecondary education and employment. The district's CTE program shall be designed to help students develop the academic, career, and technical skills needed to succeed in a knowledge- and skills-based economy. The program shall include a rigorous academic component and provide students with a strong practical experience and understanding of all aspects of an industry.

(cf. 6143 - Courses of Study)

(cf. 6200 - Adult Education)

The district's CTE program shall focus on preparing students to enter current or emerging high-skill, high-wage, and/or high-demand occupations. CTE opportunities may be offered through linked learning programs, partnership academies, apprenticeship programs or orientation to apprenticeships, regional occupational centers or programs (ROC/Ps), tech prep programs, charter schools, small learning communities, magnet programs, or other programs that expose students to career options while preparing them for future careers in a given industry or interest area.

(cf. 0420.4 - Charter School Authorization)

CAREER TECHNICAL EDUCATION (continued)

(cf. 6178.2 - Regional Occupational Center/Program)

Note: Pursuant to 20 USC 2354, districts applying for Perkins IV funding must submit to the California Department of Education (CDE) a district plan which covers the same time period as the state plan required by 20 USC 2342; see the accompanying administrative regulation. In addition, the district must annually submit an application for funding which must be approved by the Governing Board.

The Superintendent or designee shall explore available funding sources that may be used to support CTE programs. The Board shall review and approve all district plans and applications for the use of **district**, state, and/or federal funds supporting CTE.

(cf. 3230 - Federal Grant Funds)

Note: State model curriculum standards for CTE for grades 7-12 integrate the state's academic content standards with industry-specific knowledge and skills in 58 career pathways organized into 15 industry sectors: agriculture and natural resources; arts, media, and entertainment; building trades and construction; education, child development, and family services; energy and utilities; engineering and design; fashion and interior design; finance and business; health science and medical technology; hospitality, tourism, and recreation; information technology; manufacturing and product development; marketing, sales, and service; public services; and transportation. The state's curriculum framework for CTE provides guidance in implementing the state content standards. Any district that adopts a course of study that meets or exceeds the state model curriculum standards will be deemed to have satisfied the requirement of Education Code 51228 that the district offer students in grades 7-12 the opportunity to attain entry-level employment skills in business or industry upon high school graduation; see BP 6143 - Courses of Study.

The Board shall adopt district standards for CTE which meet or exceed the state's model content standards and describe the essential knowledge and skills that students enrolled in these courses are expected to master. The course curriculum shall be aligned with district-adopted standards and the state's curriculum framework.

(cf. 6011 - Academic Standards)

(cf. 6141 - Curriculum Development and Evaluation)

Note: Pursuant to Education Code 52376, the following two paragraphs are **mandated** for districts that receive funding through the targeted instructional improvement block grant (Education Code 41541) and choose to use such funds **accept funds for the purpose of** developing and implementing, in consultation with the ROC/P and community college serving the geographic area of the district, a CTE program for high school students in accordance with Education Code 52376. Pursuant to Education Code 52376, districts that receive supplemental funding or other funds for this purpose are mandated to adopt policies and procedures that include (1) comparison of the district's CTE curriculum, course content, and course sequence with the model state curriculum standards, and (2) review of CTE courses to determine the extent to which they may offer an alternative means for completing course requirements for high school graduation.

In addition, beginning in the 2012-13 school year, Education Code 51225.3, as amended by AB 1330 (Ch. 621, Statutes of 2011), authorizes the Board to include a course in CTE as an alternative to the visual or performing arts or foreign language course requirement for high school graduation; see BP 6146.1 - High School Graduation Requirements.

CAREER TECHNICAL EDUCATION (continued)

At least every three years, the Board shall compare the district's curriculum, course content, and course sequence of CTE with the model state curriculum standards. (Education Code 52376)

Note: Education Code 52376 requires districts to determine the extent to which their CTE courses may offer an alternative means for completing course requirements for high school graduation. In addition, beginning in the 2012-13 school year, Education Code 51225.3, as amended by AB 1330 (Ch. 621, Statutes of 2011), authorizes the Board to include a course in CTE as an alternative to the visual or performing arts or foreign language course requirement for high school graduation; see BP 6146.1 - High School Graduation Requirements.

The Superintendent or designee shall systematically review the district's CTE **classes courses** to determine the degree to which each **class course** may offer an alternative means for completing and receiving credit for specific portions of the course of study prescribed by the district for high school graduation. The Board shall ensure that these classes are equivalent in content and rigor to the courses prescribed for graduation. (Education Code 52376)

(cf. 6146.1 - High School Graduation Requirements)
 (cf. 6146.11 - Alternative Credits Toward Graduation)
 (cf. 6146.2 - Certificate of Proficiency/High School Equivalency)

Note: Education Code 51760.1 authorizes districts, county offices of education, ROC/Ps, and partnership academies to provide work-based learning opportunities which may include, but are not limited to, work experience education as defined in Education Code 51764, community classrooms or cooperative CTE programs as defined in Education Code 52372.1, and job shadowing as defined in Education Code 51769; see BP/AR 6178.1 - Work-Based Learning. In addition, although not specified in state law, other examples of work-based learning opportunities cited in the CDE's publication Multiple Pathways to Student Success: Envisioning the New California High School include student internships/field study, apprenticeships, service learning, work in social/civic enterprises or school-based enterprises such as student stores, and technology-based or other simulated work experiences.

The Superintendent or designee shall develop partnerships with local businesses and industries to ensure that course sequences, career technical and integrated curriculum, classroom instruction and projects, and assessments have real-world relevance and reflect labor market needs and priorities. He/she **also** shall **also** work to develop connections with businesses, postsecondary institutions, community organizations, and/or other employers to provide students with actual or simulated work-based learning opportunities.

(cf. 1700 - Relations Between Private Industry and the Schools)
 (cf. 5113.2 - Work Permits)
 (cf. 6178.1 - Work-Based Learning)

The Superintendent or designee shall collaborate with postsecondary institutions to ensure that the district's program is articulated with postsecondary programs in order to provide a sequential course of study. Articulation opportunities may include dual or concurrent enrollment in community college courses.

CAREER TECHNICAL EDUCATION (continued)

(cf. 6172.1 - *Concurrent Enrollment in College Classes*)

Note: Education Code 8070 requires the Board to appoint ~~an~~ a CTE advisory committee composed of representatives from specified groups, as detailed below. During the **Federal Program Monitoring FPM** process, CDE staff will review whether the district has appointed such a committee.

In addition, pursuant to 20 USC 2354, as amended by P.L. 115-224, districts that receive Perkins V funding are required to involve specified stakeholders in conducting a needs assessment and developing the district application, and on a continuing basis thereafter. One way to accomplish this is to include such stakeholders on the CTE advisory committee. Other programs may have similar requirements for stakeholder involvement. The following paragraph may be revised to reflect requirements applicable to programs offered by the district.

The Board shall appoint a CTE advisory committee to develop recommendations on the district's CTE program and to serve as a liaison between the district and potential employers. The committee shall consist of at least one student, teacher, business representative, industry representative, school administrator, member of the general public knowledgeable about the disadvantaged, and representative of the field office of the California Employment Development Department. (Education Code 8070)

(cf. 1220 - *Citizen Advisory Committees*)

Note: The following **optional** paragraph may be revised to reflect district practice. Among the criteria for admission to the University of California (UC) or California State University (CSU) system is a requirement that high school students satisfactorily complete 15 units of specified courses ("a-g" courses). These include a growing number of CTE courses that connect knowledge of academic content with practical or work-related applications. Education Code 51229 requires that districts annually provide parents/guardians of students in grades 9-12 with (1) a brief explanation of the a-g course requirements; (2) a list of UC and CSU web sites that provide related information and a list of certified a-g courses; (3) a brief description of **what** CTE **is**, as defined by **the** CDE; (4) the Internet address for the portion of the CDE web site where students can learn more about CTE; and (5) information about how students may meet with school counselors to help them choose courses that will meet college admission requirements and/or to enroll in CTE courses. See AR 6143 - Courses of Study and E 5145.6 - Parental Notifications.

In addition, districts that include a course in CTE as an alternative to the visual or performing arts or foreign language course requirement for high school graduation, as authorized by Education Code 51225.3, are required by Education Code 48980 to provide a list of CTE courses offered by the district that satisfy the a-g course requirements for college admission and to specify which requirements they satisfy. **Districts that do not allow this alternative graduation requirement should modify the following paragraph accordingly.**

The Superintendent or designee shall inform all secondary students and their parents/guardians about the CTE experiences available in the district, CTE courses that satisfy college admission criteria, and, if applicable, CTE courses that satisfy high school graduation requirements. In addition, secondary students shall receive individualized **career guidance and** academic counseling which provides information about academic and CTE opportunities related to the student's career goals.

(cf. 5145.6 - *Parental Notifications*)

CAREER TECHNICAL EDUCATION (continued)

(cf. 6164.2 - Guidance/Counseling Services)

Note: Pursuant to 34 CFR 100-~~B~~ (Appendix B-~~IV~~), the notice specified below may be made in local newspapers, publications or media reaching target populations, or by other means, and should include a brief summary of program offerings, admission criteria, and the name and contact information of the person designated to coordinate Title IX and Section 504 compliance activity. If the population within the district contains a community of persons with limited English language skills, the notification ~~shall~~ **must** be disseminated in the languages of the community. See BP 5145.6 - Parental Notifications for state requirements pertaining to the translation of parental notifications.

Prior to the beginning of each school year, the Superintendent or designee shall advise students, parents/guardians, employees, and the general public that all CTE opportunities are offered without regard to any actual or perceived characteristic protected from discrimination by law. The notification shall be disseminated in languages other than English as needed and shall state that the district will take steps to ensure that the lack of English language skills will not be a barrier to admission and participation in the district's CTE program. (20 USC 2354; 34 CFR 100-~~B~~ **Appendix B**, 104.8, 106.9)

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

(cf. 1312.3 - Uniform Complaint Procedures)

Note: The following paragraph is for use by districts that receive funding through Perkins ~~IV~~ **V** for ~~either basic CTE programs or tech-prep programs~~ pursuant to 20 USC 2301-2414. **See the accompanying administrative regulation for further information regarding the participation of private school students and staff in district programs.**

To the extent required by law, the Superintendent or designee shall invite the participation of private school students in CTE programs supported by federal funding under the Strengthening Career and Technical Education for the 21st Century Act (Perkins). (20 USC 2397)

Note: Teachers of technical, trade, or vocational courses must possess a single subject credential or a designated subjects credential issued by the Commission on Teacher Credentialing (~~CTC~~) which authorizes teaching CTE courses. The designated subjects CTE credential is available in 15 subjects which reflect the 15 industry sectors identified in the state's model curriculum standards; see AR 4112.2 - Certification. In order to obtain the preliminary designated subjects credential, teachers must have at least three years of work experience directly related to each industry sector specified on the credential.

~~Education Code 44257.3, as added by AB 1304 (Ch. 259, Statutes of 2011), authorizes the CTC to develop program standards for the issuance of a "recognition of study in linked learning" demonstrating completion of a CTC approved program in linked learning teaching methods. The recognition of study must not be considered a type of authorization, used as a condition of employment, replace subject matter competence requirements, or used in making decisions related to reductions in employee positions.~~

~~For districts applying for Perkins IV funding, 20 USC 2354 requires the district plan to address ongoing staff development for CTE teachers and administrators; see the accompanying administrative regulation.~~

CAREER TECHNICAL EDUCATION (continued)

The Superintendent or designee shall ensure that teachers of CTE courses possess the qualifications and credentials necessary to teach their assigned courses. He/she ~~also~~ shall ~~also~~ provide teachers and administrators with professional development designed to enhance their knowledge of standards-aligned CTE and shall provide opportunities for CTE teachers to collaborate with teachers of academic courses in the development and implementation of integrated curriculum models.

(cf. 4112.2 - Certification)

(cf. 4131 - Staff Development)

(cf. 4331 - Staff Development)

The Superintendent or designee shall provide counselors and other guidance personnel with professional development that includes, but is not limited to, information about current workforce needs and trends, requirements of the district's CTE program, work-based learning opportunities, and postsecondary education and employment options following high school.

~~Note: The following paragraph is for use by districts that receive funding through Perkins IV for either basic CTE programs or tech prep programs pursuant to 20 USC 2301-2414.~~

~~Upon written request from a nonprofit private school within the geographical area served by the district, the Superintendent or designee shall consult with private school representatives in a timely and meaningful manner and may provide for the participation of private school secondary students in the district's programs and activities funded under the federal Carl D. Perkins Career and Technical Education Act. To the extent practicable, the Superintendent or designee also shall, upon request, permit participation of CTE teachers, administrators, and other personnel from private schools in the district's inservice and preservice professional development programs funded through the Perkins Act. (20 USC 2397)~~

Note: The following paragraph is **optional**. Education Code 17078.72 provides funding for improving and expanding CTE programs through construction of new facilities, remodeling of existing facilities, and/or purchase of equipment.

The Superintendent or designee shall regularly assess district needs for facilities, technologies, and equipment to increase students' access to the district's CTE program.

(cf. 0440 - District Technology Plan)

(cf. 3440 - Inventories)

(cf. 3512 - Equipment)

(cf. 7110 - Facilities Master Plan)

Nondiscrimination

~~Note: The following paragraph is for use by districts that receive Perkins IV funding but may be adapted for use by other districts. Pursuant to 20 USC 2354, the district plan for Perkins IV funding must describe how individuals who are members of "special populations," as defined in 20 USC 2302 will not be~~

CAREER TECHNICAL EDUCATION (continued)

discriminated against. In addition, a district that receives federal aid is required by 34 CFR 100.B (Appendix B IV), 104.8, and 106.9 to take "continuing steps" to notify students, parents/guardians, employees, employee organizations, and applicants for admission and employment that it does not discriminate in its educational programs or activities. See BP 0410—Nondiscrimination in District Programs and Activities.

In the Federal Program Monitoring (FPM) process, CDE staff will check to ensure that the district complies with requirements to (1) ensure equitable participation of special population students through outreach, recruitment, enrollment, and placement activities; (2) identify and adopt strategies to overcome barriers to access or success in the program; (3) ensure that counseling materials and activities, including student program selection and career/employment selection, and promotional and recruitment efforts are nondiscriminatory; and (4) advise students, parents/guardians, employees, and the general public, prior to the beginning of the school year, that all CTE opportunities are offered without regard to race, color, national origin, sex, or disability in accordance with 34 CFR 100.B (Appendix B IV).

The district's program shall provide equal access to and shall not unlawfully discriminate against students who are members of special populations. *Special populations* include, but are not limited to, students with disabilities; students from economically disadvantaged families, including foster youth; single parents and single pregnant females; displaced homemakers; students with limited English proficiency; and students preparing for nontraditional fields. *Nontraditional fields* include occupations or fields of work, including careers in computer science, technology, and other emerging high skill occupations, for which individuals from one gender constitute less than 25 percent of the individuals employed in each such occupation or field of work. (20 USC 2302, 2354, 2373)

Note: Pursuant to 34 CFR 100.B (Appendix B IV), the notice specified below may be made in local newspapers, publications or media reaching target populations, or by other means, and should include a brief summary of program offerings, admission criteria, and the name and contact information of the person designated to coordinate Title IX and Section 504 compliance activity. If the population within the district contains a community of persons with limited English language skills, the notification shall be disseminated in the languages of the community. See BP 5145.6—Parental Notifications for state requirements pertaining to the translation of parental notifications.

Prior to the beginning of each school year, the Superintendent or designee shall advise students, parents/guardians, employees, and the general public that all CTE opportunities are offered without regard to any actual or perceived characteristic protected from discrimination by law. The above notification shall be disseminated in languages other than English as needed and shall state that the district will take steps to ensure that the lack of English language skills will not be a barrier to admission and participation in the district's CTE program. (20 USC 2354; 34 CFR 100.B, 104.8, 106.9)

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

(cf. 1312.3—Uniform Complaint Procedures)

CAREER TECHNICAL EDUCATION (continued)

School and Community Involvement

Note: Education Code 8070 requires the Board to appoint an advisory committee composed of representatives from specified groups, as detailed below. During the FPM process, CDE staff will review whether the district has appointed such a committee.

The Board shall appoint a CTE advisory committee to develop recommendations on the district's CTE program and to serve as a liaison between the district and potential employers. The committee shall consist of at least one student, teacher, business representative, industry representative, school administrator, member of the general public knowledgeable about the disadvantaged, and representative of the field office of the California Employment Development Department. (Education Code 8070)

(cf. 1220 *Citizen Advisory Committees*)

Note: The following paragraph is for use by districts that receive Perkins IV funding but may be adapted for use by other districts. 20 USC 2354 requires that the persons specified below be involved in the development, implementation, and evaluation of CTE programs funded by Perkins IV. One way of accomplishing this is to include representatives of these groups on the CTE advisory committee described above. Pursuant to the 2008-2012 State Plan for Career Technical Education, the district must hold at least one annual business and industry advisory committee meeting.

The district also shall involve parents/guardians; students; academic and CTE teachers; administrators; career guidance and academic counselors; representatives of tech prep consortia if applicable, business and industry, labor organizations, and special populations; and other interested individuals in the development, implementation, and evaluation of CTE programs. (20 USC 2354)

Program Evaluation

Note: The following section is for use by districts that receive Perkins IV funding but may be adapted for use by other districts. paragraph may be revised to reflect requirements applicable to programs offered by the district. Pursuant to Education Code 52060, the district must annually review its progress toward the goals identified in its local control and accountability plan, including, when applicable, measures of student achievement such as the percentage of students who have successfully completed courses that satisfy the requirements for CTE sequences or programs of study that align with state CTE standards and frameworks. The California School Dashboard provides a tool to assist in evaluation of district and school performance and includes measures of CTE pathway completion within the college/career readiness indicator.

Pursuant to 20 USC 2323, In addition, each district receiving Perkins IV V funding must be evaluated annually by the state to determine whether the district is making substantial evaluate its progress in achieving specific performance levels targets on core indicators as detailed in the state plan and 20 USC 2323, as amended by P.L. 115-224. The following paragraph reflects indicators specified in the 2008-2012 State Plan for Career Technical Education. Districts are required to enter data electronically through the CDE's Perkins Data System. Pursuant to 20 USC 2343, if the district falls below 90 percent on any of these

CAREER TECHNICAL EDUCATION (continued)

performance level targets, the district will be required to develop and implement an improvement plan. The state plan further provides that if the district falls below 90 percent on three or more performance levels or below 60 percent on any one performance level, then the district will be required to submit a detailed action plan that describes the strategies to be implemented for bringing the district to the 90 percent performance level within two years. A district scoring in the lowest percentage of overall performance, as determined by a composite ranking of measures, will be subject to Perkins program monitoring. Ultimately, a district that fails to submit the required program improvement plan and/or fails to make the required improvements is subject to sanctions that could result in the loss of a portion or all of its allocated funds.

The Superintendent or designee shall annually report to the Board achievement data on participating students, including, but not limited to, the percentage of participating students who successfully complete CTE programs, their performance on state and district academic achievement tests, and graduation rate. Data shall be disaggregated by program and various student subgroups. Based on such data, the Board shall monitor the achievement of students participating in the district's CTE program in order to determine the need for program improvements and update the goals in the district's local control and accountability plan as necessary. The Superintendent or designee shall annually report to the Board and the California Department of Education on program enrollment and completion rates, including enrollment and completion of programs in nontraditional fields as defined in 20 USC 2302; student academic assessment results; attainment of career and technical skill proficiencies; attainment of a high school diploma or equivalent; graduation rates; and subsequent placement in postsecondary education or advanced training, military service, or employment. Data shall be disaggregated, in accordance with 20 USC 2323, by race, ethnicity, gender, disability status, migrant status, English proficiency, and economic disadvantage status and for each special population as defined in 20 USC 2302 and listed in the section "Nondiscrimination" above.

(cf. 0500 - Accountability)

(cf. 6162.5 - Student Assessment)

(cf. 6162.51 - State Academic Achievement Tests)

(cf. 6190 - Evaluation of the Instructional Program)

Legal Reference: (see next page)

CAREER TECHNICAL EDUCATION (continued)*Legal Reference:*EDUCATION CODE*1205 Classification of counties**8006-8155 Career technical education**17078.70-17078.72 Career technical education facilities**33430-33432 Health science and medical technology grants**35168 Inventory of equipment**41540-41544 Targeted instructional improvement block grant**44257.3 CTC recognition of study in linked learning teaching methods**44260-44260.1 Designated subjects career technical education credential**44260.9 Designated subjects career technical education credential**48430 Legislative intent; continuation education schools and classes**48980 Parental notifications**51220-51229 Courses of study, grades 7-12**51760-51769.5 Work experience education***52060-52077 Local control and accountability plan***52300-52499.66 Career technical education**52519-52520 Adult education, occupational training***53010-53016 California Career Pathways Trust****53070-53076.4 The California Career Technical Education Incentive Grant Program**~~53080-53084 School to career initiatives~~*53086 California Career Resource Network**54690-54699.1 California Partnership Academies**54750-54760 California Partnership Academies, green technology and goods movement occupations**56363 Related services for students with disabilities; specially designed career technical education**66205.5-66205.9 Approval of career technical education courses for admission to California colleges**88500-88551 Community college economic and workforce development program*GOVERNMENT CODE*54950-54963 Brown Act*LABOR CODE*3070-3099.5 Apprenticeships*CODE OF REGULATIONS, TITLE 5*1635 Credit for work experience education**3051.14 Specially designed career technical education for students with disabilities**10070-10075 Work experience education**10080-10092 Community classrooms**10100-10111 Cooperative vocational education**11500-11508 Regional occupational centers and programs**11535-11538 Career technical education contracts with private postsecondary schools**11610-11611 Regional adult and vocational education councils*CODE OF REGULATIONS, TITLE 8*200-240 Apprenticeships*UNITED STATES CODE, TITLE 20**2301-2414 Carl D. Perkins Career and Technical Education Act of 2006 Strengthening Career and Technical Education for the 21st Century Act***6301-6578 Improving the Academic Achievement of the Disadvantaged*

CAREER TECHNICAL EDUCATION (continued)

Legal Reference: (continued)

CODE OF FEDERAL REGULATIONS, TITLE 34

100-~~B~~ Appendix B Guidelines for eliminating discrimination in career technical education programs

104.1-104.39 Section 504 of the Rehabilitation Act of 1973

106.1-106.61 Discrimination on the basis of sex, effectuating Title IX

Management Resources:

CSBA PUBLICATIONS

A Governance Perspective: Interviews with School Board Members from the Nine Linked Learning Initiative School Districts, March 2014

The Linked Learning Approach to High School Reform, Governance Brief, January 2014

Orientation to Apprenticeship Overview, Construction Management Task Force Fact Sheet, November 2007

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

California Career Technical Education Model Curriculum Standards, Grades Seven Through Twelve, May 2005 January 2013

2008-2012 State Plan for Career Technical Education

Multiple Pathways to Student Success: Envisioning the New California High School, 2010

Regional Occupational Centers and Programs Operations Handbook March 2008

Model Programs and Practices: Setting Standards for Regional Occupational Centers and Programs (ROCPs), rev. October 2007

Career Technical Education Framework for California Public Schools, Grades Seven Through Twelve, January 2007

California Career Technical Education Model Curriculum Standards, Grades Seven Through Twelve, May 2005

Management of Vocational Education Equipment, April 2000

CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS, DIVISION OF APPRENTICESHIP STANDARDS PUBLICATIONS

Orientation to Apprenticeships: A Guide for Educators, January 2001

WEB SITES

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

Association for Career and Technical Education: <http://www.acteonline.org>

California Association of Regional Occupational Centers and Programs: <http://www.carocp.org>

California Career Resource Network: <http://www.californiacareers.info>

California Department of Education, Career Technical Education: <http://www.cde.ca.gov/ci/ct>

California Department of Employment Development: <http://www.edd.ca.gov>

California Department of Industrial Relations: <http://www.dir.ca.gov>

California Workforce Development Board: <http://www.cwdb.ca.gov>

Commission on Teacher Credentialing: <http://www.ctc.ca.gov>

University of California, a-g Course Submissions: http://www.ucop.edu/a-gGuide/ag/course_submissions

U.S. Department of Education, Office of Vocational and Adult Education: <http://www.ed.gov/about/offices/list/ovae/pi/cte/index.html>

U.S. Department of Labor, Bureau of Labor Statistics: <http://www.bls.gov>

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Policy Reference UPDATE Service

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CSBA Sample

Administrative Regulation

Instruction

AR 6178(a)

CAREER TECHNICAL EDUCATION

Note: The following **optional** administrative regulation should be revised to reflect program(s) offered by the district.

Perkins Basic Federal Grants for Career Technical Education (Perkins)

Note: The following **optional** section is for use by districts that receive basic grants to support programs of career technical education (CTE) pursuant to the reauthorized Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV) (20 USC 2301-2355) the Strengthening Career and Technical Education for the 21st Century Act, often referred to as Perkins V (20 USC 2301-2355, as amended by P.L. 115-224) to support programs of career technical education (CTE). As amended, the "hold harmless" provision has been replaced with a guarantee that each state receive a minimum grant equal to 90 percent of its prior year allocation, effective in fiscal year 2021.

During the Federal Program Monitoring (FPM) process, California Department of Education (CDE) staff will review whether the district uses Perkins IV these federal funds to supplement, not supplant, state and local funds for CTE activities, as required by 20 USC 2391, and whether funds are used for appropriate purposes as described in 20 USC 2355 and in the state plan adopted pursuant to 20 USC 2342. As amended by P.L. 115-224, 20 USC 2342 authorizes states to develop a one-year transition plan until Perkins V becomes effective July 1, 2019, after which a four-year state plan will be required.

For any district program of career technical education (CTE) funded through a basic grant of the federal Carl D. Perkins Career and Technical Education Act, the district shall submit to the California Department of Education a districtwide plan an application for a basic grant of the federal Strengthening Career and Technical Education for the 21st Century Act. The application shall address addressing the components specified in 20 USC 2354 and any additional requirements specified in the state plan developed pursuant to 20 USC 2342. The multi-year district plan shall cover the same time period covered by the state plan. (20 USC 2354)

(cf. 3230 - Federal Grant Funds)

The district shall conduct a needs assessment in accordance with 20 USC 2354, which shall be updated at least once every two years. The needs assessment shall be conducted in consultation with representatives of district CTE programs, postsecondary CTE programs, state or local workforce development boards and businesses, parents/guardians, students, and other specified stakeholders. (20 USC 2354)

Note: The district may use Perkins IV V and other federal, state, and/or district funds to meet the program requirements listed in items #1-9 below. Additional permissible uses of Perkins IV funds are described in 20 USC 2355. The 2008-2012 State Plan for Career Technical Education allows districts to support CTE courses in grades 7-8 with Perkins funds only if the courses are integral to and aligned with approved sequences of courses conducted by a high school. P.L. 115-224 amended 20 USC 2355 to streamline the allowable uses of funds and eliminate the additional list of permissible uses.

CAREER TECHNICAL EDUCATION (continued)

To meet the needs identified in the needs assessment, the Superintendent or designee shall develop, coordinate, implement, or improve CTE programs that are of sufficient size, scope, and quality to be effective and that fulfill the following purposes: (20 USC 2355)

The district shall offer at least one CTE program of study which shall: (20 USC 2342, 2354, 2355)

- 1. Improve the academic and career technical skills of participating students by integrating coherent and rigorous academic content and relevant CTE programs**

(cf. 6011—Academic Standards)

(cf. 6143—Courses of Study)

- 2. Link CTE at the secondary and postsecondary levels through at least one of the strategies specified in 20 USC 2342**

(cf. 6172.1—Concurrent Enrollment in College Classes)

- 3. Provide students with strong experience in and understanding of all aspects of an industry, which may include work-based learning experiences**

(cf. 5113.2—Work Permits)

(cf. 6178.1—Work-Based Learning)

- 4. Develop, improve, or expand the use of technology in CTE**

(cf. 0440—District Technology Plan)

- 5. Provide professional development to teachers, administrators, and career guidance and academic counselors who are involved with integrated CTE programs**

(cf. 4131—Staff Development)

(cf. 4331—Staff Development)

(cf. 6164.2—Guidance/Counseling Services)

- 6. Develop and implement program evaluations, including an assessment of how the needs of special populations, as defined in 20 USC 2302 and Board policy, are being met**

(cf. 0500—Accountability)

(cf. 6190—Evaluation of the Instructional Program)

- 7. Initiate, improve, expand, and modernize quality CTE programs, including relevant technology**

CAREER TECHNICAL EDUCATION (continued)

~~8. Provide services and activities that are of sufficient size, scope, and quality to be effective~~

~~9. Provide activities to prepare special populations for high-skill, high-wage, or high-demand occupations that will lead to self-sufficiency~~

1. Provide career exploration and career development activities through an organized, systematic framework designed to aid students, including students in the middle grades, in making informed plans and decisions about future education and career opportunities and programs of study. Such activities shall occur before students enroll and while they are participating in a CTE program, and may include:

a. Introductory courses or activities focused on career exploration and career awareness, including non-traditional fields

b. Readily available career and labor market information, including information on occupational supply and demand, educational requirements, other information on careers aligned to economic priorities, and employment sectors

c. Programs and activities related to the development of student graduation and career plans

d. Career guidance and academic counselors who provide information on postsecondary education and career options

e. Any other activity that advances knowledge of career opportunities and assists students in making informed decisions about future education and employment goals, including nontraditional fields

f. Activities that provide students with strong experience in, and comprehensive understanding of, all aspects of an industry

(cf. 6143 - Courses of Study)

2. Provide the skills necessary to pursue careers in high-skill, high-wage, or in-demand industry sectors or occupations

(cf. 5113.2 - Work Permits)

(cf. 6178.1 - Work-Based Learning)

3. Integrate academic skills into CTE programs and programs of study to support participating students in meeting state academic standards

CAREER TECHNICAL EDUCATION (continued)

- 4. Provide professional development for teachers, school leaders, administrators, specialized instructional support personnel, guidance counselors, and/or paraprofessionals, which may include the types of activities listed in 20 USC 2355**

(cf. 4131 - Staff Development)

(cf. 4331 - Staff Development)

(cf. 6164.2 - Guidance/Counseling Services)

- 5. Plan and carry out elements that support the implementation of CTE programs and programs of study and that result in increased student achievement. Such elements may include curriculum aligned with program requirements, sustainable relationships among community stakeholders, opportunities for students to participate in accelerated learning programs, equipment and instructional materials aligned with business and industry needs, and other activities specified in 20 USC 2355.**

- 6. Develop and implement evaluations of the activities funded by the grant**

(cf. 0500 - Accountability)

(cf. 6190 - Evaluation of the Instructional Program)

Note: The following optional paragraph reflects CDE policies included in the state plan and may be revised to reflect district practice.

~~The district's program shall consist of at least two full year CTE courses with a combined duration of at least 300 hours, or a single multiple hour course which provides sequential units of instruction and has a duration of at least 300 hours. At least 50 percent of course curriculum and content shall be directly related to the development of career knowledge and skills.~~

Note: Pursuant to 20 USC 2354, the district **application** for Perkins ~~IV~~ **V** funding must describe how individuals **will not be discriminated against based on their status as** ~~who are~~ members of "special populations," as defined in 20 USC 2302 **as amended by P.L. 115-224** ~~will not be discriminated against~~. In addition, a district that receives federal aid is required by 34 CFR 100-~~B~~ (Appendix B-~~IV~~), 104.8, and 106.9 to take "continuing steps" to notify students, parents/guardians, employees, employee organizations, and applicants for admission and employment that it does not discriminate in its educational programs or activities. See BP 0410 - Nondiscrimination in District Programs and Activities.

~~In~~ **During** the Federal Program Monitoring (FPM) process, CDE staff will check ~~to ensure that~~ **whether** the district complies with requirements to (1) ensure equitable ~~participation of~~ **access by** special population students through outreach, recruitment, enrollment, and placement activities; (2) identify and adopt strategies to overcome barriers to access or success in the program; (3) ensure that counseling materials and activities, including student program selection and career/employment selection, and promotional and recruitment efforts are nondiscriminatory; and (4) advise students, parents/guardians, employees, and the general public, prior to the beginning of the school year, that all CTE opportunities are offered without regard to race, color, national origin, sex, or disability in accordance with 34 CFR 100-~~B~~ (Appendix B-~~IV~~).

CAREER TECHNICAL EDUCATION (continued)

The district's program shall provide **activities to prepare special populations for high-skill, high-wage, or in-demand industry sectors or occupations that will lead to self-sufficiency. Special populations shall be provided with** equal access to CTE programs and shall not be unlawfully discriminated against students who are members of special populations. *Special populations* include, but are not limited to, students with disabilities; students from economically disadvantaged families, including foster youth; single parents and single pregnant females; **pregnant and parenting students, displaced homemakers out-of-work individuals;** students with limited English proficiency **English learners, homeless students, foster youth, children of military families;** and students preparing for nontraditional fields. *Nontraditional fields* include occupations or fields of work, including careers in computer science, technology, and other emerging high-skill occupations, for which individuals from one gender constitute less than 25 percent of the individuals employed in each such occupation or field of work. (20 USC 2302, 2354, 2373)

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

(cf. 0415 - Equity)

Upon written request from a nonprofit private school within the geographical area served by the district, the Superintendent or designee shall consult with private school representatives in a timely and meaningful manner and may provide for the participation of private school secondary students in the district's programs and activities funded under the federal Carl D. Perkins Career and Technical Education Act pursuant to 20 USC 2301-2414. To the extent practicable, the Superintendent or designee also shall also, upon request, permit participation of CTE teachers, administrators, and other personnel from private schools in the district's inservice and preservice professional development programs funded through the Perkins Act such grants. (20 USC 2397)

Tech Prep Programs

Note: The following **optional** section is for use by districts that offer technical preparation (tech prep) programs pursuant to Perkins IV (20 USC 2371-2376). Tech prep education is a planned sequence of study in a technical field or pathway which includes at least two years of secondary education (sometimes beginning as early as grade 9) and extends through two or more years of postsecondary education or through an apprenticeship program of at least two years following high school. The sequence culminates in an associate's degree, a certificate, and/or a bachelor's degree. Districts apply for program funding as a consortium with a postsecondary institution and may include businesses in the consortium.

During the FPM process, CDE staff will review whether tech prep programs funded by Perkins IV include the components listed in 20 USC 2373(e).

The district shall, under an articulation agreement with an institution of postsecondary education and other consortium partners as appropriate, offer a technical preparation (tech prep) program in accordance with 20 USC 2371-2376. The program shall: (20 USC 2373)

1. Consist of a program of study that:

CAREER TECHNICAL EDUCATION (continued)

- a. Combines at least two years of tech prep at the secondary level which is linked to at least two years of either postsecondary education in a sequential, nonduplicative course of study or an apprenticeship program
 - b. Integrates academic and career technical instruction and utilizes work-based and work site learning experiences as appropriate and available
 - c. Provides technical preparation in a career field, including high skill, high-wage, or high-demand occupations
 - d. Builds student competence in technical skills and in core academic subjects, as appropriate, through applied, contextual, and integrated instruction in a coherent sequence of courses
 - e. Leads to technical skill proficiency, an industry-recognized credential, a certificate, or a degree in a specific career field
 - f. Leads to placement in high skill or high wage employment or to further education
 - g. Utilizes CTE programs of study, to the extent practicable
 - h. Meets state academic standards
 - i. Investigates opportunities for tech prep students to enroll concurrently in secondary education and postsecondary education courses
2. Uses educational technology and distance learning, as appropriate, to involve consortium partners more fully in the development and operation of programs
 3. Includes inservice professional development for teachers, administrators, and counselors that addresses the goals identified in 20 USC 2373
 4. Provides equal access to the full range of tech prep programs to individuals who are members of special populations, as defined in 20 USC 2302 and Board policy, including the development of tech prep program services appropriate to the needs of special populations
 5. Provides for preparatory services that assist participating students
 6. Coordinates with activities conducted under Title I of the No Child Left Behind Act

(cf. 6171—Title I Programs)

CAREER TECHNICAL EDUCATION (continued)**Partnership Academies**

Note: The following **optional** section is for use by districts that have established a partnership academy pursuant to Education Code 54690-54699.1 and 54750-54760. A partnership academy functions as a school- within-a-school with a career theme and related academic courses primarily directed at students who are at risk of dropping out. ~~Education Code 54698-54699.1, added by SBX1-1 (Ch. 2, Statutes of 2011), establishes a grant program to support the implementation and maintenance of partnership academies that are focused on employment in clean technology and renewable energy businesses and that provide skilled workforces for the products and services for energy and/or water conservation, renewable energy, pollution reduction, or other technologies.~~

The district shall operate one or more partnership academies as a school-within-a-school focused on a broad career theme. The program shall be available to students in grades 10-12, at least half of whom shall be students who are at risk of dropping out of school as indicated by three or more of the following criteria: (Education Code 54690-**54692-54691**)

1. Past record of irregular attendance, with absence from school 20 percent or more of the school year

(cf. 5113.1 - Chronic Absence and Truancy)

2. Past record of underachievement in which the student is at least one-third of a year behind the coursework for the respective grade level, or as demonstrated by credits achieved
3. Past record of low motivation or disinterest in the regular school program
4. Economic disadvantage
5. Scores below basic or far below basic on the mathematics or English language arts test of the ~~Standardized Testing and Reporting program~~ **California Assessment of Student Performance and Progress**
6. A grade point average of 2.2 or below or the equivalent of a C minus

The district's program shall provide: (Education Code 54692)

1. During each regular school term, instruction in at least three academic subjects that:
 - a. Prepares students for a regular high school diploma
 - b. Where possible and appropriate, prepares students to meet subject requirements for admission to the California State University and University of California

CAREER TECHNICAL EDUCATION (continued)

- c. Contributes to an understanding of the occupational field of the academy
2. CTE courses offered at each grade level at the academy that are part of an occupational course sequence that targets comprehensive skills and meets the criteria specified in Education Code 54692
3. Classes that are block scheduled in a cluster whenever possible to provide flexibility to academy teachers and which may vary in number during grade 12
4. A mentor from the business community for students during grade 11
5. An employer-based internship or work experience that occurs during the summer following grade 11 or during grade 12
6. Additional motivational activities with private sector involvement to encourage academic and occupational preparation

Attendance in academy classes shall be limited to students enrolled in the academy. (Education Code 54692)

The Superintendent or designee shall establish an advisory committee consisting of individuals involved in academy operations, including district and school administrators, lead teachers, and representatives of the private sector. (Education Code 54692)

Apprenticeship Programs

Note: The following **optional** paragraph may be used by districts that provide a program of "orientation to apprenticeships" to students who have not yet applied to an apprenticeship program. Such programs are sometimes referred to as "pre-apprenticeship programs." However, the Department of Industrial Relations (DIR), in its publication Orientation to Apprenticeship: A Guide for Educators, notes that "pre-apprentice" is used by some trades as a classification of worker and therefore prefers the term "orientation to apprenticeship" to refer to a program offered by secondary schools. Items #1-5 below reflect key program components recommended in the DIR publication and may be revised to reflect district practice.

The district shall offer high school and/or adult education students a program of orientation to apprenticeships that acquaints students with a broad range of career options, provides information regarding available apprenticeship programs, and provides classroom instructional job training which guides students to a registered apprenticeable occupation.

(cf. 6200 - Adult Education)

The district's program shall:

1. Introduce students to what they need to know in order to apply, test, and interview for acceptance into an apprenticeship program

CAREER TECHNICAL EDUCATION (continued)

2. Demonstrate the need for proficiency in reading and comprehension, mathematics, science, and technology
3. Emphasize the necessity to have the ability to communicate in reading, writing, speaking, listening, and numeration skills
4. Identify the knowledge, skills, and attitudes needed to enter and successfully complete an apprenticeship program
5. Provide an orientation to a specific craft or trade or to an industry

Note: The following **optional** paragraph is for use by districts that contract with sponsors of approved apprenticeship programs (e.g., individual employers, labor or management apprenticeship committees, or joint labor-management apprenticeship committees) pursuant to Education Code 8150-8155 and Labor Code 3070-3099.5 to provide classes of related and supplemental instruction. Apprenticeship programs are offered for a period of one to six years (typically four years) and provide specialized on-the-job training that prepares an individual for employment in a craft or trade profession.

The district may enter into an agreement with a local business, labor or management apprenticeship committee, and/or joint labor-management apprenticeship committee that has been approved by the Department of Industrial Relations' Division of Apprenticeship Standards to sponsor an apprenticeship program in order to develop and deliver related and supplemental instruction to students participating in a registered apprenticeship program. (Education Code 8150-8155; Labor Code 3074, 3075, 3078)

Regional Occupational Center/Program

Note: The following **optional** section is for use by districts that partner with or offer their own local **regional occupational center or program (ROC/P)** pursuant to Education Code 52300-52335.12, and may be revised to reflect district practice. Education Code 52301 authorizes the establishment of an ROC/P by (1) the County Superintendent of Schools, with the approval of the State Board of Education (SBE); (2) two or more districts maintaining high schools, with the approval of the SBE and the County Superintendent; or (3) a single district with an average daily attendance (ADA) of 50,000 or more located in a class 1 county or a district with an ADA of 100,000 or more located in a class 2 county, as defined in Education Code 1205. ROC/P courses are open to secondary students, with priority enrollment given to students ages 16-18 or in grades 11-12. See BP 6178.2 - Regional Occupational **al** Center/Program for additional program requirements.

The district shall operate and/or partner with a regional occupational center or program (ROC/P), established pursuant to Education Code 52335.12, which offers CTE courses **independently or in support of tech prep programs**, linked learning programs, partnership academies, and/or pre-apprenticeship and apprenticeship programs as appropriate.

(cf. 6178.2 - *Regional Occupational Center/Program*)

CAREER TECHNICAL EDUCATION (continued)

Occupational course sequences offered by the ROC/P shall provide prerequisite courses needed to enter apprenticeship or postsecondary vocational certificate or degree programs, focus on occupations requiring comprehensive skills leading to high entry-level wages and/or the possibility of significant wage increases after a few years on the job, offer as many courses as possible that meet college admission requirements, and lead to attainment of an occupational skill certificate. (Education Code 52302)

Student Organizations

Note: The following **optional** section may be used by districts providing any CTE program(s). 20 USC 2355 permits the use of Perkins ~~IV~~ **V** funding to support career technical student organizations and related activities. According to CDE, state-supported organizations include California DECA: A Marketing Association (formerly Distributive Education Clubs of America), Future Business Leaders of America (FBLA), Future Farmers of America (FFA), Future Homemakers of America-Home Economics Related Occupations (FHA-HERO), Health Occupations Students of America (HOSA), and Skills USA (formerly Vocational Industrial Clubs of America-VICA).

The district may provide support, including supplies, materials, activities, and advisor expenses, to student organizations which engage in activities that are integral to the CTE program and provide for the development of student leadership skills. However, no state or federal funds shall be used to pay students' membership dues, food or lodging expenses, out-of-state travel, or the cost of a social activity or assemblage.

(cf. 6145 - Extracurricular and Cocurricular Activities)

(cf. 6145.5 - Student Organizations and Equal Access)

(3/08 7/12) 10/18

CSBA Sample

Administrative Regulation

Instruction

AR 6183(a)

HOME AND HOSPITAL INSTRUCTION

Note: Pursuant to Education Code 48206.5, any district which, prior to January 1, 1986, maintained a program to provide individual instruction to students who have a temporary disability may continue to operate the program as it existed prior to that time.

A student with a temporary disability which makes school attendance impossible or inadvisable shall **be entitled to** receive individual instruction **in the student's home at home** or in a hospital or other residential health facility, excluding state hospitals. **(Education Code 48206.3)**

(cf. 5112.2 - Exclusions from Attendance)

~~This instruction applies to students incurring~~ **Temporary disability means** a physical, mental, or emotional disability **incurred while a student is enrolled in regular day classes or an alternative education program, and** after which ~~they the student~~ can reasonably be expected to return to regular day classes or ~~an the~~ alternative education program ~~without special intervention. It does not apply to students identified as individuals with exceptional needs in which the student is enrolled. Temporary disability does not include a disability that would qualify a student for special education~~ pursuant to Education Code 56026. (Education Code 48206.3)

(cf. 5141.22 - Infectious Diseases)

(cf. 6158 - Independent Study)

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

Note: Education Code 48206.3, as amended by AB 2109 (Ch. 167, Statutes of 2018), requires the district to notify parents/guardians of the availability of individual instruction for students with a temporary disability and to include in that notification information regarding student eligibility for, and the duration of, individual instruction.

At the beginning of the school year, the Superintendent or designee shall notify parents/guardians ~~that of district students regarding:~~ (Education Code **48206.3**, 48208, 48980)

1. ~~Individual instruction is available for temporarily disabled students as prescribed by Education Code 48206.3.~~ **The availability of individual instruction for any student with a temporary disability, including information regarding student eligibility for, and the duration of, individual instruction**
2. ~~If a student becomes temporarily disabled, it is the parent/guardian's responsibility to notify the receiving district of the student's presence in a qualifying hospital. The~~

HOME AND HOSPITAL INSTRUCTION (continued)

rights and responsibilities of parents/guardians of any student with a temporary disability pursuant to Education Code 48207 and 48208

(cf. 5145.6 - Parental Notifications)

Note: Pursuant to Education Code 48208, it is the primary responsibility of parents/guardians to notify the district when their child is in a qualifying hospital. The following paragraph expands this requirement to include notification when a temporarily disabled student needs instruction at home.

Parents/guardians shall notify the principal or designee when their child is temporarily disabled and needs individual instruction at home or in a hospital or other residential health facility.

Determination of Student Eligibility

Note: Education Code 48208 specifies that the district must make a determination regarding a student's eligibility for individual instruction within five working days of receiving notification of the student's presence in a qualifying hospital. Although the law does not establish a time period for determining a student's eligibility for individual instruction at home, the following paragraph uses the five-day time period for determining eligibility for home instruction and may be revised to reflect district practice.

Not later than five working days after receiving notification from a parent/guardian that a student has a temporary disability, the Superintendent or designee shall determine whether the student will be able to receive individual instruction at home or in a hospital or residential health facility. (Education Code 48208)

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

The Superintendent or designee may require verification through any reasonable means **that the student is temporarily disabled and needs individual instruction.** ~~that the student requires home instruction. In addition, this verification shall also state that the disabling condition will not expose the teacher to a contagious disease that can be transmitted through casual contact. Home or hospital instruction shall not be denied to students with Hepatitis B, herpes or HIV/AIDS, as long as the home or hospital practices current preventive protocol as determined by the U.S. Centers for Disease Control.~~

~~(cf. 4119.42/4219.42/4319.42 — Exposure Control Plan for Bloodborne Pathogens)
(cf. 4119.43/4219.43/4319.43 — Universal Precautions)~~

Provision of Individual Instruction

Note: Education Code 48208 requires that individual instruction in a hospital or residential health

HOME AND HOSPITAL INSTRUCTION (continued)

facility begin no later than five working days after determining a student's eligibility. As added by AB 2109, Education Code 48207.5 establishes the same time limit for providing instruction in a student's home.

Individual instruction at a student's home or in a hospital or other residential health facility shall begin no later than five working days after the Superintendent or designee has determined **makes the determination** that the student is **able eligible** to receive individualized instruction. (Education Code 48207.5, 48208)

The district shall be responsible for providing individual instruction to any temporarily disabled student who is in a hospital or other residential health facility located within district boundaries, whether or not the student is enrolled in the district. If the student is enrolled in another district, the Superintendent or designee may enter into an agreement to have the student's district of residence provide the individual instruction. The Superintendent or designee may also enter into an agreement to provide individual instruction to a district student who is in a hospital or other residential health facility located within the boundaries of another district. (Education Code 48208)

(cf. 5111.1 - District Residency)

Whenever the district provides individual instruction to a non-district student who is in a hospital or other residential health facility located within district boundaries, the Superintendent or designee shall, within five working days of the beginning of the individualized instruction, the Superintendent or designee shall provide written notification to the student's district of residence in which the student was previously enrolled stating that, effective on the date on which individual instruction began, the student shall not be counted by district of residence may not count the student for purposes of computing that district's average daily attendance, effective the date on which individualized instruction began. (Education Code 48208)

Note: Pursuant to Education Code 48207.3, as added by AB 2109, students receiving individual instruction in a hospital or residential health facility for a partial week remain eligible to attend school on days when they are not at the hospital. Pursuant to Education Code 48207, as amended by AB 2109, for apportionment purposes each district may count the student's attendance for only those days it provides instruction to the student.

A student receiving individual instruction in a hospital or residential health facility for a partial week shall be entitled to attend school or receive individual instruction at home on days in which the student is not receiving individual instruction in the hospital or other residential health facility, if the student is well enough to do so. (Education Code 48207.3)

Home or hospital instruction shall be provided only by teachers with valid California teaching credentials who consent to the assignment. (Education Code 44865)

HOME AND HOSPITAL INSTRUCTION(continued)

(cf. 4112.2 - Certification)

(cf. 4113 - Assignment)

Note: Education Code 48240, as amended by AB 2109, adds the following responsibility of the district's supervisor of attendance.

The district's attendance supervisor shall ensure that the absences of any temporarily disabled student receiving individual instruction at home or in a hospital or other residential health facility are excused until the student is able to return to the regular school program. (Education Code 48240)

(cf. 5113 - Absences and Excuses)

(cf. 5113.11 - Attendance Supervision)

Return to School

A student receiving individual instruction who is well enough to return to school shall be allowed to return to the school that the student attended immediately before receiving individual instruction, if the return occurs during the school year in which the individual instruction was initiated. (Education Code 48207.3)

Legal Reference: (see next page)

HOME AND HOSPITAL INSTRUCTION (continued)

Legal Reference:

EDUCATION CODE

44865 *Qualifications for home teachers*

45031 *Home teachers*

48200 *Minimum school day*

48206.3-**48208 Students Pupils** ~~with temporary disabilities; individual instruction; definitions; computing average daily attendance~~

48206.5 ~~Continuation of individual instruction programs for students with temp. disabilities~~

48207 ~~Pupils with temporary disabilities in hospitals out side of school district; compliance with residency requirements~~

48208 ~~Presence of pupils with temporary disabilities in qualifying hospitals; notice by parents or guardians; commencement of individualized instruction~~

48240 Supervisors of attendance

48980 ~~Required notification of rights and availability of nutrition and individualized instruction programs~~ **Parental notifications**

51800-51802 *Employment of home teachers*

56026 Individual with exceptional needs

CODE OF REGULATIONS, TITLE 5

421 *Method of verification*

423 *Prolonged illness*

(6/89 10/98) 12/18

CSBA Sample

Board Policy

Instruction

BP 6190(a)

EVALUATION OF THE INSTRUCTIONAL PROGRAM

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

The Governing Board recognizes that it is accountable to students, parents/guardians, and the community for the effectiveness of the district's educational program in meeting district goals for student learning. The Superintendent or designee shall conduct a continual evaluation of the curriculum and the instructional program in order to **improve identify strategies for improving** student achievement.

(cf. 0200 - Goals for the School District)

(cf. 0500 - Accountability)

(cf. 6000 - Concepts and Roles)

(cf. 6141 - Curriculum Development and Evaluation)

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

Note: The district may revise the following paragraph to specify the data and reports that will be used to evaluate the district's instructional program.

~~Historically, California's accountability system has been based on both federal and state requirements. However, as amended by the Every Student Succeeds Act (P.L. 114-95), 20 USC 6311 no longer requires a determination as to whether schools and districts meet a federal measure of "adequate yearly progress," and gives greater discretion to states and local educational agencies to determine accountability indicators. The state's Academic Performance Index has been suspended since the 2013-14 school year as the state transitions to a new state assessment and accountability system. The new state accountability system will integrate local, state, and federal accountability systems and be based on multiple measures.~~

~~In addition,~~ Education Code 52060-52061 require that the district's local control and accountability plan (LCAP) establish goals, for all students and for each numerically significant subgroup, that are aligned with the state priorities, and that the district annually review progress toward the goals; see BP/AR 0460 - Local Control and Accountability Plan. Pursuant to Education Code 52052, numerically significant student subgroups include ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students, when the subgroup consists of at least 30 students with a valid test score or 15 foster or homeless youth. **The California School Dashboard reports the status of district and school performance on multiple state and local indicators and is intended to assist districts in identifying strengths and areas in need of improvement in each priority area addressed by the LCAP.**

The Superintendent or designee shall provide the Board and the community with regular reports ~~on student progress toward Board-established standards of expected achievement at each grade level in each area of study. In addition, he/she shall evaluate and report data for~~ **on student achievement. The reports shall include data for** each district school and for ~~every~~ **each** numerically significant student subgroup, as defined in Education Code 52052, including, but not limited to, school and subgroup performance on statewide achievement indicators and progress toward goals specified in the district's local control and accountability plan (LCAP).

EVALUATION OF THE INSTRUCTIONAL PROGRAM (continued)

(cf. 0460 - Local Control and Accountability Plan)
(cf. 0510 - School Accountability Report Card)
(cf. 6011 - Academic Standards)
(cf. 6162.5 - Student Assessment)
(cf. 6162.51 - State Academic Achievement Tests)
(cf. 6173 - Education for Homeless Children)
(cf. 6173.1 - Education for Foster Youth)
(cf. 6174 - Education for English Learners)

In addition, the Superintendent or designee shall conduct an evaluation of any new instructional program implemented in the district and shall regularly assess district progress toward increasing student achievement in all subject areas taught in the district. The findings of such evaluations and assessments shall be reported to the Board.

Based on these reports, the Board shall take appropriate actions to maintain the effectiveness of programs and to improve the quality of education **that provided to** district students **receive**.

Annual ~~Monitoring Evaluation~~ of Consolidated Application Programs

Note: The following **optional** section should be revised to reflect district practice. Pursuant to Education Code 64000-64001, the consolidated application is used by the California Department of Education (CDE) to distribute funds from certain federal categorical programs. ~~For 2015-16, these programs include (1) Title I, Part A basic grant (low income students); (2) Title I, Part D (delinquent students); (3) Title II, Part A (teacher quality); (4) Title III, Part A (immigrant students); (5) Title III, Part A (English learners); and (6) Title VI, Part B (rural, low income students).~~ Pursuant to 5 CCR 3942, ~~as~~ a condition of receiving continued funding for these programs, the district must make certain general assurances and certifications, including an assurance that the district's annual evaluation of categorical programs demonstrates that each program is "not one of low effectiveness." ~~(5 CCR 3942).~~ The district does not need to sign or return the general assurances, but does need to keep them on file for compliance reviews, complaint investigations, or audits.

Pursuant to 5 CCR 3942, criteria for the annual program evaluation are to be established by the Governing Board. ~~In order to consolidate the district's various evaluation processes, t~~The district may consider **measures of the academic progress of students participating in the program, including** numerically significant student **subgroups**, in addition to other measures ~~of student progress~~ contained in school plans or adopted by the Board.

The Board and the Superintendent or designee shall annually determine whether the district's categorical programs funded through the state's consolidated application are effective in meeting the needs of the students they are intended to serve. As a basis for this evaluation, the Superintendent or designee shall recommend for Board approval the specific, measurable criteria that shall be used at each school and at the district level. These criteria may include, but are not necessarily limited to, the progress of all students **participating in the program** and of each numerically significant subgroup toward goals contained in the district's LCAP,

EVALUATION OF THE INSTRUCTIONAL PROGRAM (continued)

the school's single plan for student achievement, **Title I local educational agency plan**, and/or other applicable district or school plans.

Federal Program Monitoring

~~Note: Pursuant to Education Code 64001, the CDE is required to monitor the district's compliance with legal requirements for categorical programs. This monitoring is accomplished through the Federal Program Monitoring (FPM) process, which is based on a combination of data and document reviews and on-site visits. Districts are assigned to one of four cycles, and may be selected for on-site or online monitoring every two years. Districts and school sites are selected based on criteria that include compliance history, academic achievement, program size, and fiscal analysis, with several districts being randomly selected for monitoring each year. During the FPM process, the CDE reviews school plans and may require a district to submit district policies, administrative regulations, or any other data necessary for the CDE to effectively monitor these programs. The CDE has developed monitoring instruments which contain major program legal requirements and are used by CDE staff to determine district compliance with the requirements. These instruments are available on the CDE's web site. Also, beginning in 2015, the CDE is transitioning to a new application, the California Monitoring Tool, to facilitate districts' response to state and federal requirements for program monitoring.~~

~~The following paragraph is **optional**. The CDE does not require districts to complete a self-review as part of the FPM process. However, the CDE emphasizes that compliance monitoring should be an ongoing responsibility of the district, not an event that occurs only when the CDE conducts its on-site monitoring. The FPM program instruments may be useful for this purpose.~~

~~To ensure that the district's categorical programs comply with applicable legal requirements, the Superintendent or designee shall, on an ongoing basis, conduct a district self-evaluation which may utilize tools developed by the district or the California Department of Education (CDE).~~

~~When the district is selected by the CDE for a Federal Program Monitoring (FPM) compliance review, the Superintendent or designee shall gather and submit all documentation and data required for the review and shall cooperate with CDE staff to facilitate program monitoring.~~

~~(cf. 0410—Nondiscrimination in District Programs and Activities)~~

~~(cf. 0420—School Plans/Site Councils)~~

~~(cf. 1312.3—Uniform Complaint Procedures)~~

~~(cf. 1312.4—Williams Uniform Complaint Procedures)~~

~~(cf. 4131—Staff Development)~~

~~(cf. 5020—Parent Rights and Responsibilities)~~

~~(cf. 5148—Child Care and Development Programs)~~

~~(cf. 5148.2—Before/After School Programs)~~

~~(cf. 5148.3—Preschool/Early Childhood Education)~~

~~(cf. 6020—Parent Involvement)~~

~~(cf. 6142.7—Physical Education and Activity)~~

~~(cf. 6171—Title I Programs)~~

~~(cf. 6173—Education for Homeless Children)~~

~~(cf. 6175—Migrant Education Program)~~

EVALUATION OF THE INSTRUCTIONAL PROGRAM (continued)

~~(cf. 6178—Career Technical Education)~~
~~(cf. 6178.1—Work Based Learning)~~
~~(cf. 6200—Adult Education)~~

Note: According to the CDE's FPM Frequently Asked Questions, available on its web site, if the review results in a finding of noncompliance with legal requirements, the district must submit a Proposed Resolution of Findings through the CMT within 45 days of the date that the district was notified of the finding. The resolution agreement will specify a time period, not to exceed 225 calendar days from the last day of the review, to resolve the finding. The district may request additional resolution time if needed, and the CDE program monitor will determine whether to grant or adjust the request.

In the event that the FPM review results in a finding of noncompliance in relation to any program, the Superintendent or designee shall submit a proposed resolution to the CDE within 45 days of the date the district was notified of the finding. The resolution shall be implemented in accordance with the terms and timeframe specified in the resolution agreement with the CDE.

The Superintendent or designee shall report to the Board regarding the results of the review process.

Western Association of Schools and Colleges (WASC) Accreditation

Note: The following **optional** section is for use by districts that participate in the evaluation process leading to accreditation by the Western Association of Schools and Colleges (WASC). WASC is a private, nonprofit organization whose Accrediting Commission for Schools provides regular assessments of public and private schools in order to support ongoing improvement of the educational program. The term of the accreditation process varies from one to six years, as determined by WASC. Districts may seek accreditation for both elementary and secondary schools and may revise the following section to specify schools that will seek accreditation (e.g., only secondary schools and/or middle schools). Districts also may revise the following section to apply to any other accrediting agency.

The Board believes that accreditation by the Western Association of Schools and Colleges (WASC) can foster excellence and ongoing academic improvement in the district's schools. The results of the accreditation process also may demonstrate to parents/guardians and the community that the schools are meeting their goals and objectives and the WASC criteria for school effectiveness through a viable instructional program.

The Superintendent or designee shall undertake procedures whereby district schools may achieve and maintain full WASC accreditation status. The schools shall conduct a self-study in accordance with WASC requirements, cooperate with the WASC committee during a site visit, and develop and review action plans to increase the effectiveness of the instructional program for students. The Superintendent or designee shall regularly report to the Board on the status of district schools and any WASC recommendations for school improvement.

EVALUATION OF THE INSTRUCTIONAL PROGRAM (continued)

Not later than 60 days after receiving the results of any inspection of a school by WASC, or any other the accrediting agency, the Superintendent or designee shall be published not later than 60 days after the results are made available to the school. Publication shall be by notifying each parents/guardians in writing of the inspection results and/or by shall posting the information on the district's or school's web site, as determined by the Superintendent or designee. (Education Code 35178.4)

(cf. 1113 - District and School Web Sites)

(cf. 5145.6 - Parental Notifications)

If any district school loses its accreditation status, the Board shall give official notice at a regularly scheduled Board meeting. The Superintendent or designee shall provide written notification to each parent/guardian of a student in the school that the school has lost its accreditation status, including the potential consequences of the loss of accreditation status. This notice shall also be posted on the district's web site and the school's web site. (Education Code 35178.4)

Legal Reference: (see next page)

EVALUATION OF THE INSTRUCTIONAL PROGRAM (continued)

Legal Reference:

EDUCATION CODE

33400-33407 Educational evaluations

35178.4 Notice of accreditation status

44662 Evaluation and assessment guidelines, certificated employee performance

48985 Compliance with translation of parental notifications

51041 Education program, evaluation and revisions

51226 Model curriculum standards

52052 ~~52052.1 Academic Performance Index Accountability~~; numerically significant student subgroups

52060-52077 Local control and accountability plan

62005.5 Failure to comply with purposes of funds

64000-64001 Consolidated application process

CODE OF REGULATIONS, TITLE 5

3930-3937 Program requirements

3942 Continuity of funding

UNITED STATES CODE, TITLE 20

6311 Adequate yearly progress State plans

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

FPM Frequently Asked Questions

Federal Program Monitoring Instruments

WESTERN ASSOCIATION OF SCHOOLS AND COLLEGES PUBLICATIONS

Focus on Learning: Joint ACS WASC/CDE Process Guide, 2014 2017

WEB SITES

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

California Department of Education, Testing and Accountability: <http://www.cde.ca.gov/ta>

Western Association of Schools and Colleges (WASC), Accrediting Commission for Schools:
<http://www.acswasc.org>

(3/07 10/15) 10/18

Policy Reference UPDATE Service

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CSBA Sample Board Bylaw

Board Bylaws

BB 9323.2(a)

ACTIONS BY THE BOARD

Note: Pursuant to Education Code 35164, a majority vote of all members of the Governing Board is necessary for an item to carry, even in those cases where some members are absent. Thus, for districts with a five-member board, an item will pass with three votes, even if only three members are present or there is a vacancy. Education Code 35165 details the effect of a vacancy in districts with a seven-member board. For language regarding vote requirements when a board member abstains, see BB 9323 - Meeting Conduct.

The law specifies certain board actions as requiring more than a majority vote; see E(1) 9323.2 for a **specific** list of such actions.

The Governing Board shall act by a majority vote of all of the membership constituting the Board, unless otherwise required by law. (Education Code 35164)

(cf. 9000 - Role of the Board)

(cf. 9005 - Governance Standards)

(cf. 9012 - Board Member Electronic Communications)

(cf. 9200 - Limits of Board Member Authority)

~~Note: In some instances, the law requires that a hearing be conducted before the Board takes action on an item (e.g., before adopting the district's budget or expelling a student). Notice and other requirements for hearings may be more extensive than those for regular or special meetings and will depend upon the specific requirements in applicable statutes.~~

An "action" by the Board means: (Government Code 54952.6)

1. A collective decision by a majority of the Board members
2. A collective commitment or promise by a majority of the Board members to make a positive or negative decision
3. A vote by a majority of the Board members when sitting as the Board upon a motion, proposal, resolution, order, or ordinance

The Board shall not take action by secret ballot, whether preliminary or final. (Government Code 54953)

Actions taken by the Board in open session shall be recorded in the Board minutes. (Education Code 35145)

(cf. 9324 - Minutes and Recordings)

ACTIONS BY THE BOARD (continued)

Action on Non-Agenda Items

Note: The Brown Act (Government Code 54950-54963) generally prohibits any action or discussion of items not on the posted agenda. However, Government Code 54954.2 provides for three specific and narrow situations in which the Board can act on an item not on the agenda, as specified below. Board members may also briefly respond to questions raised by members of the public concerning items not on the agenda; see BB 9323 - Meeting Conduct.

After publicly identifying the item, the Board may take action on a subject not appearing on the posted meeting agenda under any of the following conditions: (Government Code 54954.2)

1. When a majority of the Board determines that an emergency situation exists, as defined for emergency meetings pursuant to Government Code 54956.5
2. When two-thirds of the members present, or if less than two-thirds of the members are present then by a unanimous vote of all members present, determine that the need to take immediate action came to the district's attention after the agenda was posted
3. When an item appeared on the agenda of, and was continued from, a meeting that occurred not more than five days earlier

(cf. 9320 - Meetings and Notices)

(cf. 9322 - Agenda/Meeting Materials)

Challenging Board Actions

Note: Government Code 54960 grants authority to the district attorney or any interested person to file a civil action asking the court to order the Board to stop or prevent Brown Act violations specified below. The Board should be careful to respond to legal challenges to its actions and consult legal counsel when necessary. Pursuant to Government Code 54960.5, a court may award court costs and reasonable attorney's fees to a plaintiff who successfully invalidates a Board action in violation of the Brown Act or successfully enforces one of the Brown Act's civil remedies provided in Government Code 54960-54960.2.

The district attorney's office or any interested person may file an action in court **to for the purpose of: (Government Code 54960, 54960.2)**

1. **Stop**ping or preventing the Board's violation or **threats of threatened** violations of the Brown Act;
2. **to determine**ing the applicability of the Brown Act to ongoing or future threatened Board actions;

ACTIONS BY THE BOARD (continued)

3. ~~In addition, the district attorney's office or any interested party may file an action in court to determine~~ **Determining** the applicability of the Brown Act to ~~any a~~ **a past Board action of the Board that is** not specified in Government Code 54960.1, ~~under the following conditions provided that:~~

a. Within nine months of the alleged violation, a cease and desist letter is submitted to the Board, clearly describing the past Board action and the nature of the alleged violation.

Note: Pursuant to Government Code 54960.2, the Board may respond within 30 days of receiving the cease and desist letter. If the Board decides to respond to the letter with an unconditional commitment to desist from repeating the past action, the unconditional commitment is required to be substantially in the same form provided in Government Code 54960.2 and to be approved in an open session of the Board's regular or special meeting. For a sample unconditional commitment letter, see E(2) 9323.2.

b. The time for the Board to respond has expired and the Board has not provided an unconditional commitment to cease and desist from and not repeat the past action alleged to have violated the Brown Act.

c. **The action is brought within the time required by Government Code 54960.2.**

4. ~~to determine~~ **Determining** the validity, under **California state** or federal law, of any Board rule or action ~~to which penalizes~~ **to which penalizes** any of its members or otherwise discourages **their** ~~member's expression, or~~

5. ~~to compel~~ **Compelling** the Board to audio record its closed sessions because of **a court's finding of the Board's its** violation of any applicable Government Code provision: ~~(Government Code 54960)~~

Note: Pursuant to Government Code 54960.1, the district attorney's office or any interested person may file a lawsuit to invalidate (i.e., declare null and void) actions that violate specific provisions of the Brown Act listed in Government Code 54960.1 and specified below. However, even when the action may normally be subject to invalidation, Government Code 54960.1 provides that in certain circumstances (e.g., when there has been substantial compliance with the Brown Act or the Board ~~created a contractual obligation~~ **action resulted in a contract with a party who detrimentally relied on the action in good faith and without notice of a challenge to its validity**), the action may not be invalidated.

Before seeking court action, the person who believes a violation occurred must send a written demand to the Board to "cure or correct" the action as specified below. Because the laws regarding these provisions are complex, it is recommended that the district consult with legal counsel upon receipt of a "cure and correct" demand.

ACTIONS BY THE BOARD (continued)

The district attorney or any interested person may ~~present a demand that the Board cure and correct a Board action which he/she alleges is~~ **file an action in court to nullify a Board action which is alleged to be** in violation of law regarding any of the following: (Government Code 54960.1)

1. Open meeting and teleconferencing (Government Code 54953)
2. Agenda posting (Government Code 54954.2)
3. Closed session item descriptions (Government Code 54954.5)
4. New or increased tax assessments (Government Code 54954.6)
5. Special meetings (Government Code 54956)
6. Emergency meetings (Government Code 54956.5)

Prior to bringing any action to nullify a Board action, the district attorney or other interested person shall present a ~~Any~~ demand to "cure and correct" ~~an~~ **the** alleged violation. **The demand** shall clearly describe the challenged action and the nature of the alleged violation and shall be presented to the Board in writing within 90 days of the date when the action was taken. If the alleged violation concerns action taken in an open session but in violation of Government Code 54954.2 (agenda posting), the written demand must be made within 30 days of the date when the alleged action took place. (Government Code 54960.1)

Within 30 days of receiving the demand, the Board shall do one of the following: (Government Code 54960.1)

1. Cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct.
2. Determine not to cure or correct the alleged violation and inform the demanding party in writing of its decision to not cure or correct.
3. Take no action. If the Board takes no action within the 30-day **review** period, its inaction shall be considered a decision not to cure or correct the **challenged** action.

Note: Pursuant to Government Code 54960, as amended by SB 1003 (Ch. 732, Statutes of 2012), past Board actions that occur on or after January 1, 2013 but which are not specified in Government Code 54960.1 may also be challenged. However, prior to commencing such an action, the district attorney or other interested person must comply with the requirements specified in Government Code 54960.2, as added by SB 1003, including sending a cease and desist letter to the Board within nine months of the alleged violation.

ACTIONS BY THE BOARD (continued)

In addition, the district attorney's office or any interested party may file an action in court to determine the applicability of the Brown Act to any past Board action not specified in Government Code 54960.1, if the following conditions are met: (Government Code 54960.2)

1. Within nine months of the alleged violation, a cease and desist letter is submitted to the Board, clearly describing the past Board action and the nature of the alleged violation.

Note: Pursuant to Government Code 54960.2, the Board may respond within 30 days of receiving the cease and desist letter. If the Board decides to respond to the letter with an unconditional commitment to desist from repeating the past action, the unconditional commitment is required to be substantially in the same form provided in Government Code 54960.2 and to be approved in an open session of the Board's regular or special meeting. For a sample unconditional commitment letter, see E(2) 9323.2.

2. The time for the Board to respond has expired and the Board has not provided an unconditional commitment to cease and desist from and not repeat the past action alleged to have violated the Brown Act.

Legal Reference: (see next page)

ACTIONS BY THE BOARD (continued)

Legal Reference:

EDUCATION CODE

15266 School construction bonds

17466 Declaration of intent to sell or lease real property

17481 Lease of property with residence for nondistrict purposes

17510-~~17511~~17512 **Leasing for production of gas, r**Resolution requiring unanimous vote **of all members constituting board**

17546 Private sale of personal property

17556-17561 Dedication of real property

35140-35149 Meetings

35160-35178.4 Powers and duties

48660-48661 Community day schools, establishment and restrictions

CODE OF CIVIL PROCEDURE

425.16 Special motion to strike in connection with a public issue

1245.240 Eminent domain vote requirements

1245.245 Eminent domain, resolution adopting different use

GOVERNMENT CODE

53090-53097.5 Regulation of local agencies by counties and cities

53724 Parcel tax resolution requirements

53790-53792 Exceeding the budget

53820-53833 Temporary borrowing

53850-53858 Temporary borrowing

54950-54963 The Ralph M. Brown Act, especially:

54952.6 Action taken, definition

54953 Meetings to be open and public; attendance; **prohibition against** secret ballots

54960-54960.5 Actions to prevent violations

65352.2 Coordination with planning agency

PUBLIC CONTRACT CODE

3400 Bid specifications

20111 Contracts over \$50,000; contracts for construction; award to lowest responsible bidder

20113 Emergencies, award of contracts without bids

20114 Repairs, maintenance, and improvements to district facilities by day labor or force account

22034 Uniform Public Construction Cost Accounting Act informal bidding ordinance

22035 Repair or replacement of facilities in case of emergency

22050 Emergency contracting procedures

COURT DECISIONS

Los Angeles Times Communications LLC v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313

McKee v. Orange Unified School District (2003) 110 Cal.App.4th 1310

Bell v. Vista Unified School District (2002) 82 Cal.App.4th 672

Boyle v. City of Redondo Beach (1999) 70 Cal.App.4th 1109

Management Resources: (see next page)

ACTIONS BY THE BOARD (continued)

Management Resources:

CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws, 2014

ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for Local Legislative Bodies, 2003

LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

Open and Public IV: A Guide to the Ralph M. Brown Act **2nd Edition, rev. July 2010** ~~2007~~

WEB SITES

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

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

Institute of Local Government: <http://www.ca-ilg.org>

Office of the Attorney General: <http://www.oag.ca.gov>

CSBA Sample

Exhibit

Board Bylaws

E(1) 9323.2(a)

ACTIONS BY THE BOARD

ACTIONS REQUIRING A SUPER MAJORITY VOTE

Note: The following exhibit lists some of the Governing Board actions that require more than a simple majority vote. Other such actions may exist and may be identified in the future.

Actions Requiring a Two-Thirds Vote of the Board:

Note: For an action requiring a two-thirds vote to pass, a three-member board will need two board members to vote in favor of the item, a five-member board will need four board members to vote in favor of the item, and a seven-member board will need five board members to vote in favor of the item.

1. Resolution declaring **the Governing Board's** intention to sell or lease real property (Education Code 17466)

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

2. Resolution declaring **the Board's** intent ~~of Governing Board~~ to convey or dedicate property to the state or any political subdivision for the purposes specified in Education Code 17556 (Education Code 17557)
3. Resolution authorizing and directing the Board president, or any other presiding officer, secretary, or member, to execute a deed of dedication or conveyance of property to the state or a political subdivision (Education Code 17559)
4. Lease, for up to three months, of school property which has a residence on it and which cannot be developed for district purposes because funds are unavailable (Education Code 17481)

Note: Item #5 below is different from temporary borrowing pursuant to Government Code 53850-53858 which requires only a majority vote of the Board.

5. Request for temporary borrowing ~~pursuant to Government Code 53820-53833, of funds needed for immediate requirements of the district~~ to pay district obligations incurred before the receipt of district income for the fiscal year sufficient to meet the payment(s) (Government Code 53821)
6. Upon complying with Government Code 65352.2 and Public Resources Code 21151.2, action to render city or county zoning ordinances inapplicable to a proposed use of the property by the district (Government Code 53094)

ACTIONS BY THE BOARD (continued)

(cf. 7131 - Relations with Local Agencies)
(cf. 7150 - Site Selection and Development)
(cf. 7160 - Charter School Facilities)

7. When the district is organized to serve only grades K-8, **action and seeks** to establish a community day school for any of grades K-8 (Education Code 48660)

(cf. 6185 - Community Day School)

8. When the district **is organized to serve only grades K-8**, has an average daily attendance (ADA) of 2,500 or less, **or desires to operate a community day school to serve any of grades K-6 (and no higher grades)** and seeks to situate a community day school on an existing school site, certification that satisfactory alternative facilities are not available for a community day school (Education Code 48661)

- ~~9. When the district is organized to serve only grades K-8 and seeks to situate a community day school on an existing school site, certification that satisfactory alternative facilities are not available for a community day school (Education Code 48661)~~

- ~~10. When the district desires to operate a community day school to serve any of grades K-6 (and no higher grades) on an existing school site, certification that satisfactory alternative facilities are not available for a community day school (Education Code 48661)~~

- ~~11.9.~~ Resolution of intent to issue general obligation bonds with the approval of 55 percent of the voters of the district (Education Code 15266)

(cf. 7214 - General Obligation Bonds)

- ~~12.10.~~ Resolution of intent to issue bonds within a school facilities improvement district with the approval of 55 percent of the voters of the school facilities improvement district (Education Code 15266)

(cf. 7213 - School Facilities Improvement Districts)

- ~~13.11.~~ Resolution to place a parcel tax on the ballot (Government Code 53724)

Note: Code of Civil Procedure 1245.240 requires that, prior to commencing an eminent domain action, the Board adopt a resolution of necessity approved by a two-thirds vote of the Board unless a greater vote is required by statute, charter, or ordinance. In addition, if the Board desires to use the property for a different purpose than stated in the resolution of necessity, then pursuant to Code of Civil Procedure 1245.245, the Board must adopt, by two-thirds vote, another resolution authorizing the different use unless a greater vote is required by statute, charter, or ordinance.

ACTIONS BY THE BOARD (continued)

- 14.12.** Resolution of necessity to proceed with an eminent domain action and, if the Board subsequently desires to use the property for a different use than stated in the resolution of necessity, a subsequent resolution so authorizing the different use (Code of Civil Procedure 1245.240, 1245.245)

Note: Item #13 is for use by three-member boards.

- 13.** When the district has a three-member Board, action to respond to an emergency facilities condition without giving notice for bids to let contracts, including the repair or replacement of district facilities, the taking of any other action that is directly related to and immediately required by that emergency, the procurement of the necessary equipment, services, and supplies for those purposes, the delegation of authority to the Superintendent or designee to take such action, and the determination during a regular Board meeting of the need to continue the action (Public Contract Code 22035, 22050)

Actions Requiring a Two-Thirds Vote of the Board Members Present at the Meeting:

1. Determination that there is a need to take immediate action and that the need for action came to the district's attention after the posting of the agenda. If less than two-thirds of the Board members are present at the meeting, a unanimous vote of all members present is required. (Government Code 54954.2)
2. Determination that a closed session is necessary during an emergency meeting. If less than two-thirds of the Board members are present, a unanimous vote of all members present is required. (Government Code 54956.5)

(cf. 9320 - Meetings and Notices)

(cf. 9321 - Closed Session Purposes and Agendas)

Actions Requiring a Four-Fifths Vote of the Board:

Note: For an action requiring a four-fifths vote to pass, a three-member board will need a unanimous vote in favor of the item, a five-member board will need four board members to vote in favor of the item, and a seven-member board will need six board members to vote in favor of the item.

1. Expenditure and transfer of necessary funds and use of district property or personnel to meet a national or local emergency created by war, military, naval, or air attack, or sabotage, or to provide for adequate national or local defense (Government Code 53790-53792)

(cf. 3110 - Transfer of Funds)

ACTIONS BY THE BOARD (continued)

2. Resolution for district borrowing based on issuance of notes, tax anticipation warrants, or other evidences of indebtedness, in an amount up to 50 percent of the district's estimated income and revenue for the fiscal year or the portion not yet collected at the time of the borrowing (Government Code 53822, 53824)
3. Resolution for district borrowing, between July 15 and August 30 of any fiscal year, of up to 25 percent of the estimated income and revenue to be received by the district during that fiscal year from apportionments based on ADA for the preceding school year (Government Code 53823-53824)
4. Declaration of an emergency in order to authorize the district to include a particular brand name or product in a bid specification (Public Contract Code 3400)

(cf. 3311 - Bids)

Note: Item #5 is for use by districts governed by a five-member or seven-member board.

5. **When the district has a five-member or seven-member Board, action to respond to an emergency facilities condition without giving notice for bids to let contracts, including the repair or replacement of district facilities, the taking of any other action that is directly related to and immediately required by that emergency, the procurement of the necessary equipment, services, and supplies for those purposes, the delegation of authority to the Superintendent or designee to take such action, and the determination during a regular Board meeting of the need to continue the action (Public Contract Code 22035, 22050)**

Note: AB 2249 (Ch. 169, Statutes of 2018) amended Public Contract Code 22034 to change the thresholds for public works projects bid pursuant to the Uniform Public Construction Cost Accounting Act, thereby increasing the amount requiring board resolution, as provided in item #6.

- ~~5.6.~~ Resolution to award a contract for a public works project at \$~~187,500~~ **212,500** or less to the lowest responsible bidder, when the district is using the informal process authorized under the Uniform Public Construction Cost Accounting Act for projects of \$~~175,000~~ **200,000** or less, all bids received are in excess of \$~~175,000~~ **200,000**, and the Board determines that the district's cost estimate was reasonable (Public Contract Code 22034)

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

Actions Requiring a Unanimous Vote of the Board:

1. Resolution authorizing and prescribing the terms of a ~~community~~ lease **of district property** for extraction **and taking** of gas **not associated with oil** (Education Code 17510-17511)

ACTIONS BY THE BOARD (continued)

2. **Authorization of the use of day labor or force account, or w**Waiver of the competitive bid process pursuant to Public Contract Code 20111, when the Board determines that an emergency exists **requiring the repair, alteration, work, or improvement to any facility to permit the continuance of existing classes or to avoid danger to life or property,** and upon approval of the County Superintendent of Schools (Public Contract Code 20113)

Action Requiring a Unanimous Vote of the Board Members Present at the Meeting:

1. Private sale of surplus property without advertisement in order to establish that such property is not worth more than \$2,500. Disposal of surplus property **in the local dump** or donation to a charitable organization requires the unanimous vote of the Board members present to establish that the value of such property would not defray the cost of arranging its sale. (Education Code 17546)

(cf. 3270 - Sale and Disposal of Books, Equipment and Supplies)

(5/16 10/16) 3/19

CSBA Sample

Exhibit

Board Bylaws

E(2) 9323.2

ACTIONS BY THE BOARD

UNCONDITIONAL COMMITMENT LETTER

Note: Government Code 54960, as amended by SB 1003 (Ch. 732, Statutes of 2012), authorizes the district attorney or other interested person to file an action in court to determine the applicability of the Ralph M. Brown Act to any past Governing Board action which is not specified in Government Code 54960.1 and which occurs on or after January 1, 2013; see the accompanying administrative regulation-board bylaw. Pursuant to Government Code 54960.2, prior to commencing such an action the district attorney or other interested person must send a cease and desist letter to the Board within nine months of the alleged violation. Within 30 days of receiving the cease and desist letter, the Board may respond by sending an unconditional commitment, substantially in the same form provided in Government Code 54960.2, to desist from repeating the past action. If the Board so responds, the district attorney or other interested person may not file an action in court. The following exhibit presents a sample unconditional commitment letter.

To: *(Name of district attorney or any interested person)*

The Governing Board of *(name of school district)* has received your cease and desist letter dated *(date)* alleging that the following ~~described~~ past action taken by the Board violates the Ralph M. Brown Act: *(Describe alleged past action as set forth in the cease and desist letter.)*

In order to avoid unnecessary litigation and without admitting any violation of the Ralph M. Brown Act, the Board hereby unconditionally commits that it will cease, desist from, and not repeat the challenged past action described above. The Board may rescind this commitment only by a majority vote of its membership taken in open session at a regular meeting and noticed on its posted agenda as "Rescission of Brown Act Commitment." You will be provided with written notice, sent by any means or media you provide in response to this message, to whatever address(es) you specify, of any intention to consider rescinding this commitment at least 30 days before any such regular meeting. In the event that this commitment is rescinded, a notice will be delivered to you by the same means as this commitment, or by mail to an address that you have designated in writing, and you will have the right to commence legal action pursuant to Government Code 54960(a).

Sincerely,

(Name)

(Title of Board President or other designee)

(11/12) 3/19