

# **POLICY GUIDE SHEET**

**May 2019**

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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 0420.4 - Charter School Authorization**

(BP/AR revised)

Policy updated to delete the legal cite for the Parent Empowerment Act, as the criteria for that program include the Academic Performance Index which is no longer calculated, and to delete the outdated legal cite for California Department of Education (CDE) standards for the identification of academically low-achieving students. Policy also reflects **NEW LAW (SB 126, 2019)** which requires charter schools to comply with the Brown Act, California Public Records Act, and other specified state laws governing transparency and public integrity, and **NEW LAW (AB 406, 2018)** which, for any charter petition submitted on or after July 1, 2019, prohibits the charter school from operating as or by a for-profit corporation or organization. Regulation updated to reflect **NEW LAW (AB 1747, 2018)** which requires that the charter petition include provisions for the development and annual update of a school safety plan.

## **BP 1312.1 - Complaints Concerning District Employees**

(BP revised)

Policy updated to reflect a court decision which held that a district cannot bar criticism of employees at public board meetings, and to add referral of complainants to the appropriate complaint procedures when concerns are expressed at a board meeting or to an individual board member outside a board meeting. Policy includes material formerly in AR regarding reports against employees for child abuse or neglect, and adds circumstances under which complaints should be addressed in accordance with BP/AR 1312.3 - Uniform Complaint Procedures or AR 4030 - Nondiscrimination in Employment. Policy also adds material related to the investigation of a complaint, including an anonymous complaint, and includes material formerly in AR regarding appeals to the board. Regulation reorganized and updated to require that complaints be made in writing and to add steps regarding the investigation of the complaint and the notification of the complainant and employee regarding the final decision.

## **BP/AR 3250 - Transportation Fees**

(BP/AR revised)

Policy updated to reference types of transportation services, in addition to home-to-school transportation, for which fees may be charged. The basis for establishing the amount of the fee deleted in BP since it is addressed in AR. Policy also adds material formerly in AR regarding (1) criteria for determining exemption of transportation fees based on financial need and (2) board certification to the county superintendent of schools that fees have been levied in accordance with law. Regulation reorganized to describe the types of transportation services for which fees are allowed, the amount of the fee, and then exemptions from fees. Material regarding the establishment of fees revised to reflect current practice which is no longer based on the Superintendent of Public Instruction's determination of the statewide average nonsubsidized cost of providing transportation on a publicly owned or operated transit system.

## **BP 3510 - Green School Operations**

(BP revised)

Policy expands best practices for environmental accountability in district programs and operations, including involvement of staff at all levels, use of least toxic pest management practices, compliance with green building standards in any new construction, acquisition of reduced or zero emission school buses, limitation of unnecessary idling of school buses or personal vehicles, implementation of green practices in the district's food services program, and use of green school activities as tools for student learning.

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### **BP/AR 3511 - Energy and Water Management**

(BP/AR revised)

Policy and regulation updated to reflect recommendations in **NEW STATE GUIDANCE** from CDE, the Division of the State Architect in the Department of General Services, and the State Water Resources Control Board. Policy also deletes green school strategies duplicated in other policies, and adds coordination with local and regional entities to share expertise and resources. Section on "Storm Water Management" deletes specific requirements for "nontraditional MS4 entities" that are subject to the General Permit for Storm Water Discharges to Small Municipal Separate Storm Sewer Systems, and clarifies that districts may also be subject to the Construction General Permit and the National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Industrial Activities. Section on "Emergency Interruption of Services" contains material formerly in AR. Regulation expands components of the district's resource management program to include strategies related to outdoor spaces, drought-tolerant habitats, and equipment maintenance and repair. Regulation also adds new section on "Storm Water Management" with examples of best practices and adds new material related to the emergency interruption of services.

### **AR 3514 - Environmental Safety**

(AR revised)

Regulation updated to reflect **NEW LAW (AB 2453, 2018)** which (1) authorizes state facilities modernization grants to be used to update air filtration systems and (2) authorizes districts and schools in communities with a high cumulative exposure to toxic air contaminants to work with air districts and to be eligible for a grant to implement air quality mitigation efforts. Regulation also reflects the July 1, 2019 deadline for completing testing for lead in the drinking water of any school constructed before January 1, 2010, and **NEW LAW (AB 2370, 2018)** which requires a licensed child care center that is located in a building constructed before January 1, 2010 to have its drinking water tested for lead contamination.

### **BP/AR 3540 - Transportation**

(BP revised; AR deleted)

Policy updated to include material formerly in AR regarding the means of transportation, contracts for transportation services, and the option to pay parents/guardians their actual and necessary expenses in transporting the student. Policy also addresses (1) the district's authority to require families to pay a transportation fee, with specified exceptions; (2) the district's authority to transport students without parent/guardian permission when evacuation of students is necessary for their safety; and (3) the installation of a global positioning system on school buses to enhance safety and provide real-time location data. Regulation deleted and key concepts moved to BP.

### **BP 5131.2 - Bullying**

(BP revised; AR added)

Policy updated and regulation added to reflect **NEW LAW (AB 2291, 2018)** which mandates districts to adopt, on or before December 31, 2019, procedures for preventing acts of bullying, including cyberbullying. Regulation includes material formerly in BP re: bullying prevention measures, staff development, student instruction, reporting, and corrective actions. Regulation also adds definition of bullying and examples of behaviors that may constitute bullying and cyberbullying, and reflects CDE's online training module on bullying developed pursuant to AB 2291.

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### **BP/AR 5132 - Dress and Grooming**

(BP/AR revised)

Policy updated to address communication of the dress code to students and staff; grant enforcement authority to the principal or designee; prohibit discriminatory enforcement of the dress code, including, but not limited to, discrimination based on gender identity, gender expression, or religious or cultural observance; and address disciplinary action for repeated violations or refusal to comply with the dress code. Policy also provides that the determination of specific items of clothing defined as gang apparel shall be free from bias based on race, ethnicity, national origin, immigration status, or other protected characteristics. Regulation updated to provide general, gender-neutral guidelines for the dress code that may be revised to reflect district practice; add circumstances under which the dress code should be modified for classes, activities, or individual students; and call for collaboration with law enforcement agencies to update definitions of gang-related apparel.

### **BP/AR 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction**

(BP/AR revised)

Policy updated to more directly reflect the goals of the California Healthy Youth Act, incorporate the legal requirement for districts whose graduation requirements include completion of a health education course to include instruction on the affirmative consent standard, and reflect **NEW LAW (SB 1104, 2018)** which requires districts offering grades 6-12 to provide information on human trafficking prevention resources to parents/guardians by January 1, 2020. Policy also adds timeline for notification to parents/guardians that they may request to excuse their child from comprehensive sexual health and HIV prevention education. Regulation updated to reflect **NEW LAW (AB 1861, 2018)** which requires that comprehensive sexual health education include specified information regarding human trafficking, and **NEW LAW (AB 1868, 2018)** which authorizes instruction regarding the potential risks and consequences of electronically sharing suggestive or sexually explicit materials. Section on "Professional Development" updated to reflect a legal requirement to provide periodic staff development regarding sexual abuse and human trafficking.

### **BP 6142.6 - Visual and Performing Arts Education**

(BP revised)

Policy updated to reflect revised content standards for visual and performing arts, including media arts, adopted by the State Board of Education in January 2019. Policy incorporates the philosophical foundation, lifelong goals, and artistic processes upon which the state standards are based.

### **BP 6146.1 - High School Graduation Requirements**

(BP revised)

Policy includes minor revision to clarify that immigrant students enrolled in a newcomer program in grades 11-12 may be eligible for an exemption from locally established graduation requirements, regardless of whether they transferred between schools after the completion of the second year of high school.

# CSBA Sample

## Board Policy

### Philosophy, Goals, Objectives, and Comprehensive Plans

BP 0420.4(a)

### CHARTER SCHOOL AUTHORIZATION

Note: The following **optional** policy may be revised to reflect district practice. Education Code 47600-47616.7 authorize the establishment of a capped number of public charter schools, which are generally exempt from Education Code provisions governing school districts unless otherwise specified in law. To establish a charter school **within the district**, petitioners must submit to the Governing Board for approval a petition which includes all components required by law as described in the accompanying administrative regulation.

~~Charter petitions may also be submitted to other entities under certain circumstances.~~ **Under certain circumstances, charter petitions may also be approved by other governmental entities. For example,** Education Code 47605.5-47605.6 authorize petitioners to submit a petition directly to the County Board of Education when (1) the charter school will serve students for whom the county office of education would otherwise be responsible for providing direct education and related services or (2) the countywide program will provide educational services to a student population that cannot be served as well by a charter school operating in only one district in the county.

In addition, Education Code 47605.8 authorizes petitioners to submit a petition directly to the State Board of Education (SBE) to approve a "statewide benefit charter school" that may operate at multiple sites throughout the state. 5 CCR 11967.6.1 requires the petitioner to provide prior written notice to the board of each district where the petitioner proposes to locate a school site and to notify the board of the date that SBE will meet to consider the petition.

Pursuant to Education Code 47606, a district may petition the Superintendent of Public Instruction and the SBE to convert all its schools to charter schools, provided that 50 percent of the district's teachers sign the petition, the petition contains all specified components, and arrangements are made for alternative attendance of students residing within the district who choose not to attend charter schools.

For further information regarding the submission and review of charter school petitions, see CSBA's publication [Charter Schools: A Guide for Governance Teams](#).

The Governing Board recognizes that charter schools may assist the district in offering diverse learning opportunities for students. In considering any petition to establish a charter school within the district, the Board shall give thoughtful consideration to the potential of the charter school to provide students with a high-quality education that enables them to achieve to their fullest potential.

**The district shall not require any district student to attend the charter school nor shall it require any district employee to work at the charter school. (Education Code 47605)**

Note: Education Code 47605 allows for the conversion of an existing public school into a charter school, provided that the school adopts and maintains a policy giving admission preference to students who reside within the former attendance area of that public school. The Board may also ~~create~~ **approve** a start-up charter school. **The signature requirement for petitions differs depending on whether the petition is for the approval of a conversion or start-up charter school; see the accompanying administrative regulation.**

## CHARTER SCHOOL AUTHORIZATION (continued)

The Board may also act as the governing board for what are known as "dependent" charter schools. Although the term does not appear in law, the SBE includes "dependent" charter schools as a separate category in its inventory of charter schools operating in California. A dependent charter school is subject to the same petition requirements and approval process as an "independent" charter school, which is typically formed by parents/guardians, teachers, community members, or a charter management organization.

Pursuant to Education Code 47606, a district may petition the Superintendent of Public Instruction and the SBE to convert all its schools to charter schools, provided that 50 percent of the district's teachers sign the petition, the petition contains all specified components, and arrangements are made for alternative attendance of students residing within the district who choose not to attend charter schools.

One or more persons may submit a petition for a start-up charter school to be established within the district. **In addition, or for the conversion of** an existing district school **may be converted** to a charter school **when deemed beneficial by the district and community.** (Education Code 47605, 47606, 53300)

**The district shall not require any district student to attend the charter school nor shall it require any district employee to work at the charter school. (Education Code 47605)**

Any petition for a start-up charter school or conversion charter school shall include all components and signatures required by law and shall be submitted to the Board. The Superintendent or designee shall consult with legal counsel, as appropriate, regarding compliance of the charter **proposals petition** with legal requirements.

The Superintendent or designee may work with charter school petitioners prior to the formal submission of the petition in order to ensure compliance of the petition with legal requirements. As needed, **he/she also the Superintendent or designee** may **also** meet with the petitioners to establish workable plans for technical assistance or contracted services which the district may provide to the proposed charter school.

Within 30 days of receiving a petition to establish a charter school, the Board shall hold a public hearing to determine the level of support for the petition by teachers, other employees of the district, and parents/guardians. (Education Code 47605)

*(cf. 9320 - Meetings and Notices)*

Within 60 days of receiving a petition, or within 90 days with mutual consent of the petitioners and the Board, the Board shall either approve or deny the request to establish the charter school. (Education Code 47605)

The approval or denial of a charter petition shall not be controlled by collective bargaining agreements nor subject to review or regulation by the Public Employment Relations Board. (Education Code 47611.5)

**CHARTER SCHOOL AUTHORIZATION** (continued)**Approval of Petition**

**Note:** Education Code 47605 requires the Board to give preference to charter petitions that demonstrate the capability to provide comprehensive learning experiences to students identified by the petitioner as academically low achieving based on the standards established by the California Department of Education (CDE) pursuant to Education Code 54032, as that section read before July 19, 2006. Prior to its repeal on that date, Education Code 54032 required the CDE to develop standards to identify students as academically low achieving for purposes of allocating Economic Impact Aid funds to school sites. However, the Economic Impact Aid program is no longer funded or administered by CDE.

The Board shall approve the charter petition if doing so is consistent with sound educational practice. In granting charters, the Board shall give preference to **schools best able petitions that demonstrate the capability** to provide comprehensive learning experiences for **students who are identified by the petitioner as** academically low-achieving **students according to standards established by the California Department of Education (CDE) under Education Code 54032.** (Education Code 47605)

~~The Board may initially grant a charter for a specified term not to exceed five years. (Education Code 47607)~~

~~(cf. 0420.42 – Charter School Renewal)~~

~~(cf. 0420.43 – Charter School Revocation)~~

**Note:** Pursuant to Education Code 47604.1, as added by SB 126 (Ch. 3, Statutes of 2019), charter schools are subject to the Brown Act (Government Code 54950-54963), California Public Records Act (Government Code 6250-6270), conflict of interest laws (Government Code 1090-1099), and the Political Reform Act (Government Code 81000-91014). 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 government agencies including charter schools.

The Board shall **ensure verify** that any approved charter contains adequate processes and measures for holding the school accountable for **complying with applicable law, including Education Code 47604.1, and for** fulfilling the terms of its charter. These shall include, but are not limited to, fiscal accountability systems, multiple measures for evaluating the educational program, including student outcomes aligned with state priorities as described in Education Code 52060, and regular reports to the Board.

*(cf. 0420.41 - Charter School Oversight)*

**Note:** The following **optional** paragraph may be revised to reflect district practice. Although not required by law, CSBA's publication Charter Schools: A Guide for Governance Teams recommends one or more memoranda of understanding (MOUs) to address matters that are related to the charter petition but are not included in the petition, and to establish expectations for which the charter school can be held accountable. CSBA's manual provides examples of issues pertaining to business operations, administrative and support services, special education, and student assessment that might be addressed in an MOU.

**CHARTER SCHOOL AUTHORIZATION** (continued)

A sample MOU between SBE and a state-approved charter school, available on CDE's web site, may be adapted for use by districts.

The Board may approve one or more memoranda of understanding to clarify the financial and operational agreements between the district and the charter school. Any such memorandum of understanding shall be annually reviewed by the Board and charter school governing body and amended as necessary.

The Board may initially grant a charter for a specified term not to exceed five years. (Education Code 47607)

*(cf. 0420.42 - Charter School Renewal)*

*(cf. 0420.43 - Charter School Revocation)*

It shall be the responsibility of the petitioners to provide written notice of the Board's approval and a copy of the charter to the County Superintendent of Schools, the **California Department of Education CDE**, and the State Board of Education (SBE). (Education Code 47605)

**Denial of Petition**

**The Board shall deny any charter petition that:**

**Note: Education Code 47604, as amended by AB 406 (Ch. 291, Statutes of 2018), prohibits a petition submitted on or after July 1, 2019 from providing for the operation of a charter school as or by a for-profit corporation or organization. Also see BP 0420.42 - Charter School Renewal.**

- 1. Proposes to operate a charter school as or by a for-profit corporation, a for-profit educational management organization, or a for-profit charter management organization (Education Code 47604)**

~~Note: Education Code 47605 provides that a district cannot approve a charter school serving students in a grade level not offered by the district unless the charter school also serves all the grade levels offered by the district. Thus, an elementary district cannot approve a charter for a high school, but may approve a charter for a K-12 school since it includes all grade levels served by the district.~~

- 2. ~~The Board shall deny any petition to a~~ Authorizes the conversion of a private school to a charter school. (Education Code 47602)**

~~Note: Education Code 47605 provides that a district cannot approve a charter school serving students in a grade level not offered by the district unless the charter school also serves all the grade levels offered by the district. Thus, an elementary district cannot approve a charter for a high school, but may approve a charter for a K-12 school since it includes all grade levels served by the district.~~

## CHARTER SCHOOL AUTHORIZATION (continued)

- 3.** ~~The Board shall also deny any petition for a charter that p~~Proposes to serve students in a grade level that is not served by the district, unless the petition proposes to serve students in all the grade levels served by the district. (Education Code ~~47602,~~ 47605)

Note: Pursuant to Education Code 47605, a charter petition can be denied only if certain factual findings are made, as specified in items #1-6 below. ~~AB 1360 (Ch. 760, Statutes of 2017) amended Education Code 47605 to add that a petition may be denied if the petition does not include a declaration as to whether or not the charter school will be deemed the exclusive public school employer of the school's employees for purposes of collective bargaining, as provided in item #6 below. 5 CCR 11967.5.1, which contains criteria that the SBE must consider in reviewing for SBE's review of~~ charter petitions, ~~which~~ may be useful to the district in determining how it might evaluate whether a petition meets the conditions specified in items #1-6 below.

Any other charter petition shall be denied only if the Board makes written factual findings specific to the petition that one or more of the following conditions exist: (Education Code 47605)

1. The charter school presents an unsound educational program for the students to be enrolled in the charter school.
2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
3. The petition does not contain the number of signatures required.
4. The petition does not contain an affirmation of each of the conditions described in Education Code 47605(d).
5. The petition does not contain reasonably comprehensive descriptions of the charter provisions in Education Code 47605(b).
6. The petition does not contain a declaration as to whether or not the charter school shall be deemed the exclusive public school employer of the school's employees for purposes of collective bargaining pursuant to Government Code 3540-3549.3.

The Board shall not deny a petition based on the actual or potential costs of serving students with disabilities, nor shall it deny a petition solely because the charter school might enroll students with disabilities who reside outside the special education local plan area in which the district participates. (Education Code 47605.7, 47647)

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

If the Board denies a petition, the petitioners may choose to submit the petition to the County Board of Education and, if then denied by the County Board, to ~~the~~ SBE. (Education Code 47605)



## CHARTER SCHOOL AUTHORIZATION (continued)

### Legal Reference:

#### EDUCATION CODE

200 *Equal rights and opportunities in state educational institutions*

220 *Nondiscrimination*

17078.52-17078.66 *Charter schools facility funding; state bond proceeds*

17280-17317 *Field Act*

17365-17374 *Field Act, fitness for occupancy*

**32282 *Comprehensive safety plan***

33126 *School Accountability Report Card*

41365 *Charter school revolving loan fund*

42238.51-42238.2 *Funding for charter districts*

44237 *Criminal record summary*

44830.1 *Certificated employees, conviction of a violent or serious felony*

45122.1 *Classified employees, conviction of a violent or serious felony*

46201 *Instructional minutes*

47600-47616.7 *Charter Schools Act of 1992*

47640-47647 *Special education funding for charter schools*

47650-47652 *Funding of charter schools*

49011 *Student fees*

51745-51749.6 *Independent study*

52052 *Accountability: numerically significant student subgroups*

52060-52077 *Local control and accountability plan*

56026 *Special education*

56145-56146 *Special education services in charter schools*

#### 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***

#### CODE OF REGULATIONS, TITLE 5

11700.1-11705 *Independent study*

11960-11968.5.5 *Charter schools*

#### **CODE OF REGULATIONS, TITLE 24**

~~Part 2 *California Building Standards Code*~~

#### UNITED STATES CODE, TITLE 20

7223-7225 *Charter schools*

#### 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)

## CHARTER SCHOOL AUTHORIZATION (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 1: Managing the Petition Review Process, Governance Brief, November 2016

Charter Schools and Board Member Responsibilities, Education Insights Legal Update Webcast, March 2016

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

**Charter School Facilities and Proposition 39: Legal Implications for School Districts, 2005**

#### CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Sample Copy of a Memorandum of Understanding

**Charter School Authorization: Guidance and Technical Assistance for Prospective Charter School Authorizers, Webinar 2014**

#### U.S. DEPARTMENT OF EDUCATION **GUIDANCE PUBLICATIONS**

Dear Colleague Letter: Guidance Regarding the Oversight of Charter Schools Program and Regulatory Requirements, including the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, August 2016

Charter Schools Program: **Title V, Part B of the ESEA, Nonregulatory Guidance**, January 2014

Guidance on the Voluntary Use of Race to Achieve Diversity and Avoid Racial Isolation in Elementary and Secondary Schools, December 2011

**Applying Federal Civil Rights Laws to Public Charter Schools: Questions and Answers, May 2000**

#### WEB SITES

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

California Charter Schools Association: <http://www.catcharters.orgccsa.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 Administrative Regulation

## Philosophy, Goals, Objectives, and Comprehensive Plans

AR 0420.4(a)

## CHARTER SCHOOL AUTHORIZATION

Note: The following administrative regulation is **optional**.

### Petition Signatures

A petition for the establishment of a start-up charter school must be signed by either of the following: (Education Code 47605)

1. A number of parents/guardians equivalent to at least one-half of the number of students that the charter school estimates will enroll in the school for its first year of operation
2. A number of teachers equivalent to at least one-half of the total number of teachers that the charter school estimates will be employed at the school during its first year of operation

If the charter petition calls for an existing public school to be converted to a charter school, the petition must be signed by at least 50 percent of the permanent status teachers currently employed at the school. (Education Code 47605)

*(cf. 4116 - Probationary/Permanent Status)*

~~In circulating a petition, the petitioners~~ **Any petition circulated to collect signatures** shall include a prominent statement explaining that a parent/guardian's signature means that the parent/guardian is meaningfully interested in having **his/her a** child attend the charter school or, in the case of a teacher's signature, that the teacher is meaningfully interested in teaching at the charter school. The proposed charter shall be attached to the petition. (Education Code 47605)

### Advisory Committee

Note: The following **optional** section may be revised to reflect district practice. CSBA's publication Charter Schools: A Guide for Governance Teams suggests that a petition review team is one method that a district may use to obtain input on proposed charters. Such a committee might include representatives of the district's human resources, fiscal services, risk management, student services, curriculum, special education, facilities, and other departments.

~~At his/her discretion, t~~**The** Superintendent or designee may establish a staff advisory committee to evaluate the completeness of a charter petition based on the requirements in Education Code 47605 and to identify any concerns that should be addressed by the petitioners.

**CHARTER SCHOOL AUTHORIZATION** (continued)

(cf. 2230 - Representative and Deliberative Groups)

**Components of Charter Petition**

Note: CSBA's publication Charter Schools: A Guide for Governance Teams recommends specific content that would constitute a reasonably comprehensive description of each component listed in items #1-16 below, as well as recommendations for additional content that is not may be requested, but not required, but may be requested of the petitioners (e.g., school calendar, transportation arrangements, a sample of the curriculum and instructional materials).

The charter petition shall include affirmations that the charter school will be nonsectarian in its programs, admission policies, employment practices, and operations; **will** not charge tuition; and **will** not discriminate against a student on the basis of characteristics listed in Education Code 220. ~~If~~ **The petition** shall also contain reasonably comprehensive descriptions of: (Education Code 47605, ~~47611.5~~)

1. The educational program of the proposed school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an "educated person" in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling students to become self-motivated, competent, and lifelong learners.

Note: Education Code 47605 requires the charter petition to include annual goals for all students and for each numerically significant subgroup of students, as defined, and specific actions to achieve those goals as described in Education Code 52060. Pursuant to Education Code 52052, a numerically significant subgroups 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. For schools with 11-99 students, numerically significant student subgroups are defined by the Superintendent of Public Instruction with approval by the State Board of Education (SBE).

Education Code 47605 requires that these annual goals be 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 the local control funding formula); and (8) student outcomes in the specified course of study. See BP/AR 0460 - Local Control and Accountability Plan.

~~Unlike districts, charter schools are exempt from the requirements to solicit public comment, hold public hearings, and have their plans approved by the county office of education.~~

The petition shall include a description of **the charter school's** annual goals for all students and for each numerically significant subgroup of students identified pursuant to Education Code 52052, including ethnic subgroups, socioeconomically

**CHARTER SCHOOL AUTHORIZATION** (continued)

disadvantaged students, English learners, students with disabilities, foster youth, and homeless students. These goals shall be aligned with the state priorities listed in Education Code 52060 that apply to the grade levels served or the nature of the program operated by the charter school. The petition also shall describe specific annual actions to achieve those goals. The petition may identify additional priorities established for the proposed school, goals aligned with those priorities, and specific annual actions to achieve those goals.

(cf. 0420.41 - Charter School Oversight)

(cf. 0460 - Local Control and Accountability Plan)

If the proposed **charter** school will serve high school students, the petition shall describe the manner in which the school will inform parents/guardians about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered transferable, and courses approved by the University of California or the California State University as creditable under the "a-g" admissions criteria may be considered to meet college entrance requirements.

Note: Education Code 47605 requires that the petition identify student outcomes that the charter school intends to use, including those that address increases in student achievement both schoolwide and for all groups of students served by the charter school, as defined in Education Code 47607. Education Code 47607 defines "all groups of students served by the charter school" to mean all numerically significant subgroups of students served by the charter school, as defined in Education Code 52052, served by the charter school.

2. The measurable student outcomes identified for use by the charter school. *Student outcomes* means the extent to which all students of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program, including outcomes that address increases in student academic achievement both schoolwide and for each numerically significant subgroup of students served by the charter school. The student outcomes shall align with the state priorities identified in Education Code 52060 that apply for the grade levels served or the nature of the program operated by the charter school.
3. The method by which student progress in meeting the identified student outcomes is to be measured. To the extent practicable, the method for measuring student outcomes for state priorities shall be consistent with the way information is reported on a school accountability report card.

(cf. 0510 - School Accountability Report Card)

4. The governance structure of the **charter** school, including, but not limited to, the process to be followed by the school to ensure parent/guardian involvement.

**CHARTER SCHOOL AUTHORIZATION** (continued)

5. The qualifications to be met by individuals to be employed by the **charter** school.

**Note: AB 1747 (Ch. 806, Statutes of 2018) amended Education Code 47605 to add a requirement that the charter petition include provisions for the development and annual update of a school safety plan.**

6. The procedures that the **charter** school will follow to ensure the health and safety of students and staff, including the **following** requirements **that:**

**a. Each **charter** school employee **shall** furnish the school with a criminal record summary as described in Education Code 44237.**

**b. The charter school shall develop a school safety plan which includes the topics listed in Education Code 32282(a)(2)(A)-(H) and procedures for conducting tactical responses to criminal incidents.**

**c. The charter school's safety plan shall be reviewed and updated by March 1 each year.**

7. The means by which the **charter** school will achieve a racial and ethnic balance among its students that is reflective of the general population residing within the district's territorial jurisdiction.

**Note: Pursuant to Education Code 47605, when the number of students who wish to attend the charter school exceeds the school's capacity, attendance must be determined by a public random drawing, with admission preference extending to students who currently attend the charter school and students who reside in the district. ~~As amended by AB 1360 (Ch. 760, Statutes of 2017),~~ Education Code 47605 provides that admission preferences may also include, but are not limited to, siblings of students admitted or attending the charter school and children of the school's teachers, staff, and founders identified in the initial charter. Education Code 47605, ~~as amended,~~ requires that the priority order for preference be determined in the charter petition as provided below.**

8. The charter school's student admission policy. The petition shall, in accordance with Education Code 47605(d), specify procedures for determining enrollment when the number of applicants exceeds the school's capacity, including requirements for the use of a public random drawing, admission preferences, and priority order of preferences as required by law and subject to **Governing** Board approval.

9. The manner in which annual, independent financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the Board's satisfaction.

**Note: Education Code 47605, as amended by AB 1360 (Ch. 760, Statutes of 2017), requires the petition to contain a comprehensive description of procedures by which a student can be suspended, expelled, or otherwise removed from the school, including how the school will comply with specified federal and state constitutional due process requirements.**

**CHARTER SCHOOL AUTHORIZATION** (continued)

10. The procedures by which students can be suspended or expelled for disciplinary reasons or otherwise involuntarily removed for any reason, including an explanation of how the charter school will comply with federal and state constitutional procedural and substantive due process requirements as specified in Education Code 47605(b). Such procedures shall also include processes by which the charter school will notify the superintendent of a district and request to be notified by a district about a student when the circumstances specified in Education Code 47605(d) exist.
11. The manner by which staff members of the charter school will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.
12. The public school attendance alternatives for students residing within the district who choose to not attend the charter school.
13. A description of the rights of any district employee upon leaving district employment to work in the charter school and of any rights of return to the district after employment at the charter school.
14. The procedures to be followed by the charter school and the Board to resolve disputes relating to charter provisions.

Note: Education Code 47605 requires charter petitions to contain the declaration specified in item #15 below regarding responsibilities for collective bargaining. If the charter school is not deemed the public school employer for purposes of collective bargaining under Government Code 3540-3549.3, the district where the charter school is located shall be deemed the public school employer for these purposes, pursuant to Education Code 47611.5. Education Code 47611.5 further provides that, if the charter does not specify that the charter school shall comply with laws and regulations governing tenure or a merit or civil service system, the scope of representation for that charter school shall also include discipline and dismissal of charter school employees.

15. A declaration as to whether or not the charter school ~~shall~~ **will** be deemed the exclusive public school employer of the school's employees for purposes of collective bargaining under Government Code 3540-3549.3.

Note: Education Code 47605 and 5 CCR 11962 require the charter petition to include procedures to be used in the event that the charter school closes for any reason, as provided in item #16 below. Duties of the district pertaining to charter school closures include notification requirements pursuant to Education Code 47604.32 and 5 CCR 11962.1; see BP 0420.41 - Charter School Oversight.

16. **Consistent with 5 CCR 11962, the** ~~The~~ procedures to be used if the charter school closes, including, but not limited to: ~~(5 CCR 11962)~~
  - a. Designation of a responsible entity to conduct closure-related activities



**CHARTER SCHOOL AUTHORIZATION** (continued)

- b. Notification to parents/guardians, the Board, the county office of education, the special education local plan area in which the **charter** school participates, the retirement systems in which the school's employees participate, and the California Department of Education, providing at least the following information:
  - (1) The effective date of the closure
  - (2) The name(s) and contact information of the person(s) to whom reasonable inquiries may be made regarding the closure
  - (3) The students' districts of residence
  - (4) The manner in which parents/guardians may obtain copies of student records, including specific information on completed courses and credits that meet graduation requirements
- c. Provision of a list of students at each grade level, the classes they have completed, and their districts of residence to the responsible entity designated in accordance with item #16a above
- d. Transfer and maintenance of all student records, all state assessment results, and any special education records to the custody of the responsible entity designated in accordance with item #16a above, except for records and/or assessment results that the charter may require to be transferred to a different entity
- e. Transfer and maintenance of personnel records in accordance with applicable law
- f. Completion of an independent final audit within six months after the closure of the **charter** school that includes an accounting of all financial assets and liabilities pursuant to 5 CCR 11962 and an assessment of the disposition of any restricted funds received by or due to the school
- g. Disposal of any net assets remaining after all liabilities of the **charter** school have been paid or otherwise addressed pursuant to 5 CCR 11962
- h. Completion and filing of any annual reports required pursuant to Education Code 47604.33
- i. Identification of funding for the activities identified in item #16a-h above



## CHARTER SCHOOL AUTHORIZATION (continued)

Note: Education Code 47605 requires that petitioners provide to the Governing Board the information listed in items #1-4 below. The Board may require additional information.

As outlined in CSBA's publication Charter Schools: A Guide for Governance Teams, some districts request a school calendar, information regarding transportation arrangements, staff development plans, assurances that the school will provide appropriate services for English language learners and students with disabilities, or any other information that will assist the Board in understanding the proposal. Districts that wish to require additional information in the charter may list those items below.

Charter school petitioners shall provide information to the Board regarding the proposed operation and potential effects of the school, including, but not limited to: (Education Code 47605)

Note: Education Code 47605 requires that information on school facilities, listed in item #1 below, must specify where the school intends to locate. Unless otherwise exempted, the school must be located within the geographic boundaries of the chartering district; see section "Location of Charter School" below.

1. The facilities to be used by the **charter** school, including where the school intends to locate

(cf. 7160 - Charter School Facilities)

2. The manner in which administrative services of the **charter** school are to be provided
3. Potential civil liability effects, if any, upon the **charter** school and district
4. Financial statements that include a proposed first-year operational budget, including start-up costs and cash-flow and financial projections for the first three years of operation

### Location of Charter School

Note: Education Code 47605 and 47605.1 establish geographic and site requirements for charter schools. Pursuant to Education Code 47605, a charter school granted by either the County Board of Education or the **SBE State Board of Education** following initial denial by the district **also** must locate within the geographic boundaries of the district that denied the petition.

The Attorney General has opined, in 89 Ops.Cal.Atty.Gen. 166 (2006), that online charter schools are subject to the restrictions and conditions placed upon independent study programs, including the requirement that students reside in the charter school's home county or an adjacent county.

Unless otherwise exempted by law, the charter petition shall identify a single charter school that will operate within the geographic boundaries of the district. A charter school may propose to operate at multiple sites within the district as long as each location is identified in the petition. (Education Code 47605, 47605.1)

**CHARTER SCHOOL AUTHORIZATION** (continued)

A charter school that is unable to locate within the district's jurisdictional boundaries may establish one site outside district boundaries but within the county, provided that: (Education Code 47605, 47605.1)

1. The district is notified prior to approval of the petition.
2. The County Superintendent of Schools and Superintendent of Public Instruction are notified before the charter school begins operations.
3. The charter school has attempted to locate a single site or facility to house the entire program but such a facility or site is unavailable in the area in which the school chooses to locate, or the site is needed for temporary use during a construction or expansion project.

A charter school may establish and locate a resource center, meeting space, or other satellite facility in an adjacent county if both of the following conditions are met: (Education Code 47605.1)

1. The facility is used exclusively for the educational support of students who are enrolled in nonclassroom-based independent study of the charter school.
2. The charter school provides its primary educational services in, and a majority of the students it serves are residents of, the county in which the school is authorized.

(10/15 12/17) 5/19

# CSBA Sample

## Board Policy

Community Relations

BP 1312.1(a)

### COMPLAINTS CONCERNING DISTRICT EMPLOYEES

**Note:** The following Board policy may be subject to collective bargaining and should be revised to reflect district practice. See the accompanying administrative regulation for a sample complaint procedure.

The Governing Board accepts responsibility for providing a means by which the public can hold employees accountable for their actions. The Board desires that complaints be resolved expeditiously without disrupting the educational process. The Governing Board recognizes its accountability to the public for the quality of the district's educational program and the performance of district employees. The district shall provide a process by which a complaint submitted by any person regarding an employee can be resolved impartially, expeditiously, and with minimal disruption to district operations and the educational program.

*(cf. 4119.21/4219.21/4319.21 - Professional Standards)*

**Note:** In Baca v. Moreno Valley Unified School District, a federal district court found that a district policy barring criticism of employees at public board meetings violated the plaintiff's First Amendment rights by restricting the content of speech. The court further noted that the district could not legally prevent a person from speaking in open session, even if the speech was clearly defamatory. Thus, although the Governing Board may inform the speaker of appropriate district complaint procedures, it cannot prohibit public criticism of district employees. See BB 9323 - Meeting Conduct.

When a concern regarding an employee is presented during a Board meeting or to an individual Board member or employee outside of a Board meeting, the complainant shall be informed of the appropriate complaint procedure.

*(cf. 9323 - Meeting Conduct)*

The Superintendent or designee shall develop regulations which permit the public to submit complaints against district employees in an appropriate way. These regulations shall protect the rights of involved parties. The Board may serve as an appeals body if the complaint is not resolved.

*(cf. 1312.2 - Complaints Concerning Instructional Materials)*

*(cf. 1312.3 - Uniform Complaint Procedures)*

*(cf. 3515.2 - Disruptions)*

**COMPLAINTS CONCERNING DISTRICT EMPLOYEES** (continued)

The Superintendent or designee shall determine whether a complaint **against any other employee** should be considered a complaint against the district and/or an individual employee, and whether it should be resolved by the district's process for complaints concerning personnel and/or other district procedures. Any complaint of child abuse or neglect alleged against a district employee shall be reported to the appropriate local agencies in accordance with law, ~~Board policy, and administrative regulation~~ **and BP 5141.4 - Child Abuse Prevention and Reporting. Any complaint alleging that an employee engaged in unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) in district programs and activities shall be filed in accordance with BP/AR 1312.3 - Uniform Complaint Procedures. Any complaint by an employee, job applicant, volunteer, intern, or independent contractor alleging unlawful discrimination or harassment by an employee shall be filed in accordance with AR 4030 - Nondiscrimination in Employment.**

*(cf. 1312.2 - Complaints Concerning Instructional Materials)*

*(cf. 1312.3 - Uniform Complaint Procedures)*

*(cf. 3555 - Nutrition Program Compliance)*

*(cf. 4030 - Nondiscrimination in Employment)*

*(cf. 4144/4244/4344 - Complaints)*

*(cf. 5141.4 - Child Abuse Prevention and Reporting)*

*(cf. 5145.3 - Nondiscrimination/Harassment)*

*(cf. 5145.7 - Sexual Harassment)*

**Note: The following paragraph may be revised to reflect district practice. It is recommended that districts investigate all complaints, including those submitted anonymously, since failure to do so may subject the district to liability depending on the nature of the allegation. For example, the district can be held liable for civil damages for the sexual harassment of a student by an employee if the district is found to have been "deliberately indifferent" in its response to a complaint; see BP 5145.7 - Sexual Harassment.**

The Board prohibits retaliation against complainants. The Superintendent or designee at his/her discretion may keep a complainant's identity confidential, except to the extent necessary to investigate the complaint. The district will not investigate anonymous complaints unless it so desires.

**Appeals**

**Note: The following optional section is for use by districts that allow appeals to the Board and may be revised to reflect district practice.**

**COMPLAINTS CONCERNING DISTRICT EMPLOYEES** (continued)

**If either the complainant or the employee submits an appeal of the Superintendent's decision to the Board, the Board shall determine whether to uphold the Superintendent's decision without hearing the complaint, appoint an appeals committee to advise the Board, or hear the appeal itself.**

*(cf. 9130 - Board Committees)*

Note: Government Code 54957 authorizes the use of closed session for hearing **specific complaints or charges** against employees, **unless the employee requests an open session**. For detailed procedures and **notice requirements**, see BB 9321 - Closed Session Purposes and Agendas.

~~The Board may decide to uphold the Superintendent's decision without hearing the complaint.~~ **If the Board decides to hear the complaint, the matter shall be addressed in closed session in accordance with law Government Code 54957 unless the employee requests that it be heard in open session. The Board shall review the original complaint and additional information provided by the Superintendent or designee regarding the steps taken to resolve the issue.**

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

*(cf. 9323 - Meeting Conduct)*

**The Board's decision shall be final.**

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

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

~~Note: Education Code 44811 makes it a misdemeanor for a parent/guardian or other person to materially disrupt classwork or extracurricular activities or cause substantial disorder in a place where a school employee is required to be in the course of his/her duties. This misdemeanor is punishable by a fine, imprisonment or both.~~

*Legal Reference: (see next page)*

## COMPLAINTS CONCERNING DISTRICT EMPLOYEES (continued)

### *Legal Reference:*

#### EDUCATION CODE

33308.1 *Guidelines on procedure for filing child abuse complaints*

35146 *Closed sessions*

44031 *Personnel file contents and inspection*

44811 *Disruption of public school activities*

44932-44949 *Resignation, dismissal and leaves of absence (rights of employee; procedures to follow)*

48987 *Child abuse guidelines*

#### GOVERNMENT CODE

54957 *Closed session; complaints re employees*

54957.6 *Closed session; salaries or fringe benefits*

#### PENAL CODE

273 *Cruelty or unjustifiable punishment of child*

11164-11174.3 *Child Abuse and Neglect Reporting Act*

#### WELFARE AND INSTITUTIONS CODE

300 *Minors subject to jurisdiction of juvenile court*

#### COURT DECISIONS

***Baca v. Moreno Valley Unified School District, (1996) 936 F. Supp. 719***

### *Management Resources:*

#### CDE LEGAL ADVISORIES

***0910.93 Guidelines for parents to report suspected child abuse by school district employees or other persons against a pupil at school site (LO:4 93)***

# CSBA Sample

## Board Policy

Business and Noninstructional Operations

BP 3250(a)

### TRANSPORTATION FEES

Note: The following ~~optional~~ policy and regulation are for use only by districts that **provide transportation services to students and** choose to charge a fee for **transportation such** services as authorized by **law** Education Code 39807.5. ~~The California Supreme Court (Arcadia Unified School District et al v. State Department of Education) has ruled that Education Code 39807.5 does not violate the free school guarantee or the equal protection clause of the State Constitution.~~ **In addition to charging a fee for home-to-school transportation as authorized by Education Code 39807.5, the Governing Board may approve a fee for transportation of students to a regional occupational center or program pursuant to Education Code 39807.5, transportation for adult students pursuant to Education Code 39801.5, transportation of students to and from their place of summer employment in connection with a summer employment program for youth pursuant to Education Code 39837, and/or transportation for participants in a community recreation program pursuant to Education Code 10913 and 39835. See the accompanying administrative regulation.**

~~Because~~ **Whenever** the cost of providing student transportation exceeds funding provided by the state, the Governing Board ~~finds it necessary to~~ **may** charge fees for home-to-school student transportation **and other transportation services as expressly authorized by law.**

*(cf. 3260 - Fees and Charges)*

*(cf. 3540 - Transportation)*

The Superintendent or designee shall annually submit proposed transportation fee schedules for Board approval. ~~Fees shall be determined on the basis of operating costs in accordance with law.~~

Note: ~~If the district charges transportation fees, Education Code 39807.5 mandates the Board to adopt rules and regulations for identifying parents/guardians who are "indigent" and therefore exempt from these fees based on financial need.~~ The following ~~optional~~ paragraph ~~calls for~~ **provides for the use of** applications that parallel those used for the free and reduced-price ~~lunch~~ meal program, **and may be revised to reflect district practice.** Because Education Code 49557-49558 provide that applications and records related to free and reduced-price meal eligibility are confidential and may only be used for specified purposes, districts are advised to require a separate application for free transportation and take further measures, as described below, to ensure the privacy of program beneficiaries.

**The transportation fee shall be waived for students with demonstrated financial need in accordance with Education Code 39807.5.** Eligibility for free transportation based on ~~indigency~~ **financial need** shall be ~~based on~~ **determined in accordance with** the income eligibility scales used for the free and reduced-price lunch program ~~and/or proof of receipt of Temporary Assistance to Needy Families (TANF).~~

*(cf. 3553 - Free and Reduced Price Meals)*

## TRANSPORTATION FEES (continued)

Note: ~~Education Code 39807.5 requires the Board to exempt from transportation charges "handicapped students" and students whose parents/guardians are indigent., as set forth in rules and regulations adopted by the Board. Pursuant to Education Code 39807.5, eligible students with disabilities must also be exempted from transportation fees. The California Department of Education's Fiscal Management Advisory 17-01, Pupil Fees, Deposits, and Other Charges, interprets~~ The State Board of Education has issued an advisory, Program Advisory LO: 2-95, interpreting Education Code 39807.5, which urges Boards to exempt from the fee only those "handicapped"/special education students **with disabilities** whose individualized education program (IEP) requires that transportation be provided. ~~This policy and administrative regulation reflect the interpretation offered in that advisory.~~

**In addition, no** ~~No~~ charge shall be made for any transportation of **a students with a disability** whose individualized education program **includes transportation as a related service necessary to receive a free appropriate public education** ~~requires transportation or whose parents/guardians are determined indigent pursuant to administrative regulations. (Education Code 39807.5)~~

~~(cf. 3540 - Transportation)~~

~~(cf. 3541.2 - Transportation for Students with Disabilities)~~

~~(cf. 6159 - Individualized Education Program)~~

The ~~Governing~~ Board shall certify to the County Superintendent of Schools that the district has levied fees in accordance with law and that, in the event that excess fees have been charged, the fees have been reduced and excess fee revenue eliminated. (Education Code 39809.5)

*Legal Reference: (see next page)*



## TRANSPORTATION FEES (continued)

### Legal Reference:

#### EDUCATION CODE

##### **10900-10914.5 Community recreation program, especially:**

10913 Fees for uses of school buses for community recreation purposes

35330 Excursions or field trips

39800-39860 Transportation, especially:

39801.5 Transportation fees for adults

39807.5 Payment of transportation cost; amount of payment

39809.5 Excess fees; adjustments

39837 Fees for summer employment transportation

41850 Home-to-school and special education transportation

##### **49014 Public School Fair Debt Collection Act**

49557-49558 Applications for free and reduced-price meals

~~49558 Confidentiality of applications and records~~

56026 Individuals with exceptional needs

#### CODE OF REGULATIONS, TITLE 5

350 Fees not permitted

#### CODE OF FEDERAL REGULATIONS, TITLE 7

~~245.8(a) Nondiscrimination practices for children eligible to receive free and reduced-price meals and free milk~~

#### COURT DECISIONS

*Arcadia Unified School District et al v. State Department of Education*, 2 Cal. 4th 251 (1992)

*Hartzell v. Connell*, 35 Cal.3d 899 (1984)

### Management Resources:

#### CDE MANAGEMENT ADVISORIES

~~0619.92 Fees for Pupil Transportation (#92-05)~~

#### CDE PROGRAM ADVISORIES

~~0609.95 School transportation fee exemption for handicapped children and pupils whose parents or guardians are indigent (LO: 2-95)~~

#### CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

***Pupil Fees, Deposits and Other Charges, Fiscal Management Advisory 17-01, July 28, 2017***

#### 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 3250(a)

## TRANSPORTATION FEES

### Fee Schedule and Collection

Transportation fees charged by the district shall not exceed the statewide average nonsubsidized cost of providing such transportation to a student on a publicly owned or operated transit system, as determined by the Superintendent of Public Instruction. (Education Code 39807.5)

The total amount received by the district from the state and parent/guardian fees shall not exceed the actual operating cost of home-to-school transportation during the fiscal year. If excess fees are collected due to errors in estimated costs, fees shall be reduced in succeeding years. (Education Code 39809.5)

The Governing Board shall certify to the County Superintendent of Schools that the district has levied fees in accordance with law and that, in the event that excess fees have been charged, the fees have been reduced and excess fee revenue eliminated. (Education Code 39809.5)

Bus passes and tickets shall be sold at all district schools and at the district office. No money shall be collected on school buses.

### Fees for Additional Services

Note: The following ~~section~~ **optional administrative regulation** should be revised to reflect transportation services provided by the district **for which fees will be charged**; see AR 3541—~~Transportation Routes and Services~~.

Pursuant to 5 CCR 350, students must not be required to pay any fee, deposit, or other charge not specifically authorized by law. Districts should consult legal counsel before establishing any transportation fee not listed below.

In Hartzell v. Connell, the California Supreme Court ruled that districts may not charge students to participate in extracurricular activities, but did not speak directly to transportation. There is no law which directly permits a district to charge a fee for transportation to and from extracurricular activities. It could be argued that transportation is not an integral part of an extracurricular activity. However, absent any case law, legislation, or regulation authorizing fees for transportation to extracurricular activities or for any other activity not specifically enumerated as permitting fees to be charged, districts desiring to charge such fees should consult with legal counsel.

~~In addition to charging fees for home-to-school transportation provided in accordance with Education Code 39800, When approved by the Governing Board, the district shall may~~

**TRANSPORTATION FEES** (continued)

charge **transportation** fees for students traveling to and from **school**. (**Education Code 39807.5**) ~~their places of employment during the summer in connection with a summer employment program for youth. (Education Code 39837)~~

*(cf. 3540 - Transportation)*

*(cf. 3541 - Transportation Routes and Services)*

**With Board approval, the** ~~The~~ district may also charge **transportation** fees for:

**Note: Pursuant to Education Code 10901, the community recreation programs described in item #1 below are programs that are sponsored by a nonprofit organization for the benefit of disadvantaged school-age children or students with disabilities in a county with a population of 45,000 or less according to the most recent federal census.**

~~3.1.~~ **Participants in a cCommunity recreation program offered pursuant to as provided in Education Code 39835 10900-10914.5 (Education Code 10913, 39835)**

**Note: Items #2-4 are for use by districts that maintain high schools.**

~~1.2.~~ **Students traveling to-between the regular full-time schools they would attend and the regular full-time occupational classes provided by a Rregional Ooccupational Program or Ccenter or program (ROC/P) (Education Code 39807.5)**

*(cf. 6178.2 - Regional Occupational Center/Program)*

~~2.3.~~ **Matriculated or enrolled adults traveling to and from school, or adults pursuing other educational purposes (Education Code 39801.5)**

**4.** **Students traveling to and from their places of employment during the summer in connection with a summer employment program for youth (Education Code 39837)**

~~3.~~ **Community recreation as provided in Education Code 39835 (Education Code 10913)**

*(cf. 3541 - Transportation Routes and Services)*

**Note: A CDE legal opinion states that districts may not charge students a fee for transportation to extracurricular activities. In a letter of September 3, 1992, the CDE General Counsel states, "5 CCR 350 prohibits school districts from requiring any fee, deposit or other charge not specifically authorized by law. There is no law which permits a school district to charge a fee for transportation to and from extracurricular activities." In Hartzell v. Connell, the California Supreme Court ruled that school districts may not charge students to participate in extracurricular activities, but did not speak directly to transportation. It could be**

**TRANSPORTATION FEES (continued)**

argued that transportation is not an integral part of an extracurricular activity. However, absent any case law, legislation or regulation authorizing fees for transportation to extracurricular activities or for any other activity not specifically enumerated as permitting fees to be charged, districts desiring to charge such fees should consult with legal counsel.

**Note:** Although Education Code 39807.5 requires any fee for home-to-school transportation or transportation to and from a regional occupational center or program to be no greater than the statewide average nonsubsidized cost of providing this transportation to a student on a publicly owned or operated transit system, as determined by the Superintendent of Public Instruction, this statewide average cost is no longer being calculated. Instead, districts must ensure that transportation fees, when combined with funding received from the state, do not exceed actual operating costs. Similarly, for the services described in items #1 and 3-4 above, the district is authorized pursuant to Education Code 10913, 39801.5, and 39837 to establish a reasonable fee covering all or parts of the costs of the services.

The total amount received by the district from the state and parent/guardian fees shall not exceed the actual operating cost of home-to-school transportation during the fiscal year. If excess fees are collected due to errors in estimated costs, fees shall be reduced in succeeding years. (Education Code 10913, 39801.5, 39809.5, 39837)

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

Bus passes and tickets shall be sold at all district schools and at the district office. No money shall be collected on school buses.

**Exemption from Fees**

**Note:** If the district charges transportation fees, Education Code 39807.5 mandates the Board to adopt rules and regulations for identifying parents/guardians who are indigent and therefore exempt from these fees. The following optional paragraph calls for applications that parallel those used for the free or reduced price lunch program, which the CDE, in Management Advisory 92-05, states is an acceptable practice. Because Education Code 49557-49558 provides that applications and records related to free or reduced price meal eligibility are confidential and may only be used for specified purposes, districts are advised to require a separate application for free transportation and take further measures, as described below, to ensure the privacy of program beneficiaries. The following section may be revised to reflect district practice.

Pursuant to Education Code 39807.5, the Governing Board is mandated to adopt criteria for parents/guardians to be exempted from transportation fees based on financial need; see the accompanying Board policy.

Eligibility for free transportation based on indigency shall be based on the income eligibility scales used for the free and reduced price lunch program and/or proof of receipt of Temporary Assistance to Needy Families (TANF).

*(cf. 3553—Free and Reduced Price Meals)*

## TRANSPORTATION FEES (continued)

**Upon enrollment and at the beginning of the each school year, and whenever a new student is enrolled, parents/guardians shall receive information about free transportation income eligibility standards, and application procedures for a waiver of the transportation fee and appeal procedures. All applications and related records related to eligibility for free transportation shall be confidential and used only for the purposes of determining a student's eligibility for a fee waiver. directly connected with the free transportation program.**

*(cf. 5145.6 - Parental Notifications)*

**All applications and records related to eligibility for free transportation shall be confidential and used only for purposes directly connected with the free transportation program.**

***(cf. 3553 - Free and Reduced Price Meals)***

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

*(cf. 5125 - Student Records)*

Students receiving free transportation shall not be identified by the use of special bus passes, tickets, lines, seats, or any other means. They shall in no way be treated differently from other students, nor shall their names be published, posted, or announced in any manner or used for any purpose other than the transportation program.

(12/92 10/97) 5/19

# CSBA Sample Board Policy

## Business and Noninstructional Operations

BP 3510(a)

### GREEN SCHOOL OPERATIONS

Note: The following **optional** policy may be revised to reflect district practice. ~~Districts are encouraged to review CSBA's policy brief, Green Schools: An Overview of Key Policy Issues, w~~When developing policy on ~~this topic, In addition, to ensure consistency,~~ **"green" school operations**, districts may want to review other related policies and administrative regulations **to ensure consistency** (e.g., BP/AR 3511 - Energy and Water Management, BP/AR 3511.1 - Integrated Waste Management, BP/AR 3514 - Environmental Safety, BP/AR 3514.1 - Hazardous Substances, AR 3514.2 - Integrated Pest Management, BP 6142.5 - Environmental Education, and BP/AR 7150 - Site Selection and Development).

The Governing Board believes ~~that all citizens have~~ **everyone has** a responsibility to be **a** stewards of the environment and desires to integrate environmental accountability into all district **programs and** operations. The Superintendent or designee shall **develop strategies to promote district use of "green" school principles and** practices ~~that in order to~~ conserve natural resources, reduce the impact of district operations on the environment, and protect the health of students, staff, and **the** community.

**In developing such strategies and assessing the environmental conditions in district facilities and operations, the** ~~The Superintendent or designee may~~ **shall** involve ~~district and site administrators and operations and maintenance staff at all levels and with varying job responsibilities, including administrators, certificated staff, and classified staff. As appropriate, the Superintendent or designee may also consult with health professionals; representatives of local governmental agencies, utilities, solid waste and recycling companies, and community organizations; health professionals; and/or others with expertise as appropriate. in the assessment of current district operations and the development of strategies to improve the environmental impact of district operations.~~

(cf. 1220 - Citizen Advisory Committees)

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

(cf. 7131 - Relations with Local Agencies)

In selecting and prioritizing strategies, the Superintendent or designee shall give consideration to **long-term potential cost savings, the initial costs, feasibility of implementation,** ~~long-term potential cost savings,~~ quality and performance of the product or service, health impacts, ~~and~~ environmental considerations, **and potential educational value.**

(cf. 3100 - Budget)

(cf. 3460 - Financial Reports and Accountability)

**Note: The following list includes optional strategies to minimize the impact of district operations on the environment and should be modified to reflect district practice.**

**Such District** strategies may include, but **are** not **be** limited to:

**GREEN SCHOOL OPERATIONS** (continued)

1. Reducing energy and water consumption, and exploring using renewable and clean energy technologies and alternatives when available

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

2. Establishing recycling programs in district facilities

*(cf. 3511.1 - Integrated Waste Management)*

3. Reducing the consumption of disposable materials, by reusing materials and by using electronic rather than paper communications when feasible

Note: The **U.S. Environmental Protection Agency**, California Department of General Services, Green Schools Initiative, Healthy Schools Campaign, and other groups provide information on environmentally preferable purchasing, including sources of environmentally preferable products.

4. ~~Purchasing and u~~Using environmentally preferable products and services whenever practical, including, but not limited to, products that:
  - a. Minimize environmental impacts, toxins, pollutants, odors, and hazards
  - b. Contain postconsumer recycled content
  - c. Are durable and long-lasting
  - d. Conserve energy and water
  - e. ~~Produce a low amount of~~ **Reduce** waste

*(cf. 3514 - Environmental Safety)*

*(cf. 3514.1 - Hazardous Substances)*

~~*(cf. 3514.2 - Integrated Pest Management)*~~

*(cf. 5141.23 - Asthma Management)*

5. Using least toxic, independently certified green cleaning products when feasible, as well as high-efficiency cleaning equipment that reduces the need to use chemicals
6. Providing professional development to maintenance staff in the proper use, storage, and disposal of cleaning supplies

*(cf. 4231 - Staff Development)*

7. **Using effective, least toxic pest management practices for the control and management of pests**

**GREEN SCHOOL OPERATIONS** (continued)

*(cf. 3514.2 - Integrated Pest Management)*

Note: ~~The Kindergarten-University Public Education Facilities Bond Act of 2006 (Proposition 1D) includes funding for High Performance Incentive grants to augment new construction and modernization projects that use designs and materials that promote energy and water efficiency, maximize the use of natural lighting, improve indoor air quality, use recycled materials and materials that emit a minimum of toxic substances, and use acoustics that are conducive to teaching and learning (Education Code 17070.96; 2 CCR 1859.70.4, 1859.71.6, 1859.77.4). Criteria for the incentive grants were modeled after standards developed by the nonprofit Collaborative for High Performance Schools (CHPS), but were modified to meet the purposes of the grant program. Sustainable designs can also be achieved through the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) standards or other high performance standards. 24 CCR 101.1-703.1 ("CALGreen") establishes both mandatory requirements and voluntary standards for green building which apply to all new construction and are applicable to K-12 schools. CALGreen addresses five major areas: planning and design, energy efficiency, water efficiency, material conservation and resource efficiency, and indoor environmental quality.~~

High performance school design, construction, and operation resources can be accessed through the Collaborative for High Performance Schools, and a framework for healthy, highly efficient, and cost-saving green buildings can be attained through U.S. Green Building Council's Leadership in Energy and Environmental Design rating system.

- 7.8.** ~~Focusing on green building standards, sustainability, and student health in facilities construction and modernization projects, including decisions about site selection, building design, and landscaping and grounds~~ **Ensuring that any construction of new facilities complies with green building standards pursuant to 24 CCR 101.1-703.1, and focusing on sustainability and student health in the design and implementation of facilities modernization projects**

*(cf. 7110 - Facilities Master Plan)*

*(cf. 7111 - Evaluating Existing Buildings)*

*(cf. 7150 - Site Selection and Development)*

Note: **Optional** item #~~8~~ **9** below should be revised by districts that do not provide home-to-school transportation.

**Information regarding state and local funding for reduced or zero emission school buses is available through the California Air Resources Board.**

- 8.9.** Reducing vehicle ~~traffic~~ **emissions** by:

- a.** ~~E~~**encouraging** students ~~to~~ walk or bicycle to school or ~~to~~ use district or public transportation

*(cf. 3541 - Transportation Routes and Services)*

*(cf. 5142.2 - Safe Routes to School Program)*



**GREEN SCHOOL OPERATIONS** (continued)

- b. Using reduced or zero emission school buses and vehicles and providing accompanying infrastructure such as charging stations**

*(cf. 3540 - Transportation)*

- c. Limiting unnecessary idling of school buses in accordance with 13 CCR 2480**
- d. Limiting unnecessary idling of personal vehicles by encouraging parents/guardians, through signage or other means of communication, to turn off their vehicles when parked on and around school grounds**

**9.10. Implementing green school practices in the district's food service programs by:**

- a. Providing fresh, locally sourced, unprocessed, organic food, including plant-based options, when available in the district's food services program**
- b. Reducing food packaging and using packaging that is recyclable and/or biodegradable**
- c. Utilizing reusable products**
- d. Encouraging zero-waste lunches when food is brought from home**
- e. Maintaining a system for food waste, such as composting**

<p><b>Note:</b> Health and Safety Code 114079 authorizes districts to provide "sharing tables" where food service staff, students, and faculty may return appropriate food items which may then be shared with other students or donated to a food bank or any other nonprofit charitable organization. For further information, see AR 3551 - Food Service Operations/Cafeteria Fund.</p>
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- f. Providing sharing tables where unused cafeteria food items may, in accordance with Health and Safety Code 114079, be returned for student use or donated to a food bank or other nonprofit charitable organization**

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

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

**10.11. Integrating green school practices and activities into the educational program by providing instruction to students on the importance of the environment, and involving students in the implementation and evaluation of green school activities and projects as appropriate, and utilizing green school activities and projects as learning tools**

## GREEN SCHOOL OPERATIONS (continued)

(cf. 6142.5 - Environmental Education)

### Legal Reference:

#### EDUCATION CODE

8700-8707 Environmental education

17070.96 Leroy F. Greene School Facilities Act of 1996, consideration of high performance standards

17072.35 New construction grants; use for designs and materials for high performance schools

**17608-17614 Healthy Schools Act of 2000**

32370-32376 Recycling paper

33541 Environmental education

101012 Kindergarten ~~University Public Education Facilities Bond Act of 2006, allocations~~ **through 12th grade school facilities program**

#### FOOD AND AGRICULTURAL CODE

**13180-13188 Healthy Schools Act of 2000**

#### HEALTH AND SAFETY CODE

**114079 General food safety requirements; unused or returned food**

#### PUBLIC CONTRACT CODE

12400-12404 Environmentally preferable purchasing

#### PUBLIC RESOURCES CODE

25410-2542**12** Energy conservation assistance

40050-40063 Integrated waste management act

42630-42647 Schoolsite source reduction and recycling **assistance program**

#### CODE OF REGULATIONS, TITLE 2

1859.70.4 Funding for high performance incentive grants

1859.71.6 Additional grant for high performance incentive, new construction

1859.77.4 Additional grants for high performance incentive, site and modernization

#### CODE OF REGULATIONS, TITLE 5

14010 Standards for school site selection

#### CODE OF REGULATIONS, TITLE 13

**2480 Limitation to school bus idling and idling at schools**

#### CODE OF REGULATIONS, TITLE 24

**101.1-703.1 Green building standards**

### Management Resources:

#### CSBA PUBLICATIONS

Green Schools: An Overview of Key Policy Issues, Policy Brief, August 2009

#### CALIFORNIA DEPARTMENT OF GENERAL SERVICES PUBLICATIONS

Environmentally Preferable Purchasing Best Practices Manual

#### CALIFORNIA AIR RESOURCES BOARD PUBLICATIONS

School Bus Fleet Webinar, April 20, 2018

#### COLLABORATIVE FOR HIGH PERFORMING SCHOOLS PUBLICATIONS

CHPS Best Practices Manual, 2006

#### GLOBAL GREEN USA PUBLICATIONS

Healthier, Wealthier, Wiser: A Report on National Green Schools

#### GREEN SCHOOLS INITIATIVE PUBLICATIONS

Green Schools Buying Guide

Management Resources continued: (see next page)

## **GREEN SCHOOL OPERATIONS (continued)**

*Management Resources: (continued)*

**HEALTHY SCHOOLS CAMPAIGN PUBLICATIONS**

*The Quick and Easy Guide to Green Cleaning in Schools*, 2nd ed., 2008

**WEB SITES**

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

**California Air Resources Board: <http://www.arb.ca.gov>**

California Department of General Services, Green California: <http://www.green.ca.gov>

California Energy Commission: <http://www.energy.ca.gov>

Collaborative for High Performance Schools: <http://www.chps.net>

Global Green USA: <http://www.globalgreen.org>

Green Schools Initiative: <http://www.greenschools.net>

Healthy Schools Campaign: <http://www.healthyschoolscampaign.org/programs/gcs>

U.S. Environmental Protection Agency: <http://www.epa.gov>

U.S. Green Building Council, LEED Green Building Rating System: <http://www.usgbc.org>

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# CSBA Sample

## Board Policy

Business and Noninstructional Operations

BP 3511(a)

### ENERGY AND WATER MANAGEMENT

The Governing Board recognizes the importance of minimizing the district's use of natural resources, providing a high-quality environment that promotes health and productivity, and effectively managing the district's fiscal resources. **environmental and financial benefits that can be derived from conserving energy, water, and other natural resources, preparing for extreme weather and other natural events, and providing an environment that promotes the health and well-being of students and staff. To that end, To support district goals for energy and water management,** the Superintendent or designee shall develop a resource management program which **may** includes strategies for implementing effective and sustainable resource **use** practices, exploring **the use of** renewable and clean energy technologies **and/or sources**, reducing energy and water consumption, **minimizing utility costs, reducing the amount of waste of consumable materials, encouraging recycling and green procurement practices,** and promoting conservation principles **in the educational program.**

**(cf. 0200 - Goals for the School District)**

(cf. 3100 - Budget)

(cf. 3300 - Expenditures and Purchases)

**(cf. 3510 - Green School Operations)**

(cf. 3511.1 - Integrated Waste Management)

(cf. 3512 - Equipment)

(cf. 6142.5 - Environmental Education)

The Superintendent or designee may solicit input from staff, students, and parents/guardians **about regarding** the district's **resource management** program. The Superintendent or designee shall provide staff and students with training and guidance on best practices to achieve the district's goals, **such as and may establish** a reward program to recognize outstanding accomplishments.

**(cf. 1150 - Commendation and Awards)**

The Superintendent or designee shall regularly inspect district facilities, **monitor and** operations, and make recommendations for maintenance and **capital expenditures repairs** which may help the district reach its conservation and management goals **and improve efficiency.**

(cf. 7110 - Facilities Master Plan)

(cf. 7111 - Evaluating Existing Buildings)

Note: The California Energy Commission administers the Bright Schools Program pursuant to Public Resources Code 25410-25421. This program offers specific services to help districts become more energy efficient by providing design and implementation assistance, conducting energy audit and feasibility studies,

## ENERGY AND WATER MANAGEMENT (continued)

providing equipment bid specifications, assisting with installation, and helping to secure loans for energy-related maintenance. **Districts may also seek funding for water projects through the Department of Water Resource's Proposition 1 Integrated Regional Water Management Grant Program, which provides funding for projects that help meet the long-term water needs of the state.**

The Superintendent or designee shall make every effort to identify funding opportunities and cost-reducing incentive programs to help the district achieve its conservation and management goals. **The district may coordinate with other local or regional entities to capitalize on their expertise and maximize the efficient use of resources, such as through joint or shared use agreements.**

*(cf. 1330.1 - Joint Use Agreements)*

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

The Superintendent or designee shall ~~periodically~~ **regularly** report to the Board on the district's progress in meeting its conservation and **resource** management goals.

## Storm Water Management

Note: The following section is ~~optional~~ **recommended for use by all districts, especially districts that are subject to the state's National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities or that have been designated by State and federal law** authorize the State Water Resources Control Board (SWRCB) or a California regional water quality control board ~~to designate a school district~~ as an entity ("non-traditional MS4") which is required to obtain "coverage" under a General Permit for Storm Water Discharges to Small Municipal Separate Storm Sewer Systems.

A district may be ~~so designated for any reason, including a water quality threat posed by its operation of storm drainage systems, at~~ **subject to either permit for a variety of reasons, including conducting activities that may result in discharge of water from** any district facility which drains into a municipal storm drainage system or **drains** directly or indirectly into a stream, creek, river, or the ocean. ~~A district required to obtain coverage under this General Permit is prohibited from discharging certain pollutants, other than storm water, into the storm drainage system and must develop a storm water management plan. A~~ **district that is covered by either or both of these General Permits must develop a storm water management plan consistent with the requirements of state and federal law and the applicable permit.**

The General Permit requires that the **Governing** Board, ~~as the governing body of the district,~~ adopt a resolution containing the plan and authorizing the Superintendent to implement and enforce the plan. The plan must then be submitted to the local regional water quality control board for approval. In addition, the district is required to submit annual reports to the local regional water control board describing the district's progress in implementing the plan.

~~The SWRCB anticipates that many school districts will be designated as "non traditional MS4" over the next several years. Districts should consult with representatives of the local regional water control board and county office of education to ensure that appropriate plans are developed. Districts that have not yet been designated may revise or delete the following section as appropriate.~~

**The following section and the accompanying administrative regulation reflect the recommendations of the California Department of Education (CDE), the Division of the State Architect in the Department**

**ENERGY AND WATER MANAGEMENT** (continued)

of General Services, and the SWRCB in their joint publication Guidance for Stormwater and Dry Weather Runoff CAPTURE (California Practices to Use Runoff Effectively) at Schools, developed pursuant to Water Code 189.3, as amended by SB 1289 (Ch. 92, Statutes of 2018). See the Guidance for additional design and use practices for storm water and dry weather runoff capture practices that can generally be applied to all new, reconstructed, or altered public schools, including school grounds.

~~The Board desires to ensure that, to~~ **To** the maximum extent practicable, the district **shall** reduce the discharge of pollutants into the water system in order to minimize the threat to water quality from storm water runoff. ~~When the district has been designated by the State Water Resources Control Board or a regional water quality control board, the~~

**The** Superintendent or designee shall ensure that the district complies with **storm water discharge standards specified by any** applicable General Permit **requirements coverage required by law, including all requirements of the Construction General Permit issued by the State Water Resources Control Board for any project that disturbs one acre or more of soil. (40 CFR 122.34)**

(cf. 3514 - Environmental Safety)

(cf. 3514.1 - Hazardous Substances)

(cf. 3514.2 - Integrated Pest Management)

Note: ~~The water management plan must describe how pollutants in storm water runoff will be controlled and must include best management practices addressing the six minimum control measures specified below, as well as measurable goals and timetables. The NPDES and MS4 General Permits each contain their own requirements. Districts should consult with their local regional water quality control board for requirements and approval of the plan.~~

The Superintendent or designee shall develop a storm water management **plan that complies with the provisions of the applicable permit** and ~~shall submit the plan and a resolution authorizing the implementation of the plan to the Board for approval. The district's plan shall and describes best management practices, design strategies, measurable goals, and timetables for implementation. in the following areas: and shall submit t~~The plan and a resolution authorizing ~~the its~~ implementation ~~of the plan~~ **shall be submitted** to the Board for approval. **(40 CFR 122.34)**

- ~~1. Public education and outreach on storm water impacts~~
- ~~2. Public participation, such as participation in adoption and implementation of the plan~~
- ~~3. Illicit discharge detection and elimination, such as maps and programs to detect and eliminate illicit non-storm water discharges~~
- ~~4. Construction site storm water runoff control, such as reviewing construction plans, inspecting sites, and tracking construction site runoff, as well as erosion and sediment controls~~

## ENERGY AND WATER MANAGEMENT (continued)

5. ~~Post construction storm water management, such as developing design standards for preventing runoff and verifying proper maintenance and operation of control procedures~~
6. ~~Pollution prevention and good housekeeping, such as evaluating waste disposal, material storage, and equipment cleaning procedures and spill prevention, including at bus maintenance facilities~~

**For all projects, the district shall comply with any city or county ordinance that regulates drainage improvements and conditions. (Government Code 53097)**

~~The Superintendent or designee shall regularly report to the Board on the status of the district's implementation efforts.~~

### Emergency Interruption of Services

Note: The following **optional** section requires the development of an emergency action plan which identifies actions to be taken in the event of a **toxic spill or an** emergency interruption of power, water, or other services. **However, schools that are affected by regular public safety power shutoffs (e.g., actions by utility companies to preemptively shut off power in high fire risk areas to reduce fire risk during extreme and potentially dangerous weather conditions) should also consider including this section.** This plan may be incorporated into the district's emergency and disaster preparedness plan. See BP/AR 3516 - Emergencies and Disaster Preparedness Plan.

In the event that instructional time is lost as a result of a power outage resulting from an emergency, such as a fire, flood, earthquake, ~~or~~ epidemic, **or other hardship and** as specified in Education Code 46392, districts may request credit for the loss of average daily attendance funding, as detailed in the ~~California Department of Education's~~ **CDE's** Management Advisory 90-01. See BP 3516.5 - Emergency Schedules for policy regarding changes in schedules due to an emergency and procedures for compensating for lost instructional time.

The Superintendent or designee shall develop a plan **to minimize disruption to the educational program** ~~describing actions to be taken~~ in the event of power outages or other emergency interruption of utility services, ~~both during and after school operations~~. The plan shall ~~address~~ **include actions to be taken** ~~procedures to help ensure~~ **facilitate** student and staff safety, administrative control of operations, protection of equipment, effective communications, and coordination with local fire, police, and emergency personnel and utility service providers.

*(cf. 0450 - Comprehensive Safety Plan)*

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

*(cf. 3516.5 - Emergency Schedules)*

**ENERGY AND WATER MANAGEMENT (continued)***Legal Reference:*EDUCATION CODE**17213.1 School sites****17280 Construction of school buildings****35275 Coordination of new facilities with recreation and park authorities**

41422 School term or session length, failure to comply due to disaster

46392 Emergency conditions; ADA estimate

GOVERNMENT CODE**53097 Local agencies**PUBLIC RESOURCES CODE

25410-25421 Energy conservation assistance

WATER CODE**189.3 Recommendations for best design and use practices****13383 Compliance with the federal Water Pollution Control Act**

13383.5 Storm water discharge monitoring requirements

CODE OF REGULATIONS, TITLE 23**490-495 Model Water Efficient Landscape Ordinance**

2200 Discharge permit fees

UNITED STATES CODE, TITLE 33

1342 National pollutant discharge elimination system

CODE OF FEDERAL REGULATIONS, TITLE 40

122.1-122.64 National pollutant discharge elimination system

*Management Resources:*CALIFORNIA DEPARTMENT OF EDUCATION MANAGEMENT ADVISORIES PUBLICATIONS

0118.01 California's Energy Challenge

0706.90 Water Conservation Advisory, 90-09

**Guidance for Stormwater and Dry Weather Runoff CAPTURE (California Practices to Use Runoff Effectively) at Schools, December 2018****A Blueprint for Environmental Literacy: Educating Every Student In, About, and For the Environment, 2015**0222.90 Average Daily Attendance Credit During Periods of Emergency, **Management Advisory 90-01, rev. February 10, 2005**CALIFORNIA STATE WATER RESOURCES CONTROL BOARD PUBLICATIONS**Guidance for Design and Construction of Vegetated Low Impact Development Projects, 2016**U.S. ENVIRONMENTAL PROTECTION AGENCY PUBLICATIONS**National Management Measures to Control Nonpoint Source Pollution from Urban Areas, 2005**WEB SITESCSBA: <http://www.csba.org>Alliance to Save Energy: <http://www.ase.org>California Department of Education, Facilities: <http://www.cde.ca.gov/lr/fa>**California Department of Water Resources: <https://water.ca.gov>****California Division of State Architect: <https://www.dgs.ca.gov/DSA>**California Energy Commission: <http://www.energy.ca.gov>California State Water Resources Control Board: <http://www.swrcb.ca.gov>**California Stormwater Quality Association: <https://www.casqa.org/resources>****Collaborative for High Performance Schools (CHPS): <https://chps.net>****Green School Yards America: <http://www.greenschoolyards.org>****U.S. Environmental Protection Agency: <http://www.epa.gov>**

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# CSBA Sample Administrative Regulation

Business and Noninstructional Operations

AR 3511(a)

## ENERGY AND WATER MANAGEMENT

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

### **Resource Management Program**

In the development of the district's **energy and water** resource management program, the Superintendent or designee shall analyze and review the **efficiency and environmental impact of, and consider strategies for improving, the following district systems:**

1. **L**ighting;
2. **H**eating, ventilation, and air conditioning **systems**;
3. **W**ater heaters;
4. **E**lectrical equipment and appliances;
5. **W**ater use and irrigation, **including drains, faucets, and pipes**
6. **Grounds management and solid waste and recycling systems**

*(cf. 7111 - Evaluating Existing Buildings)*

~~The following district operations shall be incorporated into~~ **In addition, the district's resource management program may include strategies to address the following:**

1. Educational programs **that focus on environmental literacy and incorporate the Next Generation Science Standards**

*(cf. 6142.5 - Environmental Education)*

*(cf. 6142.93 - Science Instruction)*

2. **Outdoor student facilities that are environmentally sustainable and include increased shaded areas to reduce playground temperatures**

*(cf. 5141.7 - Sun Safety)*

- ~~2.3.~~ Classroom and building management and maintenance

- ~~3.4.~~ Food services and ~~equipment maintenance~~ **food waste reduction**

## ENERGY AND WATER MANAGEMENT (continued)

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

**4.5. Landscaping practices, including establishing drought-tolerant habitats**

**5.6. Transportation services and maintenance**

*(cf. 3540 - Transportation)*

**6.7. Inclusion of best practices for water management in new construction projects**

*(cf. 7110 - Facilities Master Plan)*

**7.8. Administrative operations that focus on cost reduction and conservation**

*(cf. 3400 - Management of District Assets/Accounts)*

**8. Use of facilities by outside groups**

*(cf. 1330 - Use of School Facilities)*

*(cf. 3512 - Equipment)*

*(cf. 7111 - Evaluating Existing Buildings)*

**9. Regular equipment maintenance and repair**

*(cf. 3512 - Equipment)*

The Superintendent or designee may solicit input from staff, students, and parents/guardians about the district's program. The Superintendent or designee shall provide staff and students with training and guidance on best practices to achieve the district's goals, such as a reward program to recognize outstanding accomplishments.

### Storm Water Management

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

The Superintendent or designee shall implement a storm water management plan that complies with applicable state and federal law and local ordinances. The plan shall include best practices designed to reduce waste, pollution, environmental degradation, and damage to school facilities and infrastructure by:

**1. Incorporating water capture and filtration systems for storm water when necessary**

## ENERGY AND WATER MANAGEMENT (continued)

2. **Emphasizing school practices and school design that reduce runoff and human pollutants, such as plastics, oils, grease, metals, and pesticides**
3. **Preserving, creating, and enhancing natural areas and greenspace that aid in storm water and dry weather capture**
4. **Minimizing impervious surface area and controlling runoff from impervious surfaces**
5. **Utilizing, when possible, soils that promote infiltration**
6. **Incorporating storm water design signage features and learning opportunities for public education**

### Emergency Interruption of Services

Note: **The following section is optional and should be revised to reflect district practice.** ~~The following optional section requires the development of an emergency action plan which identifies action to be taken in the event of an emergency interruption of power, water, or other services. This plan may be incorporated into the district's Emergency and Disaster Preparedness Plan. See BP/AR 3516 - Emergencies and Disaster Preparedness Plan.~~

~~In the event that instructional time is lost as a result of a power outage resulting from an emergency, such as a fire, flood, earthquake, or epidemic and as specified in Education Code 46392, districts may request credit for the loss of Average Daily Attendance funding, as detailed in the California Department of Education's Management Advisory 90-01. See BP 3516.5 - Emergency Schedules for policy regarding changes in schedules due to an emergency and procedures for compensating for lost instructional time.~~

~~The Superintendent or designee shall develop a plan to address actions to be taken in the event of power outages or other emergency interruption of utility services, both during and after school operations. The plan shall address procedures to help ensure student and staff safety, administrative control of operations, protection of equipment, effective communications, and coordination with local fire, police, and utility service providers. The Superintendent or designee shall consult with local law enforcement, emergency personnel, and the county office of emergency services in the development of strategies to be implemented in the event of power outages or other emergency interruptions of utility services. The strategies shall prescribe a means of notifying appropriate agencies to ensure all utilities are properly restored after interruption.~~

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

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

~~(cf. 3516.5 - Emergency Schedules)~~

**ENERGY AND WATER MANAGEMENT (continued)**

**The Superintendent or designee shall reopen schools and return to normal instructional activities as soon as safe operations can be resumed. If any school will be closed for an extended period of time, the district shall make alternative arrangements for students and staff so as not to interrupt the educational program.**

**The Superintendent or designee shall communicate with staff, students, and parents/guardians regarding any interruption of educational services due to utility service outages, including any necessary alternative arrangements and the date or time that normal operations of the school are expected to resume.**

*(cf. 1100 - Communication with the Public)*

*(cf. 3516.5 - Emergency Schedules)*

# CSBA Sample Administrative Regulation

## Business and Noninstructional Operations

AR 3514(a)

### ENVIRONMENTAL SAFETY

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

The following paragraph may be revised to reflect the job position(s) designated to coordinate the district's environmental safety programs.

The Superintendent may designate and train one or more employees to oversee and coordinate the district's environmental safety program(s). The responsibilities of the coordinator(s) shall include, but are not limited to, overseeing assessments of district facilities, recommending strategies for the prevention and mitigation of environmental health risks, ensuring effective implementation of environmental safety strategies, and reporting to the Superintendent regarding the district's progress in addressing environmental safety concerns.

(cf. 3510 - Green School Operations)  
(cf. 3511 - Energy and Water Management)  
(cf. 3517 - Facilities Inspection)  
(cf. 4157/4257/4357 - Employee Safety)  
(cf. 5142 - Safety)  
(cf. 7111 - Evaluating Existing Buildings)  
(cf. 7150 - Site Selection and Development)

### Indoor Air Quality

Note: The following section may be revised to reflect district practice. For further information, see the U.S. Environmental Protection Agency's (EPA) Indoor Air Quality Tools for Schools.

In order to provide proper ventilation, humidity, and temperature in school facilities and to reduce indoor air contaminants, the ~~Superintendent or designee shall ensure that the~~ following strategies ~~are~~ **shall be** implemented:

**Note: Education Code 17074.25, as amended by AB 2453 (Ch. 714, Statutes of 2018), authorizes a modernization grant under the Leroy F. Greene School Facilities Act (Education Code 17070.10-17079.30) to be used to limit student exposure to harmful air pollutants by updating air filtration systems. Additionally, Health and Safety Code 44391.3, as added by AB 2453, allows districts located in communities with a high cumulative exposure burden to toxic air contaminants to work with air districts to identify school sites in need of air quality improvements. Contingent on appropriations being made for this purpose in the annual Budget Act or other statutes, such schools or districts will be eligible for a grant to implement air quality mitigation efforts, including, but not limited to, air filter upgrades or installation and vegetation buffer planting.**

1. Mechanically driven heating, ventilation, and air conditioning systems shall be operated continuously during working hours except under the circumstances specified

**ENVIRONMENTAL SAFETY** (continued)

in 8 CCR 5142. The systems shall be inspected at least annually and problems corrected within a reasonable time. Where the air supply is filtered, the filters shall be replaced or cleaned regularly to prevent significant reductions in airflow. Documentation of inspections, tests of ventilation rates, and maintenance shall be retained for at least five years. (8 CCR 5142-5143)

(cf. 3580 - District Records)

Staff shall ensure that airflow is not obstructed by the blocking of ventilators with posters, furniture, books, or other obstacles.

2. School facilities shall be regularly inspected for water damage, spills, leaks in plumbing and roofs, poor drainage, and improper ventilation so as to preclude the buildup of mold and mildew **and prevent accidents due to unsafe conditions**. Wet building materials and furnishings shall be dried within 48 hours if possible to prevent mold growth. When evidence of mold or mildew is found, maintenance staff shall locate and repair the source of water intrusion and remove or clean moldy materials.
3. Exterior wall and foundation cracks and openings shall be sealed as soon as possible to minimize seepage of radon into buildings from surrounding soils.
4. Least toxic pest management practices shall be used to control and manage pests at school sites. (Education Code 17608-17614; Food and Agriculture Code 13182)

(cf. 3514.2 - Integrated Pest Management)

5. ~~The Superintendent or designee shall install a~~ **A** carbon monoxide detector or alarm **shall be installed** in all school buildings that contain a fuel-burning appliance, fireplace, or forced-air furnace, **unless otherwise exempted by state law or regulations**. The device or alarm shall be located in close proximity to the appliance in order to accurately detect and alert school personnel of any leakage of carbon monoxide. (24 CCR 915.1-915.7)
6. Schedules and practices for routine housekeeping and maintenance shall be designed to effectively reduce levels of dust, dirt, and debris. Plain water, soap and water, or low-emission cleaning products shall be used whenever possible. Aerosols, including air fresheners and other products containing ozone, shall be avoided to the extent possible.

(cf. 5141.23 - Asthma Management)

## ENVIRONMENTAL SAFETY (continued)

7. Painting of school facilities and maintenance or repair activities that require the use of potentially harmful substances shall be limited to those times when school is not in session. Following any such activity, the facility shall be properly ventilated with adequate time allowed prior to reopening for use by any person.
8. Paints, adhesives, and solvents shall be used and stored in well-ventilated areas. These items shall be purchased in small quantities to avoid storage exposure.

*(cf. 3514.1 - Hazardous Substances)*

9. To the extent possible, printing and duplicating equipment that may generate indoor air pollutants, such as methyl alcohol or ammonia, shall be placed in locations that are well ventilated and not frequented by students and staff.
10. The district's tobacco-free schools policy shall be consistently enforced in order to reduce the health risks caused by second-hand smoke.

*(cf. 3513.3 - Tobacco-Free Schools)*

11. Staff and students shall be asked to refrain from bringing common irritants such as furred or feathered animals, stuffed toys that may collect dust mites, scented candles, incense, or air fresheners and from using perfume or cologne, scented lotion or hair spray, nail polish or nail polish remover, or other personal care products that are not fragrance-free in classrooms, **school buses**, or other enclosed areas or buildings.

*(cf. 6163.2 - Animals at School)*

## Outdoor Air Quality

Note: The following section may be revised to reflect district practice. Forecasts of ozone levels and particle pollution are available through the federal AirNow web site and may be printed in local newspapers. The district may monitor ultraviolet radiation levels through the EPA's UV Index web site; see BP 5141.7 - Sun Safety.

The Superintendent or designee may **coordinate with the local air resources control board and** monitor local health advisories and outdoor air quality alerts, **including to obtain** forecasts of ozone levels, particle pollution, ultraviolet radiation levels, and/or temperature and humidity.

Whenever **these measures a forecast** indicates a significant health risk, the Superintendent or designee shall communicate with each principal so that outdoor activities, especially those requiring prolonged or heavy exertion, may be avoided, limited in duration, or modified as necessary for all persons or for persons who may be particularly susceptible to the health risk involved.

## ENVIRONMENTAL SAFETY (continued)

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

*(cf. 3516.5 - Emergency Schedules)*

*(cf. 5141.7 - Sun Safety)*

*(cf. 6142.7 - Physical Education and Activity)*

*(cf. 6145 - Extracurricular and Cocurricular Activities)*

*(cf. 6145.2 - Athletic Competition)*

### Reduction of Vehicle Emissions

Note: 13 CCR 2480 prohibits idling of school buses, student activity buses, and other commercial motor vehicles within 100 feet of a school except under specified conditions. See AR 3542 - School Bus Drivers for additional language reflecting these requirements.

In order to reduce public exposure to toxic air contaminants, school bus drivers and other drivers of commercial motor vehicles shall limit unnecessary idling of vehicles at or near schools in accordance with 13 CCR 2480. The Superintendent or designee may also request parents/guardians to turn off their vehicles when they are idling on school grounds and encourage students to walk and/or bicycle to school.

*(cf. 3540 - Transportation)*

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

*(cf. 3542 - School Bus Drivers)*

*(cf. 5142.2 - Safe Routes to School Program)*

Note: Pursuant to 13 CCR 2025, any ~~district that owns, operates, leases, or rents a~~ diesel-fueled, dual-fueled, or alternative diesel-fueled school bus ~~with that has~~ a gross vehicle weight rating over 14,000 pounds ~~that and~~ was manufactured on or after April 1, 1977 is required to have ~~installed~~ a particulate filter ~~in the bus~~ that reduces diesel particulate matter emissions by 85 percent. An exception exists for any school bus that operates fewer than 1,000 miles per year. ~~Any school bus manufactured before April 1, 1977 should already be retired.~~

Any ~~school bus that is~~ diesel-fueled, dual-fueled, or alternative diesel-fueled ~~school bus with and has~~ a gross vehicle weight rating over 14,000 pounds shall be equipped with a particulate filter designed to reduce particulate matter emissions, oxides of nitrogen emissions, and other pollutants. (13 CCR 2025)

### Drinking Water Safety

Note: The following section addresses the quality of tap water available in schools. See AR 3550 - Food Service/Child Nutrition Program for information about requirements to make fresh drinking water available during mealtimes.

The quality and safety of the district's drinking water sources shall be regularly assessed, and drinking fountains shall be regularly cleaned and maintained, ~~to avoid the presence of~~ **ensure that drinking water consumed at school does not contain** dirt, mold, **lead**, or other impurities or **contaminants that may cause serious** health concerns.



**ENVIRONMENTAL SAFETY** (continued)

Whenever any contaminants in the drinking water are determined to be a concern, the Superintendent or designee shall take reasonable steps to identify the source and mitigate **the concern any potential problem** to ensure the availability of safe drinking water. As needed, the Superintendent or designee shall provide alternative sources of drinking water, such as bottled water **or on-site water filtration**, to ensure that students have access to fresh drinking water at mealtimes and at other times throughout the day.

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

Note: **Due to the health risks posed by lead exposure, especially to young children, EPA has recommended that districts test for the presence of lead in drinking water.** Health and Safety Code 116277 ~~as added by AB 746 (Ch. 746, Statutes of 2017)~~, requires a community water system serving a school constructed before January 1, 2010 to test for lead in the potable water system of the school. **Such testing is at the expense of the community water system and must be completed by July 1, 2019.** If the school's lead level exceeds 15 parts per billion (equivalent to .015 milligrams per liter), the district must notify parents/guardians, take immediate steps to shut down all fountains and faucets where the excess lead levels may exist, and provide a potable source of drinking water to students. See the California Water Boards' "Frequently Asked Questions about Lead Testing of Drinking Water in California Schools: Updated for Assembly Bill 746/Health and Safety Code 116277."

Schools that have their own water supply, such as a well, are required to test for lead, copper, and other contaminants in tap water pursuant to other state and federal laws and regulations, including 22 CCR 64670-64679 and 40 CFR 141.80-141.91, and may revise the following paragraph to reflect applicable requirements.

**Health and Safety Code 1597.16, as added by AB 2370 (Ch. 676, Statutes of 2018), requires a licensed child day care center that is located in a building that was constructed before January 1, 2010, to have its drinking water tested for lead contamination as specified. See AR 5148 - Child Care and Development for further information regarding potable water requirements for day care centers.**

Whenever testing of drinking water finds concentrations of lead that exceed federal and state standards, the Superintendent or designee shall notify parents/guardians and take immediate steps to **shut down and** make inoperable any fountains or faucets where excess lead levels may exist. ~~(Health and Safety Code 116277)~~

**Prevention of Lead Exposure**

Note: The following section reflects **EPA** recommendations ~~of the EPA~~. For further information, the district may contact its city or county lead poisoning prevention program. **For information regarding the prevention of lead exposure in drinking water, see section on "Drinking Water Safety" above.**

In addition to ~~keeping school facilities as dust-free and clean as possible~~ **testing for the presence of lead in drinking water in district schools**, the following steps shall be taken to minimize potential exposure to lead in school facilities:

1. **School facilities shall be kept as dust-free and clean as possible.**

**ENVIRONMENTAL SAFETY** (continued)

**2.** Lead-based paint, lead plumbing and solders, or other potential sources of lead contamination shall not be used in the construction of any new school facility or the modernization or renovation of any existing school facility. (Education Code 32244)

**2.3.** Lead exposure hazards shall be evaluated before any renovation or remodeling is begun, and children shall not be allowed in or near buildings in which these activities may create lead dust. Contractors and workers shall comply with state and federal standards related to the handling and disposal of lead debris and the clean-up and containment of dust within the construction area.

Note: 17 CCR 35001-36100 contain state standards for lead abatement services. In addition, 40 CFR 745.61-745.339 extend federal standards for renovations involving lead-based paint to child-occupied facilities, which include preschools and **kindergarten classrooms** ~~elementary schools~~.

**3.4.** Lead-based painted surfaces that are in good condition shall be kept intact. If lead-based paint is peeling, flaking, or chalking, contractors or workers shall follow state and federal standards for safe work practices to minimize contamination when removing the paint.

**4.5.** Soil with low lead content may be covered with grass, other plantings, concrete, or asphalt. For soil with high lead content, removal and abatement are required.

~~**5.** Drinking water shall be regularly tested for lead and remediated as provided in the section "Drinking Water" above.~~

Any action to abate existing lead hazards, ~~excluding containment or cleaning~~, shall be taken only by contractors, inspectors, and workers certified by the California Department of Public Health in accordance with 17 CCR 35001-35099. (Education Code 32243)

The Superintendent or designee shall notify parent/guardians, teachers, and staff members if significant risk factors for lead exposure are found. (Education Code 32243)

**Prevention of Mercury Exposure**

Note: The following section may be revised to reflect district practice. Mercury may exist in schools in thermometers, barometers, switches, thermostats, flowmeters, ~~lamps~~ **light bulbs**, and other sources. Although devices containing mercury are considered safe as long as the mercury is sealed, if a device is broken and mercury spills, the health of students and staff may be endangered.

The Superintendent or designee shall identify any **mercury-containing** products ~~containing mercury~~ that are present in district facilities and, to the extent possible, shall replace them with mercury-free alternatives.

**ENVIRONMENTAL SAFETY (continued)**

Note: The EPA's web site contains detailed procedures for cleaning up a small mercury spill, actions that should never be taken in the event of a spill, and items that should be assembled in a mercury spill kit.

Staff shall receive information about proper procedures to follow in the event of a mercury spill. Clean-up instructions, a clearly labeled kit with necessary clean-up supplies, and a list of local resources shall be readily accessible.

In the event of a spill, staff shall evacuate all students from the immediate area of the spill, ensure that any clothing or other items with mercury on them remain in the room, open windows to the outside, and close doors to other parts of the school. Staff who are trained in proper clean-up procedures may carefully clean a small spill. As needed for larger or difficult-to-clean spills, the Superintendent or designee shall use an experienced professional referred by the local health department or environmental agency.

Any products containing mercury shall be properly disposed at an appropriate hazardous waste collection facility.

**Asbestos Management**

Note: Education Code 49410-49410.7 and the federal Asbestos Hazard Emergency Response Act (AHERA) (15 USC 2641-2656; 40 CFR 763.80-763.99) contain requirements for asbestos inspection and abatement which are applicable to school districts. For further information, consult the local air quality management district or air pollution control district.

40 CFR 763.84 requires the district to designate a person who will be responsible for ensuring that federal and state requirements are properly implemented. According to the EPA, this designated person is not required to be a licensed asbestos consultant, but the district must verify that he/she has received proper training. The specific knowledge that the designated person must have is described in the EPA's publication How to Manage Asbestos in School Buildings: AHERA Designated Person's Self-Study Guide. The following section may be revised to reflect the position designated to fulfill this responsibility, who may be the same person designated above to coordinate all the district's environmental safety programs.

The Superintendent shall designate an employee who shall ensure that the district's responsibilities related to asbestos inspection and abatement are implemented in accordance with federal and state regulations. This employee shall receive adequate training to perform these duties, including, as necessary, training on the health effects of asbestos; detection, identification, and assessment of asbestos-containing **building** materials; options for controlling asbestos-containing building materials; asbestos management programs; and relevant federal and state regulations. (40 CFR 763.84)

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

The designated employee shall ensure that the district complies with the following requirements:

**ENVIRONMENTAL SAFETY** (continued)

1. School facilities shall be inspected for asbestos-containing **building** materials as necessary in accordance with the following:
  - a. Any school building that is leased, acquired, or otherwise used by the district shall be inspected for asbestos-containing **building** materials prior to its use as a school building, unless exempted by federal regulations. (40 CFR 763.85, 763.99)
  - b. At least once every six months, the district shall conduct a periodic surveillance consisting of a visual inspection of each school building that contains or is assumed to contain asbestos-containing building materials. (40 CFR 763.92)
  - c. At least once every three years, the district shall conduct a re-inspection of all known or assumed asbestos-containing building materials in each school building. (40 CFR 763.85)
2. Based on the results of the inspection, an appropriate response which is sufficient to protect human health and the environment shall be determined from among the options specified in 40 CFR 763.90. The district may select the least burdensome response, taking into consideration local circumstances, including occupancy and use patterns within the school building and economic concerns such as short-term and long-term costs. (40 CFR 763.90)
3. An asbestos management plan for each school site shall be maintained and regularly updated to keep it current with ongoing operations and maintenance, periodic surveillance, inspection, re-inspection, and response action activities. (15 USC 2643; 40 CFR 763.93)

The asbestos management plan shall be available for inspection in district and school offices during normal business hours. Parent/guardian, teacher, and employee organizations shall be annually informed of the availability of these plans. (40 CFR 763.84, 763.93)

(cf. 4112.9/4212.9/4312.9 - *Employee Notifications*)  
(cf. 5145.6 - *Parental Notifications*)

4. Staff, students, and parents/guardians shall be informed at least once each school year about any inspections, response actions, and post-response actions, including periodic re-inspection and surveillance activities, that are planned or in progress. (40 CFR 763.84)

**ENVIRONMENTAL SAFETY** (continued)

5. Inspections, re-inspections, periodic surveillance, and response actions, including operations and maintenance, shall be conducted in compliance with state and federal regulations for the protection and safety of workers and all other individuals. (Education Code 49410.5; 40 CFR 763.84, **763.90**)

Asbestos inspection and abatement work, preparation of a management plan, and any maintenance activities that may disturb asbestos-containing building materials, except for emergency repairs or small-scale, short-duration maintenance activities, shall be completed by state-certified asbestos inspectors or contractors. (15 USC 2646; 40 CFR 763.84, 763.85, 763.91)

6. All custodial and maintenance employees shall be properly trained in accordance with applicable federal and/or state regulations. (40 CFR 763.84)

All district maintenance and custodial staff who may work in a building that contains asbestos-containing **building** materials, regardless of whether they are required to work with such materials, shall receive at least two hours of related asbestos awareness training. New maintenance and custodial staff shall receive such training within 60 days after beginning employment. Any maintenance or custodial staff who conduct activities that will disturb asbestos-containing **building** materials shall receive 14 hours of additional training. The trainings shall address the topics specified in 40 CFR 763.92. (15 USC 2655; 40 CFR 763.84, 763.92)

7. Short-term workers, such as telephone repair workers, utility workers, or exterminators, who may come in contact with asbestos in a school shall be provided information regarding the locations of known or suspected asbestos-containing building materials. (40 CFR 763.84)
8. Warning labels shall be posted immediately adjacent to any known or suspected asbestos-containing building material located in routine maintenance areas in accordance with 40 CFR 763.95. (40 CFR 763.84)

The district shall maintain, in both the district and school offices and for a period of three years, records pertaining to each preventive measure and response action taken; staff training; periodic surveillances conducted; cleaning, operations, and maintenance activities; and any fiber release episode. (40 CFR 763.94)

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# CSBA Sample Board Policy

## Business and Noninstructional Operations

BP 3540(a)

### TRANSPORTATION

Note: Pursuant to Education Code 39800, the **Governing** Board may provide transportation for students to and from school whenever such transportation is advisable and good reasons exist to provide these services. The following **optional** policy is for use by districts that choose to provide transportation services, ~~either through their own transportation system, contracting out, or other methods,~~ **and should be revised to reflect district practice.**

The Governing Board desires to provide for the safe and efficient transportation of students to and from school as necessary to ensure student access to the educational program, promote regular attendance, and reduce tardiness. **In determining t**~~The extent to which the district will provides for~~ transportation services, **the Board shall weigh shall depend upon** student and community needs **and against the cost of providing such services a continuing assessment of financial resources.**

(cf. 3100 - Budget)

~~(cf. 3250 - Transportation Fees)~~

(cf. 3541 - Transportation Routes and Services)

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

(cf. 3541.2 - Transportation for Students with Disabilities)

(cf. 5116.1 - Intradistrict Open Enrollment)

(cf. 5117 - Interdistrict ~~Agreements~~ **Attendance**)

**(cf. 6178.2 - Regional Occupational Center/Program)**

The Superintendent or designee shall recommend to the Board ~~the most~~ economical, **environmentally sustainable**, and appropriate means of providing transportation services.

**(cf. 3510 - Green School Operations)**

Note: **The following paragraph may be revised to reflect district practice. Pursuant to Education Code 39800 and 39802, t**~~The district may use one or more means to provide transportation, as indicated below. For example, the district may use one method school buses for its regular home-to-school program and another method contract with private parties to provide transportation for field trips or transportation for students with disabilities. This section should be revised to reflect district practice.~~

~~To provide transportation services, the Governing~~ **The Board** may purchase, rent, or lease vehicles; contract with a common carrier or municipally owned transit system; contract with responsible private parties including the parent/guardian of the student being transported; and/or contract with the County Superintendent of Schools. (Education Code 35330, 39800, 39801)

In contracting for transportation services, the district shall comply with all applicable laws related to bids and contracts. (Education Code 39802-39803)

## TRANSPORTATION (continued)

(cf. 3311 - Bids)

(cf. 3312 - Contracts)

**Note:** The following paragraph is optional. If a district that has been providing transportation decides instead to have alternative transportation provided through an outside company or volunteers, this action may constitute "contracting out" and be subject to negotiation pursuant to the Educational Employment Relations Act (Government Code 3540-3549.3).

In lieu of providing transportation in whole or in part, the district may pay the student's parents/guardians either their actual and necessary expenses in transporting the student or the cost of the student's food and lodging at a place convenient to the school. In either case, the amount of the payment shall not exceed the cost that would be incurred by the district to provide for the transportation of the student to and from school. (Education Code 39806-39807)

**Note:** The following optional paragraph is for use by districts that choose to require parents/guardians of transported students to pay a portion of the cost of transportation as authorized by Education Code 39807.5. Pursuant to Education Code 39807.5, the district must waive the fee for students with financial need and students with disabilities whose individualized education program includes transportation as a related service necessary for the student to receive a free appropriate public education. See BP/AR 3250 - Transportation Fees.

**The Board may charge a transportation fee to parents/guardians of transported students in accordance with Education Code 39807.5 and BP/AR 3250 - Transportation Fees.**

(cf. 3250 - Transportation Fees)

No student shall be required to be transported for any reason without the written permission of the student's parent/guardian, except in emergency situations involving illness or injury to the student pursuant to ~~Education Code 35350~~ or the evacuation of students as necessary for their safety.

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

The Superintendent or designee shall develop procedures to promote safety for students traveling on school buses.

(cf. 3543 - Transportation Safety and Emergencies)

(cf. 5131.1 - Bus Conduct)

**Note:** The following optional paragraph is for use by districts that maintain their own transportation system and may be revised to reflect district practice. Pursuant to Penal Code 637.7, the district is authorized, as the registered owner of the school bus, to use electronic tracking systems to determine the location or movement of the vehicle. It is recommended that school bus drivers be notified when a bus is so equipped.

**TRANSPORTATION** (continued)

**In addition to using a global positioning system (GPS) to locate a bus in an emergency or to track delays, the district may choose to authorize parents/guardians to access the location data so that they may determine when their child has been picked up or dropped off at a bus stop.**

**The district may install a global positioning system (GPS) on school buses and/or student activity buses in order to enhance student safety and provide real-time location data to district and school administrators and parents/guardians.**

Note: The following **optional** paragraph is for use by districts that maintain their own transportation system.

The Superintendent or designee shall ensure the qualifications of bus drivers and related staff employed by the district, provide for the maintenance and operation of district-owned school buses and other equipment, and ensure adequate facilities for equipment storage and maintenance.

*(cf. 3542 - School Bus Drivers)*

*Legal Reference: (see next page)*



## **TRANSPORTATION (continued)**

### *Legal Reference:*

#### EDUCATION CODE

35330 *Excursions and field trips*

35350 *Authority to transport pupils*

39800-39860 *Transportation, especially:*

39800 *Powers of governing board to provide transportation for pupils to and from school; definition of "municipally owned transit system"*

39801 *Contract with County Superintendent of Schools to provide transportation*

39802-39803 *Bids and contracts for transportation services*

39806 *Payments to parents in lieu of transportation*

39807 *Food and lodging payments in lieu of transportation*

39807.5 *Transportation fees*

39808 *District transportation of private school students*

41850-41854 *Allowances for transportation*

41860-41862 *Supplemental allowances for transportation*

45125.1 *Criminal background checks for contractors*

**52311 *Regional occupational centers, transportation***

#### GOVERNMENT CODE

3540-3549.3 *Educational Employment Relations Act*

#### **PENAL CODE**

**637.7 *Electronic tracking devices***

#### **VEHICLE CODE**

**2807 *School bus inspection***

#### **CODE OF REGULATIONS, TITLE 5**

14100-14103 *Use of school buses and school pupil activity buses*

15240-15343 *Allowances for student transportation, especially:*

15253-15272 *District records related to transportation*

#### **VEHICLE CODE**

**2807 *School bus inspection***

#### **CODE OF REGULATIONS, TITLE 13**

**2025 *Retrofitting of diesel school buses***

#### **COURT DECISIONS**

*Arcadia Unified School District et. al. v. State Department of Education, 2 Cal. 4th 251 (1992)*

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# CSBA Sample Board Policy

Students

BP 5131.2(a)

## BULLYING

Note: Education Code 234.4, as added by AB 2291 (Ch. 491, Statutes of 2018), mandates districts to adopt, on or before December 31, 2019, procedures for preventing acts of bullying, including cyberbullying. The following policy and accompanying administrative regulation contain sample procedures that fulfill this mandate and may be revised to reflect district practice.

In addition, Education Code 234.1 and federal law mandate that the Governing Board adopt policy prohibiting discrimination, harassment, intimidation, ~~retaliation~~, and bullying based on specified characteristics and ensuring the protection of complainants from retaliation. AB 699 (Ch. 493, Statutes of 2017) amended Education Code 234.1 to include immigration status as a protected class; Also see BP 5145.3 - Nondiscrimination/Harassment for language fulfilling this mandate.

In its October 2010 Dear Colleague Letter: Harassment and Bullying, the U.S. Department of Education Office for Civil Rights (OCR) clarified that misconduct that falls under a district's general anti-bullying policy may also trigger responsibilities under one or more federal or state antidiscrimination laws if the bullying is on the basis of race, color, national origin, sex, sexual orientation, gender identity or expression, age, disability, and/or another legally protected category. If so, Federal law requires the district to take immediate and appropriate action to investigate or otherwise determine what occurred and, if it finds that unlawful discrimination did occur, take prompt and effective steps reasonably calculated to end the harassment discrimination, eliminate any hostile environment and its effects, and prevent the harassment discrimination from recurring.

In addition, OCR's August 2013 October 2014 Dear Colleague Letter: Responding to Bullying of Students with Disabilities points out that any bullying of any student with a disability that results in the student not receiving meaningful educational benefit constitutes a denial of a free appropriate public education and must be remedied under the federal Individuals with Disabilities Education Act. As necessary, the school may need to convene the student's individualized education program (IEP) team to determine whether the student's needs have changed as a result of the bullying and, if so, revise the IEP to ensure that the student continues to receive appropriate special education and related services.

Thus, while this policy is intended to prevent and address all types of bullying incidents among students, school officials need to know that when "discriminatory bullying" is committed and the bullying is sufficiently serious to create a hostile educational environment for the alleged victim or to otherwise deny or limit his/her the student's educational benefits and services, including denial of a free appropriate public education, the alleged victim must be afforded the protections specified under relevant state and/or federal law.

The Governing Board recognizes the harmful effects of bullying on student well-being, student learning, and school attendance and desires to provide a safe school environment that protects students from physical and emotional harm. District employees shall establish student safety as a high priority and shall not tolerate bullying of any student. No individual or group shall, through physical, written, verbal, visual, or other means, harass, sexually harass, threaten, intimidate, retaliate, cyberbully, cause bodily injury to, or commit hate violence against any student or school personnel, or retaliate against them for filing a complaint or participating in the complaint resolution process.

(cf. 5131 - Conduct)

## **BULLYING (continued)**

*(cf. 5136 - Gangs)*

*(cf. 5145.3 - Nondiscrimination/Harassment)*

*(cf. 5145.7 - Sexual Harassment)*

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

Note: Pursuant to Education Code 48900, the definition of "bullying" for purposes of establishing grounds for suspension or expulsion includes bullying via an electronic act, such as posting of messages on social media networks, and includes electronic acts that originate off campus.; see the section "Discipline" below and AR 5144.1 – Suspension and Expulsion/Due Process.

In addition, Penal Code 653.2 makes it a crime to distribute another person's personally identifiable information electronically with the intent to cause harassment by a third party, and to threaten a person's safety or that of his/her family (e.g., placing a person's address online so that he/she receives harassing messages).

Cyberbullying includes the electronic creation or transmission of harassing communications, direct threats, or other harmful texts, sounds, or images as defined in Education Code 48900. Cyberbullying also includes breaking into another person's electronic account and assuming that person's identity in order to damage that person's reputation.

*(cf. 5145.2 – Freedom of Speech/Expression)*

*(cf. 6163.4 – Student Use of Technology)*

Note: Education Code 32282 encourages districts to include bullying prevention policies and procedures in their comprehensive safety plan; see BP 0450 – Comprehensive Safety Plan. In addition, Education Code 52060 52077 require the Board to adopt and annually update a local control and accountability plan which includes, among other specified state priorities, goals for addressing school climate; see BP/AR 0460 – Local Control and Accountability Plan. Pursuant to Education Code 52060, school climate should be 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.

Strategies for addressing bullying in district schools shall be developed with involvement of key stakeholders, including students, parents/guardians, and staff, and may be incorporated into the comprehensive safety plan, the local control and accountability plan, and other applicable district and school plans.

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

*(cf. 0450 – Comprehensive Safety Plan)*

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

*(cf. 1220 – Citizen Advisory Committees)*

*(cf. 6020 – Parent Involvement)*

Note: Because bullying is not limited to one and its effects extend beyond the school environment, collaboration among a variety of community agencies and organizations that serve youth may be helpful in preventing and responding to bullying. For further information about building a collaborative, see CSBA's publications Safe Schools: Strategies for Governing Boards to Ensure Student Success and Building Healthy Communities: A School Leader's Guide to Collaboration and Community Engagement.

## **BULLYING (continued)**

**The Superintendent or designee shall develop strategies for addressing bullying in district schools shall be developed with the involvement of key stakeholders, including students, parents/guardians, and staff. As appropriate, the Superintendent or designee may also collaborate with law enforcement, courts, social services, mental health services, law enforcement, courts, and other agencies, and community organizations in the development and implementation of joint effective strategies to promote safety in schools and the community and to provide services for alleged victims and perpetrators of bullying.**

*(cf. 1220 - Citizen Advisory Committees)*

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

*(cf. 6020 - Parent Involvement)*

### **Bullying Prevention**

Note: Education Code 32282 encourages districts to include bullying prevention policies and procedures in their comprehensive safety plan; see BP 0450 - Comprehensive Safety Plan. In addition, Education Code 52060-52077 require the Board to adopt and annually update a local control and accountability plan which includes, among other specified state priorities, goals for addressing school climate; see BP/AR 0460 - Local Control and Accountability Plan. Pursuant to Education Code 52060, school climate should be 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.

**Such strategies shall may be incorporated into the comprehensive safety plan and, to the extent possible, into the local control and accountability plan; and other applicable district and school plans.**

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

*(cf. 0450 - Comprehensive Safety Plan)*

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

**To the extent possible, district schools shall focus on the prevention of bullying by establishing clear rules for student conduct and implementing strategies to promote a positive, collaborative school climate. Students shall be informed, through student handbooks and other appropriate means, of district and school rules related to bullying, mechanisms available for reporting incidents or threats, and the consequences for engaging in bullying.**

*(cf. 5137 - Positive School Climate)*

Note: California content standards related to student education about bullying and violence prevention (e.g., recognizing the characteristics of bullying, examining the effects of bullying on others, demonstrating what to say and do when witnessing bullying) are addressed within the health education content standards adopted by the State Board of Education.

47 USC 254 mandates districts that receive e-rate discounts to adopt a policy which addresses educating students about appropriate online behavior, including the interaction with other individuals on social networking web sites and in chat rooms, as well as providing information about cyberbullying awareness and response. See BP 6163.4 Student Use of Technology for language implementing this mandate.

**BULLYING** (continued)

As appropriate, the district shall provide students with instruction, in the classroom or other educational settings, that promotes social emotional learning, effective communication and conflict resolution skills, character/values education, respect for cultural and individual differences, self-esteem development, assertiveness skills, and appropriate online behavior.

~~(cf. 6142.8 Comprehensive Health Education)~~

~~(cf. 6142.94 History Social Science Instruction)~~

Note: Education Code 234.7, as added by AB 699 (Ch. 493, Statutes of 2017), requires districts to educate students about the negative impact of bullying based on actual or perceived immigration status or religious beliefs and customs. The following paragraph reflects the California Attorney General's model policy developed pursuant to Education Code 234.7, contained in 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*, and has been expanded to include education about the impact of bullying based on any other individual characteristic.

Such instruction shall also educate students about the negative impact of bullying, discrimination, intimidation, and harassment based on actual or perceived immigration status, religious beliefs and customs, or any other individual bias or prejudice.

Note: Pursuant to Education Code 234.7, as added by AB 699 (Ch. 493, Statutes of 2017), districts are **mandated** to adopt policy, equivalent to that developed by the Attorney General, which requires the provision of staff training with the components specified below:

The Superintendent or designee shall provide training to teachers and other school staff to raise their awareness about the legal obligation of the district and its employees to prevent discrimination, harassment, intimidation, and bullying of district students. Such training shall be designed to provide staff with the skills to:

1. Discuss the diversity of the student body and school community, including their varying immigration experiences
2. Discuss bullying prevention strategies with students, and teach students to recognize the behavior and characteristics of bullying perpetrators and victims
3. Identify the signs of bullying or harassing behavior
4. Take immediate corrective action when bullying is observed
5. Report incidents to the appropriate authorities, including law enforcement in instances of criminal behavior

~~(cf. 4131 Staff Development)~~

~~(cf. 4231 Staff Development)~~

~~(cf. 4331 Staff Development)~~

## **BULLYING (continued)**

Based on an assessment of bullying incidents at school, the Superintendent or designee may increase supervision and security in areas where bullying most often occurs, such as classrooms, playgrounds, hallways, restrooms, and cafeterias.

### **Intervention**

Students are encouraged to notify school staff when they are being bullied or suspect that another student is being victimized. In addition, the Superintendent or designee shall develop means for students to report threats or incidents confidentially and anonymously.

Note: Although Education Code 234.1 requires the district to adopt a policy requiring school personnel who witness acts of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) against students based on the actual or perceived status of the student belonging to a protected class to take immediate steps to intervene when it is safe to do so, it is recommended that districts apply this policy equally to all students; also see AR 5145.3 Nondiscrimination/Harassment.

School staff who witness an act of bullying shall immediately intervene to stop the incident when it is safe to do so. (Education Code 234.1)

When appropriate based on the severity or pervasiveness of the bullying, the Superintendent or designee shall notify the parents/guardians of victims and perpetrators and may contact law enforcement.

The Superintendent, principal, or principal's designee may refer a victim, witness, perpetrator, or other student affected by an act of bullying to a school counselor, school psychologist, social worker, child welfare attendance personnel, school nurse, or other school support service personnel for case management, counseling, and/or participation in a restorative justice program as appropriate. (Education Code 48900.9)

(cf. 6164.2 Guidance/Counseling Services)

### **Reporting and Filing of Complaints**

Note: The following reporting process may be revised to reflect district practice.

Any student, parent/guardian, or other individual who believes that a student has been subjected to bullying or who has witnessed bullying may report the incident to a teacher, the principal, a compliance officer, or any other available school employee.

Within one business day of receiving such a report, a staff member shall notify the principal of the report, whether or not a uniform complaint is filed. In addition, any school employee who observes an incident of bullying involving a student shall, within one business day, report his/her observation to the principal or a district compliance officer, whether or not the alleged victim files a complaint.

**BULLYING** (continued)

~~Within two business days of receiving a report of bullying, the principal shall notify the district compliance officer identified in AR 1312.3 Uniform Complaint Procedures.~~

~~(cf. 1312.3 Uniform Complaint Procedures)~~

~~Note: Districts have the authority to monitor student use of the district's Internet system and to conduct individual searches of student accounts if there is reasonable suspicion that a user has violated district policy or the law; see BP/AR 5145.12 Search and Seizure and BP/E 6163.4 Student Use of Technology.~~

~~When the circumstances involve cyberbullying, individuals with information about the activity shall be encouraged to save and print any electronic or digital messages that they feel constitute cyberbullying and to notify a teacher, the principal, or other employee so that the matter may be investigated. When a student uses a social networking site or service to bully or harass another student, the Superintendent or designee may file a request with the networking site or service to suspend the privileges of the student and to have the material removed.~~

~~When a report of bullying is submitted, the principal or a district compliance officer shall inform the student or parent/guardian of the right to file a formal written complaint in accordance with AR 1312.3. The student who is the alleged victim of the bullying shall be given an opportunity to describe the incident, identify witnesses who may have relevant information, and provide other evidence of bullying.~~

**Investigation and Resolution of Complaints**

Note: Pursuant to Education Code 234.1, districts are required to adopt a process for receiving and investigating complaints involving unlawful discrimination (such as discriminatory harassment, intimidation, and bullying) based on **specified characteristics** ~~race or ethnicity, nationality, gender, sex, sexual orientation, religion, immigration status, or any characteristic contained in the definition of hate crimes in Penal Code 422.55.~~ Pursuant to 5 CCR 4600-4633, the **uniform complaint procedures (UCP)** must be used for this purpose. In addition, federal regulations require districts to adopt procedures providing for prompt and equitable resolution of complaints of unlawful discrimination (such as discriminatory harassment, intimidation, and bullying) on the basis of sex (34 CFR 106.8), disability (34 CFR 104.7 and 28 CFR 35.107), and age (34 CFR 110.25).

Although some bullying incidents may not fall within the provisions of Education Code 234.1 or federal civil rights regulations, CSBA strongly recommends that districts use the UCP to investigate all bullying incidents (whether discriminatory or nondiscriminatory) to ensure consistent implementation by district staff. It is not always easy or possible for staff to know prior to an investigation whether a student was bullied because of **his/her** ~~an~~ actual or perceived membership in a legally protected class. Those bullying incidents found to involve discrimination based on the results of the investigation would then be resolved using the UCP. When a bullying incident is determined to be nondiscriminatory, it should be resolved through the appropriate disciplinary process. Districts that are concerned about the capacity of a single district compliance officer to handle a possible increase in the number of UCP complaints, or that prefer to handle certain incidents at the school site level whenever possible, may designate multiple compliance officers in accordance with AR 1312.3 - Uniform Complaint Procedures.

**BULLYING** (continued)

Any complaint of bullying shall be investigated and, if determined to be discriminatory, resolved in accordance with law and the district's uniform complaint procedures specified in AR 1312.3. If, during the investigation, it is determined that a complaint is about nondiscriminatory bullying, the principal or designee shall inform the complainant and shall take all necessary actions to resolve the complaint.

*(cf. 1312.3 - Uniform Complaint Procedures)*

**Discipline**

Note: Pursuant to Education Code 48900.48900.4, "bullying" is a ground for suspension or expulsion; see AR 5144.1—Suspension and Expulsion/Due Process.

The courts have generally upheld discipline for off campus student conduct that poses an identifiable threat to the safety of other students, staff, or school property or presents a risk of substantial disruption of school activities, provided that the district is able to document the impact or disruption that the conduct has, or could be expected to have, on school activities (e.g., *Wynar v. Douglas County School District*, *Lavine v. Blaine School District*). The court in *J.C. v. Beverly Hills Unified School District* found that the district would be able to discipline a student for a video recorded off campus and posted on YouTube, but that the discipline imposed on this particular student was not justified since the district did not present evidence of specific facts that led school officials to predict that the video would cause substantial disruption (e.g., the video was not violent or threatening nor did it lead to any confrontations between the students).

Consistent with these interpretations, Education Code 48900 defines bullying by means of an electronic act to include creation or transmission originating on or off the school site. Thus, for purposes of determining whether the conduct may be subject to suspension or expulsion, the act does not necessarily need to have been committed while at school, while coming to or from school, or during a school sponsored activity. Nevertheless, the act needs to satisfy the criteria specified in the definition of "bullying" in Education Code 48900 (i.e., a severe or pervasive physical or verbal act or conduct that has or can be reasonably predicted to have the effect of placing a reasonable student in fear of harm to his/her person or property, causing a substantially detrimental effect on his/her physical or mental health, causing substantial interference with his/her academic performance, or causing substantial interference with his/her ability to participate in or benefit from school services, activities, or privileges).

When the conduct does not rise to the level specified in Education Code 48900, the district may implement interventions other than suspension or expulsion to address the bullying. For further information, see CSBA's policy brief *Cyberbullying: Policy Considerations for Boards*. Also see BP 5131—Conduct and BP 5145.2—Freedom of Speech/Expression.

Additionally, districts should note that, in the context of discriminatory bullying on the basis of race, color, national origin, sex, or disability, federal law and regulations require school districts to impose discipline on students, up to and including suspension and expulsion, where necessary to remedy the effects of a hostile environment and prevent the discrimination from recurring.

Corrective actions for a student who commits an act of bullying of any type may include counseling, behavioral intervention and education, and, if the behavior is severe or pervasive as defined in Education Code 48900, may include suspension or expulsion in accordance with district policies and regulations.



**BULLYING (continued)**

~~(cf. 5138 - Conflict Resolution/Peer Mediation)~~  
~~(cf. 5144 - Discipline)~~  
~~(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)~~

Any employee who permits or engages in bullying or retaliation related to bullying shall be subject to disciplinary action, up to and including dismissal.

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)  
(cf. 4119.21/4219.21/4319.21 - Professional Standards)  
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

*Legal Reference:*

EDUCATION CODE

200-262.4 Prohibition of discrimination  
32282 Comprehensive safety plan  
32283.5 Bullying; online training  
35181 Governing board policy on responsibilities of students  
35291-35291.5 Rules  
48900-48925 Suspension or expulsion  
48985 Translation of notices  
52060-52077 Local control and accountability plan

PENAL CODE

422.55 Definition of hate crime  
647 Use of camera or other instrument to invade person's privacy; misdemeanor  
647.7 Use of camera or other instrument to invade person's privacy; punishment  
653.2 Electronic communication devices, threats to safety

CODE OF REGULATIONS, TITLE 5

4600-4670 Uniform complaint procedures

UNITED STATES CODE, TITLE 47

254 Universal service discounts (e-rate)

CODE OF FEDERAL REGULATIONS, TITLE 28

35.107 Nondiscrimination on basis of disability; complaints

CODE OF FEDERAL REGULATIONS, TITLE 34

104.7 Designation of responsible employee for Section 504

106.8 Designation of responsible employee for Title IX

110.25 Notification of nondiscrimination on the basis of age

COURT DECISIONS

Wynar v. Douglas County School District, (2013) 728 F.3d 1062

J.C. v. Beverly Hills Unified School District, (2010) 711 F.Supp.2d 1094

Lavine v. Blaine School District, (2002) 279 F.3d 719

## **BULLYING (continued)**

### *Management Resources:*

#### CSBA PUBLICATIONS

Final Guidance: AB 1266, Transgender and Gender Nonconforming Students, Privacy, Programs, Activities & Facilities, Legal Guidance, March 2014

Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014

Addressing the Conditions of Children: Focus on Bullying, Governance Brief, December 2012

Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011

Cyberbullying: Policy Considerations for Boards, Policy Brief, July 2007 rev. July 2010

Building Healthy Communities: A School Leaders Guide to Collaboration and Community Engagement, 2009

Cyberbullying: Policy Considerations for Boards, Policy Brief, July 2007

#### CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

##### Bullying Module

California's Social and Emotional Learning: Guiding Principles, 2018

Social and Emotional Learning in California: A Guide to Resources, 2018

Health Education Content Standards for California Public Schools: Kindergarten Through Grade Twelve, 2008

Bullying at School, 2003

#### CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS

Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California K-12 Schools in Responding to Immigration Issues, April 2018

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

Dear Colleague Letter: Responding to Bullying of Students with Disabilities, October 2014

Guidance to America's Schools: Bullying of Students with Disabilities, October 2014

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

Dear Colleague Letter: Guidance on Schools' Obligations to Protect Students from Student-on-Student Harassment on the Basis of Sex; Race, Color and National Origin; and Disability, October 26, 2010

Dear Colleague Letter: Harassment and Bullying, October 2010

#### WEB SITES

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

California Department of Education, Safe Schools Office: <http://www.cde.ca.gov/lr/ss>

California Office of the Attorney General: <http://oag.ca.gov>

Center on Great Teachers and Leaders: <https://gtlcenter.org>

Collaborative for Academic Social and Emotional Learning: <https://casel.org>

Common Sense Media: <http://www.commonsensemedia.org>

National School Safety Center: <http://www.schoolsafety.us>

Partnership for Children and Youth: <https://www.partnerforchildren.org>

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

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### **Policy Reference UPDATE Service**

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# CSBA Sample

## Administrative Regulation

Students

AR 5131.2(a)

### BULLYING

**Note:** Education Code 234.4, as added by AB 2291 (Ch. 491, Statutes of 2018), mandates districts to adopt, on or before December 31, 2019, procedures for preventing acts of bullying, including cyberbullying. The following administrative regulation may be revised to reflect district practice.

#### Definitions

**Note:** The following section reflects definitions and examples of bullying and cyberbullying contained in the California Department of Education's (CDE) Bullying Module and may be revised to reflect district practice.

Education Code 48900 defines "bullying," including bullying via an electronic act, for purposes of establishing grounds for suspension or expulsion. See AR 5144.1 - Suspension and Expulsion/Due Process. In addition, Penal Code 653.2 makes it a crime to distribute another person's personally identifiable information electronically with the intent to place that person in reasonable fear of the person's own or a family member's safety and for the purpose of imminently cause causing harassment or injury by a third party. and to threaten a person's safety or that of his/her family (e.g., placing a person's address online so that he/she receives harassing messages).

**Bullying** is an unwanted, aggressive behavior that involves a real or perceived imbalance of power between individuals with the intent to cause emotional or physical harm. Bullying can be physical, verbal, or social/relational and involves repetition or potential repetition of a deliberate act.

**Cyberbullying** includes the electronic creation or transmission of harassing communications, direct threats, or other harmful texts, sounds, or images. Cyberbullying also includes breaking into another person's electronic account and or assuming that person's online identity in order to damage that person's reputation.

(cf. 5145.2 - Freedom of Speech/Expression)

(cf. 6163.4 - Student Use of Technology)

**Examples of the types of conduct that may constitute bullying and are prohibited by the district include, but are not limited to:**

1. Physical bullying that inflicts harm upon a person's body or possessions, such as hitting, kicking, pinching, spitting, tripping, pushing, taking or breaking someone's possessions, or making cruel or rude hand gestures
2. Verbal bullying that includes saying or writing hurtful things, such as teasing, name-calling, inappropriate sexual comments, taunting, or threats to cause harm

**BULLYING** (continued)

3. Social/relational bullying that harms a person's reputation or relationships, such as leaving a person out of an activity on purpose, influencing others not to be friends with someone, spreading rumors, or embarrassing someone in public
4. Cyberbullying, such as sending demeaning or hateful text messages or emails, sending rumors by email or by posting on social networking sites, or posting embarrassing photos, videos, web site, or fake profiles

**Measures to Prevent Bullying**

The Superintendent or designee shall implement measures to prevent bullying in district schools, including, but not limited to, the following:

1. Ensuring that each school establishes clear rules for student conduct and implements strategies to promote a positive, collaborative school climate

(cf. 5131 - Conduct)

(cf. 5137 - Positive School Climate)

2. Providing to students, through student handbooks and other age-appropriate means, information about district and school rules related to bullying, mechanisms available for reporting incidents or threats, and the consequences for engaging in bullying
3. Encouraging students to notify school staff when they are being bullied or when they suspect that another student is being bullied, and providing means by which students may report threats or incidents confidentially and anonymously
4. Conducting an assessment of bullying incidents at each school and, if necessary, increasing supervision and security in areas where bullying most often occurs, such as classrooms, playgrounds, hallways, restrooms, and cafeterias

<p>Note: Although Education Code 234.1 requires the district to adopt a policy requiring school personnel who witness acts of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) against students based on the actual or perceived status of the student belonging to a protected class to take immediate steps to intervene when it is safe to do so, it is recommended that districts apply this policy equally to all students; also see AR 5145.3 - Nondiscrimination/Harassment.</p>
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5. Annually notifying district employees that, pursuant to Education Code 234.1, any school staff who witnesses an act of bullying against a student has a responsibility to immediately intervene to stop the incident when it is safe to do so

## **BULLYING (continued)**

### **Staff Development**

**Note:** Education Code 32283.5, as amended by AB 2291, requires districts to make available annually, to certificated staff and all other employees who have regular interaction with students, the CDE's online Bullying Module described below.

**The Superintendent or designee shall make the California Department of Education's online training module on the dynamics of bullying and cyberbullying, which includes the identification of bullying and cyberbullying and the implementation of strategies to address bullying, available annually to all certificated staff and to other employees who have regular interaction with students. (Education Code 32283.5)**

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

**Note:** Pursuant to Education Code 234.7, districts are **mandated** to adopt policy, equivalent to that developed by the Attorney General, which requires the provision of staff training with the components specified below.

**The Superintendent or designee shall provide training to teachers and other school staff to raise their awareness about the legal obligation of the district and its employees to prevent discrimination, harassment, intimidation, and bullying of district students. Such training shall be designed to provide staff with the skills to:**

- 1. Discuss the diversity of the student body and school community, including their varying immigration experiences**
- 2. Discuss bullying prevention strategies with students, and teach students to recognize the behavior and characteristics of bullying perpetrators and victims**
- 3. Identify the signs of bullying or harassing behavior**
- 4. Take immediate corrective action when bullying is observed**
- 5. Report incidents to the appropriate authorities, including law enforcement in instances of criminal behavior**

### **Student Instruction**

**Note:** California content standards related to student education about bullying and violence prevention (e.g., recognizing the characteristics of bullying, examining the effects of bullying on others, demonstrating what to say and do when witnessing bullying) are addressed within the health education content standards adopted by the State Board of Education.

## **BULLYING (continued)**

47 USC 254 mandates districts that receive e-rate discounts to adopt a policy which addresses educating students about appropriate online behavior, including the interaction with other individuals on social networking web sites and in chat rooms, as well as providing information about cyberbullying awareness and response. See BP 6163.4 - Student Use of Technology for language implementing this mandate.

As appropriate, the district shall provide students with instruction, in the classroom or other educational settings, that promotes social-emotional learning, effective communication and conflict resolution skills, character/values education, respect for cultural and individual differences, self-esteem development, assertiveness skills, and appropriate online behavior.

*(cf. 6142.8 - Comprehensive Health Education)*

*(cf. 6142.94 - History-Social Science Instruction)*

### **Reporting and Filing of Complaints**

Any student, parent/guardian, or other individual who believes that a student has been subjected to bullying or who has witnessed bullying may report the incident to a teacher, the principal, a compliance officer, or any other available school employee.

When a report of bullying is submitted, the principal or a district compliance officer shall inform the student or parent/guardian of the right to file a formal written complaint in accordance with AR 1312.3 - **Uniform Complaint Procedures**. The student who is the alleged victim of the bullying shall be given an opportunity to describe the incident, identify witnesses who may have relevant information, and provide other evidence of bullying.

*(cf. 1312.3 - Uniform Complaint Procedures)*

Within one business day of receiving such a report, a staff member shall notify the principal of the report, whether or not a uniform complaint is filed. In addition, any school employee who observes an incident of bullying involving a student shall, within one business day, report ~~his/her~~ **such** observation to the principal or a district compliance officer, whether or not the alleged victim files a complaint.

Within two business days of receiving a report of bullying, the principal shall notify the district compliance officer identified in AR 1312.3 - ~~Uniform Complaint Procedures~~.

Note: Districts have the authority to monitor student use of the district's Internet system and to conduct individual searches of student accounts if there is reasonable suspicion that a user has violated district policy or the law; see BP/AR 5145.12 - Search and Seizure and BP/E 6163.4 - Student Use of Technology.

**BULLYING** (continued)

When the circumstances involve cyberbullying, individuals with information about the activity shall be encouraged to save and print any electronic or digital messages that they feel constitute cyberbullying and to notify a teacher, the principal, or other employee so that the matter may be investigated. When a student uses a social networking site or service to bully or harass another student, the Superintendent or designee may file a request with the networking site or service to suspend the privileges of the student and to have the material removed.

**Discipline/Corrective Actions**

Note: Pursuant to Education Code 48900-48900.4, "bullying" is a ground for suspension or expulsion; see AR 5144.1 - Suspension and Expulsion/Due Process.

The courts have generally upheld discipline for off-campus student conduct that poses an identifiable threat to the safety of other students, staff, or school property or presents a risk of substantial disruption of school activities, provided that the district is able to document the impact or disruption that the conduct has, or could be expected to have, on school activities (e.g., Wynar v. Douglas County School District, Lavine v. Blaine School District). The court in J.C. v. Beverly Hills Unified School District found that the district would be able to discipline a student for a video recorded off campus and posted on YouTube, but that the discipline imposed on this particular student was not justified since the district did not present evidence of specific facts that led school officials to predict that the video would cause substantial disruption (e.g., the video was not violent or threatening nor did it lead to any confrontations between the students).

Consistent with these interpretations, Education Code 48900 defines bullying by means of an electronic act to include creation or transmission originating on or off the school site. Thus, for purposes of determining whether the conduct may be subject to suspension or expulsion, the act does not necessarily need to have been committed while at school, while coming to or from school, or during a school-sponsored activity. Nevertheless, the act needs to satisfy the criteria specified in the definition of "bullying" in Education Code 48900 (i.e., a severe or pervasive physical or verbal act or conduct that has or can be reasonably predicted to have the effect of placing a reasonable student in fear of harm to ~~his/her~~ **the student's** person or property, causing a substantially detrimental effect on **the student's** ~~his/her~~ physical or mental health, causing substantial interference with **the student's** ~~his/her~~ academic performance, or causing substantial interference with **the student's** ~~his/her~~ ability to participate in or benefit from school services, activities, or privileges).

When the conduct does not rise to the level specified in Education Code 48900, the district may implement interventions other than suspension or expulsion to address the bullying. For further information, see CSBA's policy brief Cyberbullying: Policy Considerations for Boards. Also see BP 5131 - Conduct and BP 5145.2 - Freedom of Speech/Expression.

~~Additionally, districts should note that, in the context of discriminatory bullying on the basis of race, color, national origin, sex, or disability, federal law and regulations require school districts to impose discipline on students, up to and including suspension and expulsion, where necessary to remedy the effects of a hostile environment and prevent the discrimination from recurring.~~

Corrective actions for a student who commits an act of bullying of any type may include counseling, behavioral intervention and education, and, if the behavior is severe or pervasive as defined in Education Code 48900, may include suspension or expulsion in accordance with district policies and regulations.

**BULLYING** (continued)

*(cf. 5138 - Conflict Resolution/Peer Mediation)*

*(cf. 5144 - Discipline)*

*(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)*

When appropriate based on the severity or pervasiveness of the bullying, the Superintendent or designee shall notify the parents/guardians of victims and perpetrators and may contact law enforcement.

The Superintendent, principal, or principal's designee may refer a victim, witness, perpetrator, or other student affected by an act of bullying to a school counselor, school psychologist, social worker, child welfare attendance personnel, school nurse, or other school support service personnel for case management, counseling, and/or participation in a restorative justice program as appropriate. (Education Code 48900.9)

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

**If any student involved in bullying exhibits warning signs of suicidal thought or intention or of intent to harm another person, the Superintendent or designee shall, as appropriate, implement district intervention protocols which may include, but are not limited to, referral to district or community mental health services, other health professionals, and/or law enforcement.**

*(cf. 5141.52 - Suicide Prevention)*



# CSBA Sample

## Board Policy

Students

BP 5132(a)

### DRESS AND GROOMING

**Note:** The following policy may be revised to reflect district practice. Pursuant to Education Code 35183, districts that adopt a school uniform policy are mandated to include specified provisions; see section on "Uniforms" below.

The Governing Board believes that appropriate dress and grooming contribute to a productive learning environment. The Board expects students ~~to give proper attention to personal cleanliness and~~ to wear ~~clothes~~ **clothing** that ~~are~~ **is** suitable for the school activities in which they participate. ~~Students' clothing must not~~ **Students shall not wear clothing that** presents a health or safety hazard ~~or a distraction which would interfere with the educational process~~ **or is likely to cause a substantial disruption to the educational program.**

(cf. 4119.22/4219.22/4319.22 - Dress and Grooming)

~~(cf. 5145.2 - Freedom of Speech/Expression)~~

**District and school rules pertaining to student attire shall be included in student handbooks, may be posted in school offices and classrooms, and may be periodically reviewed with all students as necessary.**

**Students shall not be prohibited from dressing in a manner consistent with their gender identity or gender expression or with their religious or cultural observance.**

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

**Note:** While students do not lose their constitutional rights by virtue of entering school grounds, numerous court decisions have found that the First Amendment rights of public school students are not necessarily the same as the rights of adults in other settings and must be viewed in light of the special circumstances of the school environment. In Hazelwood School District v. Kuhlmeier, the U.S. Supreme Court ruled that a school may limit student expression as long as its decision is reasonably related to "legitimate pedagogical concerns." For instance, districts may prohibit clothing that is vulgar or causes a substantial disruption to the educational program. Districts may also prohibit clothing that promotes drug use. While districts can regulate clothing that causes a "substantial disruption," districts cannot regulate student clothing simply because the district does not approve of the message displayed. The district's ability to prohibit "hate speech," including clothing with derogatory or demeaning messages, is unclear. The 9th Circuit Court in Harper v. Poway Unified School District ruled that a school could prohibit a student from wearing a t-shirt with a religious viewpoint against homosexuality, citing a provision in Tinker v. Des Moines which held that schools may prohibit speech that "intrudes upon the rights of other students" and interferes with their learning. However, because the student had graduated, the U.S. Supreme Court vacated the Harper decision on appeal and thus its analysis cannot be relied upon. It is recommended that the district consult legal counsel in the development of this policy and whenever it has questions about the appropriate enforcement of this policy based on student expression.

**DRESS AND GROOMING** (continued)

The principal or designee is authorized to enforce this policy and shall inform any student who does not reasonably conform to the dress code. The dress code shall not be enforced in a manner that discriminates against a particular viewpoint or results in a disproportionate application of the dress code based on students' gender, sexual orientation, race, ethnicity, household income, or body type or size.

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

*(cf. 0415 - Equity)*

*(cf. 5145.2 - Freedom of Speech/Expression)*

~~Students and parents/guardians shall be informed about dress and grooming standards at the beginning of the school year and whenever these standards are revised. A student who violates these standards shall be subject to appropriate disciplinary action.~~ **Repeated violations or refusal to comply with the district's dress code may result in disciplinary action.**

*(cf. 5144 - Discipline)*

The principal, staff, and parents/guardians at a school may establish a reasonable dress code that prohibits students from wearing gang-related apparel when there is evidence of a gang presence that disrupts or threatens to disrupt the school's activities. Such a **proposed** dress code ~~may be included as part of the school safety plan and must~~ **shall** be presented to the Board, **which** ~~for approval. The Board~~ shall approve the plan upon determining that it is necessary to protect the health and safety of the ~~school's students~~ **school environment**. The dress code policy may be included in the school's comprehensive safety plan. **(Education Code 35183)**

*(cf. 0450 - Comprehensive Safety Plan)*

*(cf. 5136 - Gangs)*

**When determining specific items of clothing that may be defined as gang apparel, the school shall ensure that the determination is free from bias based on race, ethnicity, national origin, immigration status, or other protected characteristics.**

*Legal Reference Next Page*

## **DRESS AND GROOMING (continued)**

### *Legal Reference:*

#### EDUCATION CODE

##### **220 Nondiscrimination**

32281 School safety plans

35183 School dress codes; uniforms

35183.5 Sun-protective clothing

48907 Student exercise of free expression

49066 Grades; effect of physical education class apparel

#### CODE OF REGULATIONS, TITLE 5

~~302 Pupils to be neat and clean on entering school~~

#### COURT DECISIONS

***Jacobs v. Clark County School District*, (2008) 26 F. 3d 419**

***Harper v. Poway Unified School District*, (2006) 445 App. 3d 166**

*Marvin H. Jeglin et al v. San Jacinto Unified School District et al*, (C.D. Cal. 1993)

827 F.Supp. 1459

*Arcadia Unified School District v. California Department of Education*, (1992) 2 Cal. 4th 251

***Hazelwood School District v. Kuhlmeier*, (1988) 108 S. Ct. 562**

*Hartzell v. Connell*, (1984) 35 Cal. 3d 899

***Tinker v. Des Moines Independent Community School District*, (1969) 393 U.S. 503**

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# CSBA Sample Administrative Regulation

Students

AR 5132(a)

## DRESS AND GROOMING

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

In cooperation with teachers, students, and parents/guardians, the principal or designee **shall may** establish school rules governing student dress and grooming which are consistent with law, **Governing** Board policy, and administrative regulations. These school dress codes shall be regularly reviewed.

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

**Note: SB 310 (Ch. 575, Statutes of 2001) added Education Code 35183.5 to provide that students be allowed to wear hats and other sun protective clothing outdoors. Each school site may adopt rules that specify the types of sun protective clothing that students will be allowed to wear outdoors and specify the types of clothing and hats that may be "inappropriate."**

**Each school shall allow students to wear sun protective clothing, including but not limited to hats, for outdoor use during the school day. (Education Code 35183.5)**

**Note: Optional items #1-6-4 below may be used as a basis for either administrative regulations or school site rules. revised to reflect district practice.**

**In addition, t**The following guidelines shall apply to all regular school activities:

- 1. — Shoes must be worn at all times. Sandals must have heel straps. Thongs or backless shoes or sandals are not acceptable.**
- 2.1. Clothing, jewelry, and personal items (backpacks, fanny packs, gym bags, water bottles etc.) shall be free of writing, pictures, or any other insignia which are is crude, vulgar, lewd, obscene, profane, or sexually suggestive, which bear drug, alcohol or tobacco company advertising, promotions and likenesses, or which or which promotes the use of alcohol, drugs, tobacco, or other illegal activity. advocate racial, ethnic or religious prejudice.**
- 1.2. Appropriate s**Shoes must be worn at all times. Sandals must have heel straps. Thongs or backless shoes or sandals are not acceptable.
- 3. Hats, caps, and other head coverings shall not be worn indoors.**
- 4. Clothes shall be sufficient to conceal undergarments at all times. See-through or fish-net fabrics, halter tops, off the shoulder or low cut tops, and bare abdomens midriffs, and skirts or shorts shorter than mid-thigh are prohibited.**

## **DRESS AND GROOMING (continued)**

5. ~~Gym shorts may not be worn in classes other than physical education.~~

6. ~~Hair shall be clean and neatly groomed. Hair may not be sprayed by any coloring that would drip when wet.~~

**The dress code shall be modified as appropriate to accommodate a student's religious or cultural observance, health condition, or other circumstance deemed necessary by the principal or designee. Coaches and teachers In addition, the principal or designee may impose more stringent dress requirements to accommodate the special needs of certain sports and/or classes special school activities, physical education classes, athletic activities, and other extracurricular and cocurricular activities.**

*(cf. 3260 - Fees and Charges)*

*(cf. 6142.7 - Physical Education and Activity)*

*(cf. 6145 - Extracurricular and Cocurricular Activities)*

*(cf. 6145.2 - Athletic Competition)*

No grade of a student participating in a physical education class shall be adversely affected if the student does not wear standardized physical education apparel because of circumstances beyond the student's control. (Education Code 49066)

*(cf. 5121 - Grades/Evaluation of Student Achievement)*

~~The principal, staff, students and parent/guardians at each school may establish reasonable dress and grooming regulations for times when students are engaged in extracurricular or other special school activities.~~

~~Each school shall allow s~~**Students shall be allowed** to wear sun-protective clothing, including but not limited to hats, for outdoor use during the school day. (Education Code 35183.5)

*(cf. 5141.7 - Sun Safety)*

## **Gang-Related Apparel**

Note: The following section is for use by districts in which individual schools have adopted a dress code prohibiting gang-related apparel **pursuant to Education Code 35183. Legal counsel should be consulted when drafting language related to gang apparel. It is recommended that districts consult legal counsel when developing administrative regulations related to gang apparel.**

At individual schools that have a dress code prohibiting gang-related apparel at school or school activities, the principal, staff, and parents/guardians participating in the development of the school safety plan shall define "gang-related apparel" and shall limit this definition to apparel that reasonably could be determined to threaten the health and safety of the school environment if it were worn or displayed on a school campus. (Education Code 32282)

**DRESS AND GROOMING** (continued)

~~Note: Education Code 35183.5, as added by SB 310 (Ch. 575, Statutes of 2001), requires schools to allow students to wear hats and other types of sun-protective clothing while outside. However, the school's dress code policy may prohibit specific hats or apparel that has been determined to be gang-related.~~

Because gang-related symbols are constantly changing, definitions of gang-related apparel shall be reviewed at least once each semester and updated whenever related information is received. **As necessary, the school shall collaborate with law enforcement agencies to update definitions of gang-related apparel.**

# CSBA Sample

## Board Policy

### Instruction

BP 6142.1(a)

### SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION

Note: The following policy is for use by districts that offer any of grades 7-12. ~~As amended by AB 329 (Ch. 398, Statutes of 2015),~~ Education Code 51934 requires districts to provide ~~both~~ comprehensive sexual health education and HIV prevention education to students in grades 7-12. See the accompanying administrative regulation for definitions and program requirements.

Education Code 51934, ~~as amended by AB 329,~~ also authorizes, but does not require, districts to provide age-appropriate comprehensive sexual health education prior to grade 7 on any of the topics specified in Education Code 51934. ~~Districts that choose to provide such instruction prior to grade 7 may revise the following policy and administrative regulation accordingly.~~

Sexual health education taught at any grade level must comply with the requirements of Education Code 51933. ~~Districts that choose to provide such instruction prior to grade 7 may revise the following policy and administrative regulation accordingly.~~

The Governing Board desires to provide a well-planned, integrated sequence of medically accurate and inclusive instruction on comprehensive sexual health and human immunodeficiency virus (HIV) prevention. The district's educational program shall **address the goals of the California Healthy Youth Act pursuant to Education Code 51930-51939, including providing** students with the knowledge and skills necessary to protect them—from **risks presented by** sexually transmitted infections, ~~and~~ unintended pregnancy, **sexual harassment, sexual assault, sexual abuse, and human trafficking** and to have healthy, positive, and safe relationships and behaviors. The district's educational program shall also promote **students'** understanding of sexuality as a normal part of human development and—~~their~~ **the** development of healthy attitudes and behaviors concerning adolescent growth and development, body image, gender, **gender identity, gender expression,** sexual orientation, relationships, marriage, and family.

(cf. 5030 - Student Wellness)

(cf. 5141.22 - Infectious Diseases)

(cf. 5141.25 - Availability of Condoms)

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

(cf. 6142.8 - Comprehensive Health Education)

The district shall respect the rights of parents/guardians to supervise their children's education on these subjects and to impart values regarding human sexuality to their children.

Note: The following paragraph may be revised to reflect the grade levels offered by the district.

Comprehensive sexual health education and HIV prevention education shall be offered to all students in grades 7-12, **including** at least once in junior high or middle school and at least once in high school. (Education Code 51934)

## SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION (continued)

(cf. 6143 - Courses of Study)

Note: The following paragraph is for use by districts that require completion of a health education course for graduation from high school, and may be adapted for use by other districts. Pursuant to Education Code 51225.36, as added by SB 695 (Ch. 424, Statutes of 2015), any district that has a health education course requirement for graduation from high school must include instruction in sexual harassment and violence, including, but not limited to, information on the affirmative consent standard pursuant to Education Code 67386. Also see AR 6146.1 - High School Graduation Requirements. ~~Education Code 51225.36 also requires that teachers delivering health instruction consult information related to sexual harassment and violence in the health curriculum framework.~~

The district's comprehensive sexual health education program shall include information on the affirmative consent standard. *Affirmative consent* is defined as affirmative, conscious, and voluntary agreement to engage in sexual activity. Teachers delivering such instruction shall consult information related to sexual harassment and violence in the state health curriculum framework. (Education Code 51225.36, 67386)

Note: Education Code 49381, as added by SB 1104 (Ch. 848, Statutes of 2018), requires districts that offer any of grades 6-12 to identify the most appropriate methods of informing parents/guardians of human trafficking prevention resources, and to provide such information through the identified methods by January 1, 2020. The following paragraph is for use by districts that maintain grades 6-12 and may be modified for districts that serve students in grades K-5.

The Superintendent or designee shall identify appropriate methods for informing the school community about subjects related to the district's comprehensive sexual health and HIV prevention education. The Superintendent or designee shall use such identified methods to inform parents/guardians of students in grades 6-12 about human trafficking prevention resources, as required pursuant to Education Code 49381.

Note: ~~Voluntary state content standards for health education, as adopted by the State Board of Education in 2008, include standards related to growth, development, and sexual health. See BP/AR 6142.8 Comprehensive Health Education.~~

~~The district's curriculum shall support the purposes of the California Healthy Youth Act as specified in Education Code 51930-51939, be unbiased and inclusive of all students in the classroom, and be aligned with the state's content standards. The district shall respect the rights of parents/guardians to supervise their children's education on these subjects and to impart values regarding human sexuality to their children.~~

(cf. 5141.22 - Infectious Diseases)

(cf. 5141.25 - Availability of Condoms)

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

(cf. 6143 - Courses of Study)

Note: ~~The following paragraph is optional and should be revised to reflect district practice.~~



**SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION** (continued)

~~The Superintendent or designee may appoint a coordinator and/or an advisory committee regarding the district's comprehensive sexual health and HIV prevention curriculum. The advisory committee shall represent a divergence of viewpoints and may participate in planning, implementing, and evaluating the district's program.~~

~~(cf. 1220 - Citizen Advisory Committees)~~

**Parent/Guardian Consent**

Note: Education Code 51938 requires districts to notify parents/guardians **of the about instruction in comprehensive** sexual health and HIV prevention **education** and of **the opportunity their right** to request that their child not receive the instruction. See the accompanying administrative regulation for details of the required notice.

Pursuant to Education Code 51938, ~~as amended by AB 329 (Ch. 398, Statutes of 2015)~~, districts must use a "passive consent" or "opt-out" process regarding sexual health and HIV prevention education and any assessments related to that instruction. Thus, each student must receive the instruction unless the parent/guardian notifies the district in writing that the student should not receive the instruction.

In addition, Education Code 51938 requires districts to use a passive consent or opt-out process **to obtain parent/guardian consent** when administering ~~to students in grades 7-12~~ an anonymous, voluntary, and confidential research and evaluation tool to measure students' health behaviors and risks, including a test, **questionnaire**, or survey **containing age-appropriate questions about regarding** sexual attitudes or practices. **However, for** ~~For~~ any such research and evaluation tool administered prior to grade 7, Education Code 51513 requires that parents/guardians ~~must~~ give permission before the instrument is administered to their child (i.e., "active consent").

20 USC 1232h mandates districts to adopt a policy regarding the district's arrangements to protect student privacy when such a survey is administered **to any student, regardless of their grade level**. See BP/AR 5022 - Student and Family Privacy Rights for language implementing this requirement.

**Annually, At the beginning of each school year or at the time of a student's enrollment,** parents/guardians shall be notified, in the manner specified in the accompanying administrative regulation, that they may request in writing that their child be excused from participating in comprehensive sexual health and HIV prevention education. Students so excused by their parents/guardians shall be given an alternative educational activity. (Education Code 51240, 51938, 51939)

*(cf. 5022 - Student and Family Privacy Rights)*

A student shall not be subject to disciplinary action, academic penalty, or other sanction if the student's parent/guardian declines to permit the student to receive the instruction. (Education Code 51939)

## SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION (continued)

### Legal Reference:

#### EDUCATION CODE

220 Prohibition of discrimination

33544 Inclusion of sexual harassment and violence in health curriculum framework

48980 Notice at beginning of term

**49381 Human trafficking prevention resources**

51202 Instruction in personal and public health and safety

51210.8 Health education curriculum

51225.36 Instruction in sexual harassment and violence; districts that require health education for graduation

51240 Excuse from instruction due to religious beliefs

51513 ~~Materials~~ **Test, questionnaire, survey, or examination** containing questions about beliefs or practices

51930-51939 California Healthy Youth Act

**51950 Abuse, sexual abuse, and human trafficking prevention education**

67386 Student safety; affirmative consent standard

#### HEALTH AND SAFETY CODE

1255.7 Parents surrendering physical custody of a baby

#### PENAL CODE

243.4 Sexual battery

261.5 Unlawful sexual intercourse

271.5 Parents voluntarily surrendering custody of a baby

#### UNITED STATES CODE, TITLE 20

1232h Protection of student rights

7906 Sex education **requirements and prohibited use of funds**

### Management Resources:

#### CSBA PUBLICATIONS

Promoting Healthy Relationships for Adolescents: Board Policy Considerations, Governance Brief, August 2014

#### CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Health Education Content Standards for California Public Schools, Kindergarten Through Grade 12, 2008

Health Framework for California Public Schools: Kindergarten through Grade 12, 2003

#### **HUMAN RIGHTS CAMPAIGN FOUNDATION PUBLICATIONS**

**California LGBTQ Youth Report, January 2019**

#### WEB SITES

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

California Department of Education, Sex Education and HIV/**AIDS**/STD Instruction: <http://www.cde.ca.gov/ls/he/se>

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

California Healthy Kids Resource Center: <http://www.californiahealthykids.org>

**California Partnership to End Domestic Violence: <http://www.cpedv.org>**

California Safe Schools Coalition: <http://www.casafeschools.org>

Centers for Disease Control and Prevention: <http://www.cdc.gov>

**Human Rights Campaign: <https://www.hrc.org/hrc-story/hrc-foundation>**

U.S. Food and Drug Administration: <http://www.fda.gov>

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### Policy Reference UPDATE Service

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# CSBA Sample

## Administrative Regulation

### Instruction

AR 6142.1(a)

### SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION

Note: The following administrative regulation is for use by districts that maintain any of grades 7-12. ~~As amended by AB 329 (Ch. 398, Statutes of 2015),~~ Education Code 51934 requires districts to provide comprehensive sexual health education and HIV prevention education to students in grades 7-12.

If the district chooses to provide age-appropriate sexual health education prior to grade 7 as authorized by Education Code 51934, ~~as amended by AB 329,~~ it may revise the following administrative regulation accordingly.

### Definitions

*Comprehensive sexual health education* means education regarding human development and sexuality, including education on pregnancy, contraception, and sexually transmitted infections. (Education Code 51931)

*HIV prevention education* means instruction on the nature of human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS), methods of transmission, strategies to reduce the risk of HIV infection, and social and public health issues related to HIV and AIDS. (Education Code 51931)

(cf. 6142.8 - Comprehensive Health Education)

(cf. 6143 - Courses of Study)

*Age appropriate* refers to topics, messages, and teaching methods suitable to particular ages or age groups of children and adolescents, based on developing cognitive, emotional, and behavioral capacity typical for the age or age group. (Education Code 51931)

*Medically accurate* means verified or supported by research conducted in compliance with scientific methods and published in peer-reviewed journals, where appropriate, and recognized as accurate and objective by professional organizations and agencies with expertise in the relevant field, such as the federal Centers for Disease Control and Prevention, the American Public Health Association, the American Academy of Pediatrics, and the American College of Obstetricians and Gynecologists. (Education Code 51931)

### General Criteria for Instruction and Materials

Note: Education Code 51933 lists criteria for comprehensive sexual health and HIV prevention instruction and materials. AB 329 (Ch. 398, Statutes of 2015) expanded these criteria to add items #8-13 below.

The Superintendent or designee shall ensure that the district's comprehensive sexual health and HIV prevention instruction and materials: (Education Code 51933)

**SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION** (continued)

1. Are age appropriate
2. Are ~~factually and~~ medically accurate and objective
3. ~~Align~~ **Are aligned** with and support the following purposes as specified in Education Code 51930:
  - a. To provide students with the knowledge and skills necessary to protect their sexual and reproductive health from HIV and other sexually transmitted infections and from unintended pregnancy
  - b. To provide students with the knowledge and skills they need to develop healthy attitudes concerning adolescent growth and development, body image, gender, sexual orientation, relationships, marriage, and family
  - c. To promote understanding of sexuality as a normal part of human development
  - d. To ensure students receive integrated, comprehensive, accurate, and unbiased sexual health and HIV prevention instruction and provide educators with clear tools and guidance to accomplish that end
  - e. To provide students with the knowledge and skills necessary to have healthy, positive, and safe relationships and behaviors
4. Are appropriate for use with **English learners, students with disabilities, and** students of all races, genders, sexual orientations, and ethnic and cultural backgrounds; ~~students with disabilities; and English learners~~  
~~(cf. 0410 - Nondiscrimination in District Programs and Activities)~~  
~~(cf. 1312.3 - Uniform Complaint Procedures)~~  
(cf. 6174 - Education for English Learners)
5. Are available on an equal basis to a student who is an English learner, consistent with the existing curriculum and alternative options for an English learner as otherwise provided in the Education Code
6. Are accessible to students with disabilities, including, but not limited to, the provision of a modified curriculum, materials, and instruction in alternative formats and auxiliary aids

**(cf. 6159 - Individualized Education Program)**

**SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION** (continued)

7. Do not reflect or promote bias against any person in protected categories of discrimination pursuant to Education Code 220

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

*(cf. 1312.3 - Uniform Complaint Procedures)*

8. Affirmatively recognize that people have different sexual orientations and, when discussing or providing examples of relationships and couples, shall be inclusive of same-sex relationships
9. Teach students about gender, gender expression, and gender identity, and explore the harm of negative gender stereotypes
10. Encourage students to communicate with their parents/guardians and other trusted adults about human sexuality and provide the knowledge and skills necessary to do so
11. Teach the value of and prepare students to have and maintain committed relationships such as marriage
12. Provide students with knowledge and skills they need to form healthy relationships that are based on mutual respect and affection and are free from violence, coercion, **harassment**, and intimidation

*(cf. 5145.3 - Nondiscrimination/Harassment)*

13. Provide students with knowledge and skills for making and implementing healthy decisions about sexuality, including **communication** ~~negotiation~~ and refusal skills to assist students in overcoming peer pressure and using effective decision-making skills to avoid high-risk activities
14. Do not teach or promote religious doctrine

**Components of Sexual Health and HIV Prevention Education**

~~Note: In addition to meeting the requirements listed above in the section "General Criteria for Instruction and Materials," the district's comprehensive sexual health education and HIV prevention instruction must include the components or topics specified in Education Code 51934, as amended by AB 329 (Ch. 398, Statutes of 2015).~~

The district's comprehensive sexual health education and HIV prevention education for students in grades 7-12, in addition to complying with the criteria listed above in the section "General Criteria for Instruction and Materials," shall include all of the following: (Education Code 51934)

**SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION** (continued)

1. Information on the nature of HIV and other sexually transmitted infections and their effects on the human body
2. Information on the manner in which HIV and other sexually transmitted infections are and are not transmitted, including information on the relative risk of infection according to specific behaviors, including sexual behaviors and injection drug use
3. Information that abstinence from sexual activity and injection drug use is the only certain way to prevent HIV and other sexually transmitted infections, and that abstinence from sexual intercourse is the only certain way to prevent unintended pregnancy

The instruction shall provide information about the value of delaying sexual activity while also providing medically accurate information on other methods of preventing HIV and other sexually transmitted infections and pregnancy.

*(cf. 5141.25 - Availability of Condoms)*

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

4. Information about the effectiveness and safety of all federal Food and Drug Administration (FDA) approved methods that prevent or reduce the risk of contracting HIV and other sexually transmitted infections, including use of antiretroviral medication, consistent with the Centers for Disease Control and Prevention
5. Information about the effectiveness and safety of reducing the risk of HIV transmission as a result of injection drug use by decreasing needle use and needle sharing
6. Information about the treatment of HIV and other sexually transmitted infections, including how antiretroviral therapy can dramatically prolong the lives of many people living with HIV and reduce the likelihood of transmitting HIV to others
7. Discussion about social views on HIV and AIDS, including addressing unfounded stereotypes and myths regarding HIV and AIDS and people living with HIV

This instruction shall emphasize that successfully treated HIV-positive individuals have a normal life expectancy, all people are at some risk of contracting HIV, and **that** testing is the only way to know if one is HIV-positive.

8. Information about local resources, how to access local resources, and students' legal rights to access local resources for sexual and reproductive health care such as testing

**SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION** (continued)

and medical care for HIV and other sexually transmitted infections and pregnancy prevention and care, as well as local resources for assistance with sexual assault and intimate partner violence

9. Information about the effectiveness and safety of FDA-approved contraceptive methods in preventing pregnancy, including, but not limited to, emergency contraception. Instruction on pregnancy shall include an objective discussion of all legally available pregnancy outcomes, including, but not limited to:
  - a. Parenting, adoption, and abortion
  - b. Information on the law on surrendering physical custody of a minor child 72 hours of age or younger, pursuant to Health and Safety Code 1255.7 and Penal Code 271.5
  - c. The importance of prenatal care

Note: Pursuant to Education Code 51934, as amended by AB 329 (Ch. 398, Statutes of 2015), requires that comprehensive sexual health education **must** include information about sexual harassment, sexual assault, adolescent relationship abuse, intimate partner violence, and sex trafficking, as provided in item #10 below, sexual abuse, and human trafficking. AB 1861 (Ch. 807, Statutes of 2018) amended Education Code 51934 to require that the information on human trafficking include the components specified in items #10a and b below.

In addition, pursuant to Education Code 51225.36, as added by SB 695 (Ch. 424, Statutes of 2015), any district that has a health education course requirement for graduation from high school must include instruction in sexual harassment and violence, including, but not limited to, information on the affirmative consent standard pursuant to Education Code 67386. See AR 6146.1 High School Graduation Requirements. Education Code 51225.36 also requires that teachers delivering health instruction consult information related to sexual harassment and violence in the health curriculum framework.

For further information about adolescent dating abuse, see CSBA's governance brief Promoting Healthy Relationships for Adolescents: Board Policy Considerations.

10. Information about sexual harassment, sexual assault, adolescent relationship abuse, intimate partner violence, sexual abuse, and sex human trafficking, including:
  - a. Information on the prevalence and nature of human trafficking, strategies to reduce the risk of human trafficking, techniques to set healthy boundaries, and how to safely seek assistance if there is a suspicion of trafficking
  - b. Information on how social media and mobile device applications are used for human trafficking

## **SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION (continued)**

**Note:** Education Code 51934 requires that the comprehensive sexual health instruction include information about adolescent relationship abuse, as provided below. For further information about adolescent dating abuse, see CSBA's governance brief Promoting Healthy Relationships for Adolescents: Board Policy Considerations.

### **11. Information about adolescent relationship abuse and intimate partner violence, including the early warning signs of each**

**Note:** Education Code 51934, as amended by AB 1868 (Ch. 428, Statutes of 2018), authorizes districts to provide the instruction described below. The following paragraph may be revised to reflect district practice.

**The district's comprehensive sexual health education and HIV prevention education shall include instruction regarding the potential risks and consequences of creating and sharing suggestive or sexually explicit materials through cell phones, social networking web sites, computer networks, or other digital media. (Education Code 51934)**

~~**Note:** Pursuant to Education Code 51225.36, as added by SB 695 (Ch. 424, Statutes of 2015), any district that has a health education course requirement for graduation from high school must include instruction in sexual harassment and violence, including, but not limited to, information on the affirmative consent standard pursuant to Education Code 67386. Also see AR 6146.1—High School Graduation Requirements. Education Code 51225.36 also requires that teachers delivering health instruction consult information related to sexual harassment and violence in the health curriculum framework.~~

## **Professional Development**

The district's comprehensive sexual health education and HIV prevention education shall be provided by instructors trained in the appropriate courses who are knowledgeable of the most recent medically accurate research on human sexuality, healthy relationships, pregnancy, and HIV and other sexually transmitted infections. (Education Code 51931, **51933**, 51934)

The Superintendent or designee shall cooperatively plan and conduct in-service training for all district personnel who provide HIV prevention education, through regional planning, joint powers agreements, or contract services. (Education Code 51935)

*(cf. 4131 - Staff Development)*

In developing and providing in-service training, the Superintendent or designee shall cooperate and collaborate with the teachers who provide HIV prevention education and with the California Department of Education (CDE). (Education Code 51935)

The district shall periodically conduct in-service training to enable district personnel to learn new developments in the scientific understanding of HIV. In-service training shall be voluntary for personnel who have demonstrated expertise or received in-service training from the CDE or Centers for Disease Control and Prevention. (Education Code 51935)



**SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION** (continued)

The Superintendent or designee may expand HIV in-service training to cover the topic of comprehensive sexual health education **in order** for district personnel teaching comprehensive sexual health education to learn new developments in the scientific understanding of sexual health. (Education Code 51935)

**The Superintendent or designee shall periodically provide continuing education that enables district personnel to learn about new developments in the understanding of abuse, including sexual abuse, and human trafficking and current prevention efforts and methods. Such education may include early identification of abuse, including sexual abuse, and human trafficking of students and minors. (Education Code 51950)**

**Use of Consultants or Guest Speakers**

Note: Pursuant to Education Code 51933, 51934, and 51936, the district's comprehensive sexual health and HIV prevention education may be taught by outside consultants or delivered by guest speakers at an assembly. **and any Any** such instruction must comply with the same requirements as instruction provided by the district and in accordance with Education Code 51930-51939. If the district elects to use outside consultants or guest speakers, parents/guardians must be provided additional notice about the speaker and **the speaker's his/her** organization; see item #4 in the section below entitled "Parent/Guardian Notification."

The Superintendent or designee may contract with outside consultants or guest speakers, including those who have developed multilingual curricula or curricula accessible to persons with disabilities, to deliver comprehensive sexual health and HIV prevention education or to provide training for district personnel. All outside consultants and guest speakers shall have expertise in comprehensive sexual health education and HIV prevention education and knowledge of the most recent medically accurate research on the relevant topic(s) covered in the instruction. The Superintendent or designee shall ensure that any instruction provided by an outside speaker or consultant complies with Board policy, administrative regulation, and Education Code 51930-51939. (Education Code 51933, 51934, 51936)

*(cf. 6145.8 - Assemblies and Special Events)*

**Parent/Guardian Notification**

Note: Education Code 51938 requires the district to provide parents/guardians the following notification. A sample notification letter is available on the California Department of Education's web site.

**In addition, Education Code 49381, as added by SB 1104 (Ch. 848, Statutes of 2018), requires districts that offer any of grades 6-12 to identify the most appropriate methods of informing parents/guardians of human trafficking prevention resources, and to provide such information through the identified methods by January 1, 2020; see the accompanying Board policy. Districts that combine such information with the annual notification required pursuant to Education Code 51938 may revise the following section accordingly.**

## **SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION (continued)**

At the beginning of each school year or at the time of a student's enrollment, the Superintendent or designee shall notify parents/guardians about instruction in comprehensive sexual health education and HIV prevention education, as well as research on student health behaviors and risks, planned for the coming year. The notice shall advise parents/guardians: (Education Code 48980, 51938)

1. That written and audiovisual educational materials to be used in comprehensive sexual health and HIV prevention education are available for inspection
2. That parents/guardians have a right to excuse their child from comprehensive sexual health or HIV prevention education, or research on student health behaviors and risks, provided they submit their request in writing to the district
3. That parents/guardians have a right to request a copy of Education Code 51930-51939
4. Whether the comprehensive sexual health or HIV prevention education will be taught by district personnel or outside consultants **and, if the district chooses to use outside consultants or guest speakers for this purpose, the following information:**

~~If the district chooses to use outside consultants or to hold an assembly with guest speakers to deliver comprehensive sexual health or HIV prevention education, the notification shall include: (Education Code 51938)~~

- a. The date of the instruction
- b. The name of the organization or affiliation of each guest speaker
- c. Information stating the right of the parent/guardian to request a copy of Education Code 51933, 51934, and 51938

If the arrangements for instruction by outside consultants or guest speakers are made after the beginning of the school year, the Superintendent or designee shall notify parents/guardians by mail or another commonly used method of notification no fewer than 14 days before the instruction is given. ~~(Education Code 51938)~~

*(cf. 5145.6 - Parental Notifications)*

### **Nonapplicability to Certain Instruction or Materials**

~~Note: Pursuant to Education Code 51932, Education Code 51930-51939 requirements pertaining to instructional content, teacher training, and parental notification and consent do not apply to instruction that is not sexual health instruction or HIV prevention education as defined. When gender, gender identity, gender expression, sexual orientation, discrimination, harassment, bullying, intimidation, relationships, or~~

**SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION** (continued)

family are addressed in a separate instructional context, such as social studies, which does not also discuss human reproductive organs and their function, this instruction shall not be considered comprehensive sexual health instruction or HIV prevention education.

The requirements of Education Code 51930-51939 pertaining to instructional content, teacher training, and parental notification and consent shall not apply to the following: (Education Code 51932)

1. A description or illustration of human reproductive organs that may appear in a textbook, adopted pursuant to law, if the textbook does not include other elements of comprehensive sexual health education or HIV prevention education **as defined in Education Code 51931**

*(cf. 6142.93 - Science Instruction)*

2. Instruction, ~~or~~ materials, **presentations, or programming** that discusses ~~es~~ gender, gender identity, gender expression, sexual orientation, discrimination, harassment, bullying, intimidation, relationships, or family and ~~es~~ not discuss human reproductive organs and their functions

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# CSBA Sample

## Board Policy

Instruction

BP 6142.6(a)

### VISUAL AND PERFORMING ARTS EDUCATION

Note: The following **optional** policy may be revised to reflect district practice. State law requires that visual and performing arts be included in the course of study offered in grades 1-6 (Education Code 51210) and grades 7-12 (Education Code 51220); see AR 6143 - Courses of Study. In addition, Education Code 51225.3 requires completion of one course in visual or performing arts, foreign language (including American Sign Language), or career technical education for high school graduation; see BP 6146.1 - High School Graduation Requirements.

**On January 9, 2019, the State Board of Education (SBE) has adopted revised content standards and proficiency levels for visual and performing arts, including standards for media arts in addition to dance, music, theatre, and visual arts at each grade level for grades K-8 and as a cluster for grades 9-12. Items #1-5 below reflect the major strands of the state content standards. The following policy reflects the updated state content standards.**

**AB 97 (Ch. 47, Statutes of 2013) redirected funding for arts and music block grants (established through uncodified SB 77, Ch. 171, Statutes of 2007) into the local control funding formula, thereby eliminating this separate source of funding for hiring of additional staff, purchase of new materials, books, supplies, and equipment; and/or staff development opportunities.**

The Governing Board believes that visual and performing arts are essential to a well-rounded educational program and should be an integral part of the course of study offered to students at all grade levels. The district's arts education program shall **provide opportunities for creation, performance, and appreciation of the arts be designed to foster students' artistic competencies, cultivate students' appreciation and understanding of the arts in ways that are enjoyable, fulfilling, and transferable to students' personal, academic, and professional endeavors, and support students to fully engage in lifelong arts learning.**

(cf. 6143 - Courses of Study)

(cf. 6146.1 - High School Graduation Requirements)

**Note: The State Board of Education (SBE) has adopted content standards for visual and performing arts, including standards for dance, music, theatre, and visual arts at each grade level for grades K-8 and as a cluster for grades 9-12. Items #1-5 below reflect the major strands of the state content standards. Also see the SBE-adopted Visual and Performing Arts Framework for California Public Schools, Kindergarten Through Grade Twelve for further information about the development of standards aligned curriculum and instruction.**

The Board shall adopt academic standards for dance, **media arts**, music, theatre, and visual arts that **lead to artistic literacy and promote access and equity in the arts. District standards shall** describe the skills, knowledge, and abilities that students **shall be** are expected to possess at each grade level **and. The district's standards** shall meet or exceed state standards **for each of these disciplines.**

(cf. 0415 - Equity)

(cf. 6011 - Academic Standards)

**VISUAL AND PERFORMING ARTS EDUCATION** (continued)

The Superintendent or designee shall develop a sequential curriculum for dance, **media arts**, music, theatre, and visual arts which is consistent with the state curriculum framework and includes the ~~following strands~~ **following artistic processes**:

1. ~~Artistic perception: processing, analyzing, and responding to sensory information through the use of language and skills unique to each arts discipline~~
2. ~~Creative expression: composing, arranging, and performing a work and using a variety of means to communicate meaning and intent in one's own original works~~
3. ~~Historical and cultural context: understanding the historical contributions and cultural dimensions of an arts discipline~~
4. ~~Aesthetic valuing: analyzing and critically assessing works of dance, music, theatre, and visual arts~~
5. ~~Connections, relationships, and applications: connecting, comparing, and applying what is learned in one arts discipline to learning in the other arts, other subject areas, and careers~~

1. **Creating: conceiving and developing new artistic ideas and work**
2. **Performing/producing/presenting: realizing artistic ideas and work through interpretation and presentation**
3. **Responding: understanding and evaluating how the arts convey meaning**
4. **Connecting: relating artistic ideas and work with personal meaning and external content**

(cf. 6141 - Curriculum Development and Evaluation)

Note: Pursuant to Education Code 60200, the SBE adopts basic instructional materials for use in grades K-8, including materials for visual and performing arts; see BP/AR 6161.1 - Selection and Evaluation of Instructional Materials. Education Code 60210 authorizes the Governing Board to select materials that have not been approved by the SBE provided that the materials are aligned with state academic content standards and the majority of participants in the review process are teachers assigned to the subject area or grade level for which the materials will be used.

For grades 9-12, Education Code 60400 and 60411 authorize the Board to select district instructional materials that meet criteria specified in law.

## VISUAL AND PERFORMING ARTS EDUCATION (continued)

The Board shall adopt standards-based instructional materials for visual and performing arts ~~in accordance with applicable law, Board policy, and administrative regulation,~~ which may incorporate a variety of media and technologies.

(cf. ~~0400~~ **0440** - District Technology Plan)  
(cf. 1312.2 - Complaints Concerning Instructional Materials)  
(cf. 6161.1 - Selection and Evaluation of Instructional Materials)  
(cf. 6161.11 - Supplementary Instructional Materials)  
(cf. 6162.6 - Use of Copyrighted Materials)  
(cf. 6163.1 - Library Media Centers)

Note: Education Code 99200-9920**54** establish The California Arts Project (TCAP), a statewide professional development project in the visual and performing arts. Professional development resources also may be located through the California Dance Education Association, the California Association for Music Education, the California Educational Theatre Association, and the California Art Education Association.

As appropriate, the Superintendent or designee shall provide a standards-based professional development program designed to increase teachers' knowledge of and ability to teach the arts and to implement ~~adopted instructional materials~~ **the district's arts education program.**

(cf. 4131 - Staff Development)

The Superintendent or designee shall encourage the integration of community arts resources into the educational program. Such resources may include opportunities for students to attend musical and theatrical performances, observe the works of accomplished artists, and work directly with artists-in-residence and volunteers. In addition, the Superintendent or designee may collaborate with community organizations to share resources and seek grant opportunities.

(cf. 1230 - School-Connected Organizations)  
(cf. 1240 - Volunteer Assistance)  
(cf. 1260 - Educational Foundation)  
(cf. 1700 - Relations Between Private Industry and the Schools)  
(cf. 3290 - Gifts, Grants and Bequests)  
(cf. 6020 - Parent Involvement)  
(cf. 6153 - School-Sponsored Trips)

The Superintendent or designee shall regularly evaluate the implementation of **the district's** arts education **program** at each grade level and report to the Board regarding its effectiveness in enabling students to meet academic standards.

(cf. 0500 - Accountability)  
(cf. 6162.5 - Student Assessment)

*Legal Reference: (see next page)*

## VISUAL AND PERFORMING ARTS EDUCATION (continued)

### Legal Reference:

#### EDUCATION CODE

8950-8957 California summer school **for** ~~of~~ the arts  
32060-32066 Toxic art supplies  
35330-35332 Field trips  
51210 Course of study, grades 1-6  
51220 Course of study, grades 7-12  
51225.3 Graduation requirements  
58800-58805 Specialized secondary programs  
60200-6021**93** Instructional materials, elementary schools  
60400-60411 Instructional materials, high schools  
99200-9920**64** Subject matter projects

### Management Resources:

#### **CALIFORNIA ALLIANCE FOR ARTS EDUCATION PUBLICATIONS**

**Parents' Guide to the Visual and Performing Arts in California Public Schools**

#### CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

**California Arts Framework for Public Schools, Kindergarten through Grade Twelve**

**California Arts Standards for Public Schools, Prekindergarten through Grade Twelve, January 2019**

~~Visual and Performing Arts Framework for California Public Schools: Kindergarten through Grade Twelve, 2004~~

~~Visual and Performing Arts Content Standards, January 2001~~

~~Arts Education Program Toolkit: A Visual and Performing Arts Program Assessment Process, 2001~~

#### WEB SITES:

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

Arts Education Partnership: <http://aep-arts.org>

California Alliance for Arts Education: <http://www.artsed411.org>

California Arts Council: <http://www.cac.ca.gov>

California Art Education Association: <http://www.caea-arteducation.org>

**California Association for Music Education: <http://www.actaonline.org/content/california-association-music-education>**

California Dance Education Association: <http://www.cdeadance.org>

California Department of Education, Visual and Performing Arts: <http://www.cde.ca.gov/ci/vp>

California Educational Theatre Association: <http://www.cetoweb.org>

California Music Educators Association: <http://www.calmusiced.com>

The California Arts Project: <http://csmp.ucop.edu/tcap>

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# CSBA Sample

## Board Policy

### Instruction

BP 6146.1(a)

### HIGH SCHOOL GRADUATION REQUIREMENTS

Note: The following policy is for use by districts that maintain grades 9-12.

The Governing Board desires to prepare all students to obtain a high school diploma so that they can take advantage of opportunities for postsecondary education and employment.

(cf. 5127 - Graduation Ceremonies and Activities)

(cf. 5147 - Dropout Prevention)

(cf. 6011 - Academic Standards)

(cf. 6143 - Courses of Study)

(cf. 6146.3 - Reciprocity of Academic Credit)

### Course Requirements

Note: Education Code 51225.3 specifies the courses that a student is required to complete in order to graduate from high school as listed in items #1-6 below.

Pursuant to Education Code 66204, each district that maintains a high school also is required to develop a process for submitting courses to the University of California to ensure that they align with the "a-g" course requirements for college admission.

To obtain a high school diploma, students shall complete **at least** the following courses in grades 9-12, with each course being one year unless otherwise specified:

1. Four courses in English (Education Code 51225.3)

(cf. 6142.91 - Reading/Language Arts Instruction)

2. Three courses in mathematics (Education Code 51225.3)

At least one mathematics course, or a combination of the two mathematics courses, shall meet or exceed state academic content standards for Algebra I or Mathematics I. Completion of such coursework prior to grade 9 shall satisfy the Algebra I or Mathematics I requirement, but shall not exempt a student from the requirement to complete two mathematics courses in grades 9-12. (Education Code 51224.5)

Note: **The following optional paragraph is for use only by districts that require more than two courses in mathematics for graduation and should be deleted by other districts.** Pursuant to Education Code 51225.3 and 51225.35, a district that requires more than two courses in mathematics may award up to one mathematics course credit for an approved computer science course, as defined. Any such course must have been approved by the University of California as a "category c" (mathematics) course in the university's "a-g" course admission criteria; see BP 6143 - Courses of Study.



## HIGH SCHOOL GRADUATION REQUIREMENTS (continued)

Students may be awarded up to one mathematics course credit for successful completion of an approved computer science course that is classified as a "category c" course based on the "a-g" course requirements for college admission. (Education Code 51225.3, 51225.35)

(cf. 6142.92 - *Mathematics Instruction*)

(cf. 6152.1 - *Placement in Mathematics Courses*)

3. Three courses in science, including biological and physical sciences (Education Code 51225.3)

(cf. 6142.93 - *Science Instruction*)

4. Three courses in social studies, including United States history and geography; world history, culture, and geography; a one-semester course in American government and civics; and a one-semester course in economics (Education Code 51225.3)

(cf. 6142.3 - *Civic Education*)

(cf. 6142.94 - *History-Social Science Instruction*)

Note: Education Code 51225.3 authorizes the Board to include a course in career technical education (CTE) as an alternative to the visual or performing arts or foreign language course requirement for high school graduation. If the Board chooses to do so, it must, at a regular Board meeting prior to allowing a CTE course as an alternative, notify parents/guardians, students, teachers, and the public of information specified in Education Code 51225.3. In addition, the information must be included in the district's annual notification to parents/guardians pursuant to Education Code 48980; see the accompanying administrative regulation. Districts that do not allow this alternative course requirement should delete references to CTE in item #5 below.

The CTE course may be offered through different means, including a district-operated program, regional occupational center or program, or county office of education program pursuant to a joint powers agreement. See BP/AR 6178 - Career Technical Education and BP 6178.2 - Regional Occupational Center/Program for program details pertaining to CTE.

5. One course in visual or performing arts; foreign language, including American Sign Language; or career technical education (CTE) (Education Code 51225.3)

To be counted towards meeting graduation requirements, a CTE course shall be aligned to the CTE model curriculum standards and framework adopted by the State Board of Education.

(cf. 6142.2 - *World/Foreign Language Instruction*)

(cf. 6142.6 - *Visual and Performing Arts Education*)

(cf. 6178 - *Career Technical Education*)

(cf. 6178.2 - *Regional Occupational Center/Program*)

## HIGH SCHOOL GRADUATION REQUIREMENTS (continued)

6. Two courses in physical education, unless the student has been otherwise exempted pursuant to other sections of the Education Code (Education Code 51225.3)

(cf. 6142.7 - *Physical Education and Activity*)

Note: Pursuant to Education Code 51225.3, the Board may prescribe additional coursework (e.g., health education, service learning) or other requirements (e.g., portfolios or senior projects) that district students must complete in order to obtain a diploma. If the Board does so, such courses or projects should be listed below.

If the district requires a course in health education for graduation, Education Code 51225.36 requires that the district include instruction in sexual harassment and violence, including, but not limited to, information on the affirmative consent standard pursuant to Education Code 67386. See **AR BP 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction**. In addition, pursuant to Education Code 51225.6, a district that requires a course in health education for graduation is required to include instruction in compression-only cardiopulmonary resuscitation. See AR 6143 - Courses of Study.

Fitness For Life (9<sup>th</sup> grade P.E.)

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(cf. 6142.1 - *Sexual Health and HIV/AIDS Prevention Instruction*)

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

(cf. 6142.8 - *Comprehensive Health Education*)

Note: Education Code 51225.3 requires the Board to adopt alternative means for students to complete the prescribed course of study. See BP/AR 6146.11 - Alternative Credits Toward Graduation.

Because the prescribed course of study may not accommodate the needs of some students, the Board shall provide alternative means for the completion of prescribed courses in accordance with law.

(cf. 6146.11 - *Alternative Credits Toward Graduation*)

(cf. 6146.2 - *Certificate of Proficiency/High School Equivalency*)

(cf. 6146.4 - *Differential Graduation and Competency Standards for Students with Disabilities*)

### **Exemptions and Waivers from District-Adopted Graduation Requirements**

Note: Education Code 51225.1 requires the district to exempt from any district-adopted graduation requirements a foster youth, homeless student, former juvenile court school student, child of a military family, or, as amended by AB 2121 (Ch. 581, Statutes of 2018), a migrant student or a newly arrived immigrant student participating in a newcomer program who transfers into the district or between district high schools any time after completing the second year of high school, or an immigrant student who is in the third or fourth year of high school and is participating in a newcomer program (i.e., a program designed to meet the academic and transitional needs of newly arrived immigrant students that has as

**HIGH SCHOOL GRADUATION REQUIREMENTS** (continued)

**a primary objective the development of English language proficiency).** This exemption does not apply if the Superintendent or designee makes a finding that the student is reasonably able to complete the requirements in time to graduate by the end of the fourth year of high school. Also see AR 6173 - Education for Homeless Children, AR 6173.1 - Education for Foster Youth, AR 6173.2 - Education of Children of Military Families, AR 6173.3 - Education for Juvenile Court School Students, and AR 6175 - Migrant Education Program.

Pursuant to Education Code 51225.1, within 30 calendar days of the transfer of a foster youth, homeless student, former juvenile court school student, child of a military family, **or** migrant student, or **within 30 days of a** student **beginning participation** ~~participating~~ in a newcomer program, the district is required to provide notice to the student of the availability of the exemption and whether the student qualifies for it. If the district fails to provide that notification, the student will be eligible for the exemption once notified, even if the notification is received after the termination of the court's jurisdiction over the foster youth or former juvenile court school student, after the homeless student ceases to be homeless, or after the student no longer meets the definition of a child of a military family, a migrant student, or a student participating in a newcomer program, as applicable.

Education Code 51225.1 also provides that, if an exempted student completes the statewide coursework requirements before the end of the fourth year of high school, the district or a district school must not require or request that the student graduate before the end of the fourth year of high school.

Any complaint alleging the district's failure to comply with the requirements of Education Code 51225.1 may be filed using the district's uniform complaint procedures pursuant to 5 CCR 4600-4670. See BP/AR 1312.3 - Uniform Complaint Procedures.

**District students are required to complete graduation course requirements specified above, including the requirements imposed by Education Code 51225.3 and those adopted by the Board. However, a** ~~A~~ foster youth, homeless student, former juvenile court school student, child of a military family, **or** migrant student, ~~or newly arrived immigrant student participating in a newcomer program~~ who transfers into the district **or between district schools** any time after completing the second year of high school, **or a newly arrived immigrant student who is in the third or fourth year of high school and is participating in a newcomer program,** shall be ~~required to complete all graduation requirements specified in Education Code 51225.3 but shall be~~ exempted from any ~~additional district adopted~~ graduation requirements **adopted by the Board that are in addition to statewide course requirements. This exemption shall not apply if , unless** the Superintendent or designee makes a finding that the student is reasonably able to complete the requirements in time to graduate by the end of the fourth year of high school. Within 30 days of the transfer **or of the commencement of participation in a newcomer program, as applicable, the Superintendent or designee shall notify** any **such eligible** student ~~shall be notified~~ of the availability of the exemption and whether the student qualifies for it. (Education Code 51225.1)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 5145.6 - Parental Notifications)

(cf. 6173 - Education for Homeless Children)

(cf. 6173.1 - Education for Foster Youth)

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

## HIGH SCHOOL GRADUATION REQUIREMENTS (continued)

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

(cf. 6175 - Migrant Education Program)

### Retroactive Diplomas

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 shall be granted a high school diploma. (Education Code 51413)

Note: Items #1-3 below are **optional** and may be revised to reflect district practice.

AB 3022 (Ch. 772, Statutes of 2018) amended Education Code 51430 to authorize the granting of a diploma to persons who departed California in grade 12 against their will, as defined in Education Code 48204.4, as provided in item #1 below.

In addition, the district may retroactively grant high school diplomas to: (Education Code 48204.4, 51430, 51440)

1. Persons who departed California against their will while in grade 12 and did not receive a diploma because the departure interrupted their education, provided that they were in good academic standing at the time of the departure

Persons may be considered to have departed California against their will if they were in custody of a government agency and were transferred to another state, were subject to a lawful order from a court or government agency that authorized their removal from California, were subject to a lawful order and were permitted to depart California before being removed from California pursuant to the lawful order, were removed or were permitted to depart voluntarily pursuant to the federal Immigration and Nationality Act, or departed due to other circumstances determined by the district that are consistent with the purposes of Education Code 48204.4.

In determining whether to award a diploma under these circumstances, the Superintendent or designee shall consider any coursework that may have been completed outside of the United States or through online or virtual courses.

2. Former students who were interned by order of the federal government during World War II or who are honorably discharged veterans of World War II, the Korean War, or the Vietnam War, provided that they were enrolled in a district school immediately preceding the internment or military service and did not receive a diploma because their education was interrupted due to the internment or military service in those wars

Deceased former students who satisfy these conditions may be granted a retroactive diploma to be received by their next of kin.

## HIGH SCHOOL GRADUATION REQUIREMENTS (continued)

3. Veterans who entered the military service of the United States while in grade 12 and who had satisfactorily completed the first half of the work required for grade 12 in a district school

### Honorary Diplomas

Note: The following **optional** section reflects the Board's authority to confer honorary high school diplomas pursuant to Education Code 51225.5 and may be revised to reflect district practice. ~~As amended by AB 2109 (Ch. 167, Statutes of 2018), Education Code 51225.5 authorizes the Board to grant an honorary diploma to a terminally ill student, as provided in item #2 below.~~

The Board may grant **an** honorary high school diplomas **s** to: (Education Code 51225.5)

1. An international exchange student who has not completed the course of study ordinarily required for graduation, and who is returning to the home country following the completion of one academic school year in the district

(cf. 6145.6 - International Exchange)

2. A student who is terminally ill

The honorary diploma shall be clearly distinguishable from the regular diploma of graduation awarded by the district. (Education Code 51225.5)

*Legal Reference: (see next page)*

## HIGH SCHOOL GRADUATION REQUIREMENTS (continued)

### *Legal Reference:*

#### EDUCATION CODE

47612 Enrollment in charter school  
48200 Compulsory attendance  
48204.4 Parents/guardians departing California against their will  
48412 Certificate of proficiency  
48430 Continuation education schools and classes  
48645.5 Acceptance of coursework  
48980 Required notification at beginning of term  
49701 Interstate Compact on Educational Opportunity for Military Children  
51224 Skills and knowledge required for adult life  
51224.5 Algebra instruction  
51225.1 Exemption from district graduation requirements  
51225.2 **Pupil Student** in foster care defined; acceptance of coursework, credits, retaking of course  
51225.3 High school graduation  
51225.35 Mathematics course requirements; computer science  
51225.36 Instruction in sexual harassment and violence; districts that require health education for graduation  
51225.5 Honorary diplomas  
51225.6 Compression-only cardiopulmonary resuscitation  
51228 Graduation requirements  
51240-51246 Exemptions from requirements  
51250-51251 Assistance to military dependents  
51410-51413 Diplomas  
51420-51427 High school equivalency certificates  
51430 Retroactive high school diplomas  
51440 Retroactive high school diplomas  
51450-51455 Golden State Seal Merit Diploma  
51745 Independent study restrictions  
56390-56392 Recognition for educational achievement, special education  
66204 Certification of high school courses as meeting university admissions criteria  
67386 Student safety; affirmative consent standard

#### CODE OF REGULATIONS, TITLE 5

1600-1651 Graduation of students from grade 12 and credit toward graduation  
4600-4670 Uniform complaint procedures

#### COURT DECISIONS

O'Connell v. Superior Court (Valenzuela), (2006) 141 Cal.App.4th 1452

### *Management Resources:*

#### WEB SITES

CSBA: <http://www.csba.org>  
California Department of Education, High School: <http://www.cde.ca.gov/ci/g/hs>  
University of California, List of Approved a-g Courses:  
<http://www.universityofcalifornia.edu/admissions/freshman/requirements>

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### **Policy Reference UPDATE Service**

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