

Policy 0420.41: Charter School Oversight

Status: ADOPTED

Original Adopted Date: 10/01/2013 **Last Revised Date:** 06/01/2022 **Last Reviewed Date:** 06/01/2022

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

Pursuant to Education Code 47605, if the State Board of Education (SBE) approves a petition upon appeal after the Board and County Board of Education have denied the petition, SBE is required to designate, in consultation with the petitioner, either the Board or the County Board as the chartering authority.

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

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

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

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

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

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

Waivers

CSBA NOTE: A charter school is not authorized to submit general waiver requests to SBE on its own behalf, unless an exception applies. Rather, a charter school may submit a waiver request through the district. A general waiver request form is available on the California Department of Education's (CDE) web site.

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

Provision of District Services

CSBA NOTE: The following optional section may be revised to reflect district practice. CSBA's publication, "Charter Schools: A Guide for Governance Teams," recommends one or more memoranda of understanding to clarify the financial and operational agreements between the district and the charter school, including any services that will be provided by the district; see BP 0420.4 - Charter School Authorization.

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

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

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

Material Revisions to Charter

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

If an approved charter school proposes to expand operations to one or more additional sites or grade levels, whether concurrently with or unrelated to a renewal, the charter school shall request a material revision to its charter and shall notify the Board of those additional locations or grade levels. The Board shall consider approval of the additional locations or grade levels at an open meeting. (Education Code 47605, 47607)

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

Monitoring Charter School Performance

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

Any charter school authorized by the Board shall be monitored by the Superintendent or designee to determine whether the charter school complies with all legal requirements applicable to charter schools, including all reports required of charter schools by law, as specified in Education Code 47604.32. Any violations of law shall be reported to the Board.

CSBA NOTE: Education Code 47605 requires that measurable student outcomes for all students of the charter school, including numerically significant student subgroups as defined in Education Code 52052, be included in the school's charter petition and that these outcomes be aligned with the state priorities for the local control and accountability plan (LCAP) as stated in Education Code 52060; see AR 0420.4 - Charter School Authorization. Pursuant to Education Code 52052, numerically significant subgroups include ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students, when the subgroup consists of at least 30 students (or 15 foster youth or homeless students).

Education Code 47605 requires that the charter petition include methods for measuring the charter school's progress toward achieving student outcomes. Although the measures of the school's progress may vary, Education Code 47605 requires that charter schools conduct any statewide assessments applicable to other public schools. In addition, charter schools are included in the California School Dashboard, which reports the status of school performance on multiple state and local indicators and is intended to assist schools and districts in identifying strengths and areas in need of improvement in each priority area addressed by the LCAP. Charter schools that serve high-risk students may qualify for the state's Dashboard Alternative School Status program, which uses modified methods of measurement for accountability indicators when appropriate.

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

The Board shall monitor the fiscal condition of the charter school based on any financial report or information obtained from the charter school, including, but not limited to, the charter school's preliminary budget, LCAP and

annual update of the charter school's LCAP, first and second interim financial reports, and final unaudited report for the full prior year. (Education Code 47604.32, 47604.33, 47606.5)

Fees/Charges for Supervisorial Oversight

CSBA NOTE: Education Code 47613 authorizes the district to charge the charter school, within specified limits, for the costs of supervisorial oversight of the school. Education Code 47613 provides that the costs of supervisorial oversight include, but are not limited to, costs incurred for technical assistance or intervention pursuant to Education Code 47607.3; see the section "Technical Assistance/Intervention" below. CSBA's publication, "Charter Schools: A Guide for Governance Teams," suggests that supervisorial oversight activities also might include site visits and site visit protocols, development of memorandums of understanding, reviews of performance data and financial reports, review of governance procedures, monitoring of teacher credentialing and assignments, facilities compliance, and legal auditing.

The district may charge for district supervisorial oversight as follows: (Education Code 47613; 5 CCR 11969.7)

1. Actual costs up to one percent of the charter school's revenue if the district provides the charter school with facilities under Education Code 47614 and charges the charter school a pro-rata share of the facilities cost
2. Actual costs up to three percent of the charter school's revenue if the district provides the charter school substantially rent-free facilities
3. Actual costs if the district is assigned supervisorial oversight responsibility for the charter school by SBE when authorized on appeal

Technical Assistance/Intervention

CSBA NOTE: Education Code 47607.3 establishes criteria for the provision of technical assistance to charter schools including, but not limited to, the option to request assistance from the California Collaborative for Educational Excellence (CCEE). If, after providing technical assistance, the CCEE informs the Board that the charter school has failed or is unable to implement the CCEE's recommendations or continues to have persistent or acute inadequate performance, then the Board must consider revocation of the charter; see BP 0420.43 - Charter School Revocation.

Whenever a charter school is identified for technical assistance based on the performance of one or more numerically significant student subgroups on SBE-established criteria, the charter school shall receive technical assistance from the County Superintendent of Schools. Such technical assistance shall be focused on building the charter school's capacity to develop and implement actions and services responsive to student and community needs, including, but not limited to, any of the following: (Education Code 47607.3)

1. Assisting the charter school to identify its strengths and weaknesses in regard to the state priorities applicable to the charter school pursuant to Education Code 47605. This shall include working collaboratively with the charter school to review performance data on the state and local indicators included in the California School Dashboard and other relevant local data and to identify effective, evidence-based programs or practices that address any areas of weakness.
2. Working collaboratively with the charter school to secure assistance from an academic, programmatic, or fiscal expert or team of experts to identify and implement effective programs and practices that are designed to improve performance in any areas of weakness identified by the charter school. Another service provider, including, but not limited to, a school district, county office of education, or charter school, may be solicited to act as a partner to the charter school in need of technical assistance.
3. Obtaining from the charter school timely documentation demonstrating that it has completed the activities described in Items #1 and 2 or substantially similar activities, or has selected another service provider to work with the charter school to complete the activities described in Items #1 and 2 or substantially similar activities, and ongoing communication with the Board to assess the charter school's progress in improving student outcomes.

In addition, if, in three out of four consecutive school years, a charter school fails to improve outcomes for three or more numerically significant student subgroups, or for all of the student subgroups if the school has fewer than three subgroups, in regard to one or more state or school priorities identified in the charter, the County Superintendent may request that the Superintendent of Public Instruction (SPI), with SBE approval, assign the California Collaborative for Educational Excellence to provide advice and assistance to the charter school pursuant to

Education Code 52074. (Education Code 47607.3; 52072)

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

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

Complaints

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

Each charter school shall establish and maintain policies and procedures in accordance with the uniform complaint procedures as specified in 5 CCR 4600-4670 to enable any person alleging the school's noncompliance with Education Code 47606.5 or 47607.3 to file a complaint with the charter school. (Education Code 52075)

A complaint may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance. A complainant who is not satisfied with the decision may appeal the decision to the SPI. (Education Code 52075)

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

School Closure

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

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

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

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

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

Polley Reference Disclaimer. These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

5 CCR 11700-11705
5 CCR 11960-11969.10
5 CCR 4600-4670
Bus. Code 7583.45
CA Constitution Article 16, Section 8.5
CA Constitution Article 9, Section 5
Corp. Code 5110-6910
Ed. Code 1006
Ed. Code 17070.10-17079.30
Ed. Code 17280-17317
Ed. Code 17365-17374
Ed. Code 215
Ed. Code 215.5
Ed. Code 220
Ed. Code 221.61
Ed. Code 221.9
Ed. Code 222
Ed. Code 222.5
Ed. Code 231.5-231.6
Ed. Code 234.4
Ed. Code 234.6
Ed. Code 234.7
Ed. Code 32282
Ed. Code 32283.5
Ed. Code 33479-33479.9
Ed. Code 35179.4-35179.6
Ed. Code 35183.1
Ed. Code 35292.6
Ed. Code 35330
Ed. Code 38001.5
Ed. Code 38080-38086
Ed. Code 39831.3
Ed. Code 39843
Ed. Code 41024

Description

Independent study
Charter schools
Uniform complaint procedures
Training for security officers
Public finance; school accountability report card -
<https://simbli.eboardsolutions.com/SU/SWGQeQCplusFH2CplOCVLEpzQ==>
Common school system -
<https://simbli.eboardsolutions.com/SU/SLDHgacplGqiftuxZapsIshOg==>
Nonprofit public benefit corporations -
<https://simbli.eboardsolutions.com/SU/up9YzptJb4gRfS0HwIsh9Og==>
Prohibition against school district employees serving on county board of education -
<https://simbli.eboardsolutions.com/SU/Qnj8IKKU84qMv8ZXSZPu1w==>
Leroy F. Greene School Facilities Act -
<https://simbli.eboardsolutions.com/SU/fu4PsUtUAb4qYYOY9breHg==>
Field Act; approval of plans and supervision of construction
Field Act; fitness for occupancy; liability of board members
Suicide prevention policies
Student identification cards; inclusion of safety hotlines
Prohibition of discrimination
Posting of Title IX information on web site
Sex equity in competitive athletics
Reasonable accommodations; lactating students
Pregnant and parenting students; notification of rights
Sexual harassment policy
Mandated policy on bullying prevention
Bullying and harassment prevention information
Student protections relating to immigration and citizenship status
School safety plans
Bullying; online training
The Eric Parades Sudden Cardiac Arrest Prevention Act
Interscholastic athletic programs, safety; swimming pool safety that is not part of interscholastic athletic program
Graduation ceremonies; tribal regalia or recognized object of religious/cultural significance
Stocking of menstrual products
Field trips and excursions; student fees
Training for security officers
School meals
Transportation safety plan
Disciplinary action against bus driver; report to Department of Motor Vehicles
Report of expenditure of state facility funds

Ed. Code 42100	Annual statement of receipts and expenditures
Ed. Code 44030.5	Reporting change in employment status due to alleged misconduct
Ed. Code 44237	Criminal record summary
Ed. Code 44258.9	Monitoring of teacher assignments
Ed. Code 44691	Information on detection of child abuse; annual training
Ed. Code 44830.1	Certificated employees; conviction of a violent or serious felony
Ed. Code 45122.1	Classified employees; conviction of a violent or serious felony
Ed. Code 45125.1	Criminal records summary; employees of contracting entity
Ed. Code 46015	Accommodations for pregnant and parenting students; parental leave
Ed. Code 46390-46393	Emergency average daily attendance
Ed. Code 47600-47616.7	Charter Schools Act of 1992
Ed. Code 47634.2	Nonclassroom-based instruction
Ed. Code 47640-47647	Special education funding for charter schools
Ed. Code 47651	Apportionment of funds; charter schools
Ed. Code 48000	Minimum age of admission for kindergarten; transitional kindergarten
Ed. Code 48010-48011	Minimum age of admission (first grade)
Ed. Code 48206.3-48208	Students with temporary disabilities; individual instruction
Ed. Code 48850-48859	Education of foster youth and homeless students
Ed. Code 48901.1	Suspension and expulsion; willful defiance
Ed. Code 48907	Exercise of free expression; time, place and manner rules and regulations
Ed. Code 48913.5	Suspended students; homework assignments
Ed. Code 48950	Speech and other communication
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 49005-49006.4	Seclusion and restraint
Ed. Code 49011	Student fees
Ed. Code 49014	Public School Fair Debt Collection Act
Ed. Code 49061	Definitions, directory information
Ed. Code 49062.5	Student records, name or gender change
Ed. Code 49070	Challenging student records
Ed. Code 49073.2	Privacy of student and parent/guardian personal information; minutes of board meeting
Ed. Code 49076.7	Student records; data privacy; social security numbers
Ed. Code 49110	Authority to issue work permits
Ed. Code 49381	Human trafficking prevention
Ed. Code 49414	Epinephrine auto-injectors
Ed. Code 49414.3	Administration of opioid antagonist
Ed. Code 49428	Notification of mental health services
Ed. Code 49430-49434	The Pupil Nutrition, Health, and Achievement Act of 2001
Ed. Code 49431.9	Prohibition of advertisement of non-nutritious foods
Ed. Code 49475	Health and safety; concussions and head injuries
Ed. Code 49501.5	Free breakfast and lunch to all students
Ed. Code 49557.5	Child Hunger Prevention and Fair Treatment Act of 2017

Ed. Code 49564	Meals for needy students
Ed. Code 49564.3	Provision of federal universal meal service
Ed. Code 49700-49701	Education of children of military families
Ed. Code 51224.7	Mathematics placement policy
Ed. Code 51225.1-51225.2	Exemption from local graduation requirements; acceptance of coursework
Ed. Code 51225.3	High school graduation requirements
Ed. Code 51225.6	Instruction in cardiopulmonary resuscitation
Ed. Code 51225.7-51225.8	Completion and submission of the Free Application for Federal Student Aid and California Dream Act Application
Ed. Code 51413	Diploma of graduation without passage of high school exit examination
Ed. Code 51745-51749.6	Independent study
Ed. Code 51925-51929	Mandatory mental health education
Ed. Code 51930-51939	California Healthy Youth Act
Ed. Code 52052	Accountability; numerically significant student subgroups
Ed. Code 52060-52077	Local control and accountability plan
Ed. Code 52075	Uniform complaint procedures
Ed. Code 56026	Special education
Ed. Code 56040.3	Availability of assistive technology device
Ed. Code 56145-56146	Special education services in charter schools
Ed. Code 56365-56366.12	Nonpublic, nonsectarian schools
Ed. Code 60600-60648.5	Assessment of academic achievement
Ed. Code 64000	Categorical programs included in consolidated application
Ed. Code 64001	School plan for student achievement; consolidated application programs
Ed. Code 65000-65001	School site councils
Ed. Code 69432.9-69432.92	Cal Grant program; notification of grade point average and high school graduation
Gov. Code 1090-1099	Prohibitions applicable to specified officers
Gov. Code 3540-3549.3	Educational Employment Relations Act
Gov. Code 3555-3559	Public employee communication, information and orientation
Gov. Code 54950-54963	The Ralph M. Brown Act
Gov. Code 6250-6270	California Public Records Act
Gov. Code 81000-91014	Political Reform Act of 1974
H&S Code 104420	Tobacco Use Prevention Education grant program
H&S Code 104559	Tobacco-free schools
Lab. Code 1198.5	Personnel records related to performance and grievance
Lab. Code 3074.2	Notice of college and career fairs
Pen. Code 1192.7	Definition of serious felony
Pen. Code 667.5	Definition of violent felony
Veh. Code 28160	Child safety alert system
Federal References	Description
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
20 USC 6311	State plan

20 USC 7221-7221j	Charter schools
34 CFR 200.1-200.78	Accountability
42 USC 11431-11435	McKinney-Vento Homeless Assistance Act

Management Resources References

Description

Attorney General Opinion	104 Ops.Cal.Atty.Gen. 66 (2021)
Attorney General Opinion	101 Ops.Cal.Atty.Gen. 92 (2018)
Attorney General Opinion	78 Ops.Cal.Atty.Gen. 297 (1995)
Attorney General Opinion	89 Ops.Cal.Atty.Gen. 166 (2006)
Attorney General Opinion	80 Ops.Cal.Atty.Gen. 52 (1997)
CA Department of Education Publication	California School Accounting Manual
CA Office of Administrative Hearings Decisions	Student v. Horizon Instructional Systems Charter School, (2012) OAH Case No. 20111060763
California Department of Education publication	Pupil Fees, Deposits, and Other Charges, Fiscal Management Advisory 20-01, July 23, 2020
California Dept. of Pesticide Reg. Publication	School District Integrated Pest Management Plan Template
California Interscholastic Federation Publication	Pursuing Victory with Honor, 1999
Court Decision	Ridgecrest Charter School v. Sierra Sands Unified School District, (2005) 130 Cal.App.4th 986
CSBA Publication	Charter Schools: A Guide for Governance Teams, rev. 2016
CSBA Publication	Charter Schools in Focus, Issue 2: Ensuring Effective Oversight, Governance Brief, October 2017
CSBA Publication	Uncharted Waters: Recommendations for Prioritizing Student Achievement and Effective Governance in California's Charter Schools, September 2018
U.S. DOE Guidance	Charter Schools Program: Title V, Part B of the ESEA, Nonregulatory Guidance, January 2014
Website	U.S. Department of Agriculture - https://sirobli.eboardsolutioos.com/SU/RslshJVkZjGiBHO8TX9tA3tqO==
Website	National Suicide Prevention Lifeline - https://sirobli.eboardsolutioos.com/SU/yAd89LtBVSINaH2almpg2O==
Website	National Domestic Violence Hotline - https://sirobli.eboardsolutioos.com/SU/d1fBFpjoslsh4vvBXfU68zMWg==
Website	California State Teachers Retirement System - https://sirobli.eboardsolutioos.com/SU/dDkW9gdO2YplusqCVo1qG2vslsbw==
Website	California Public Employees Retirement System - https://sirobli.eboardsolutioos.com/SU/BtrWsdRenb5zZZethXOCw==
Website	California Department of General Services, Office of Administrative Hearings - https://sirobli.eboardsolutioos.com/SU/hkXUVtmkSbRSTlh3V79tXg=-
Website	California Commission on Teacher Credentialing - https://sirobli.eboardsolutioos.com/SU/EgDpluss7NDrgK1KmPo9MgqplusA==
Website	California Commission on Peace Officer Standards and Training - https://sirobli.eboardsolutioos.com/SU/T42f3slYPIGPzJCTWmplusqxA==
Website	California Bureau of Security and Investigative Services - https://sirobli.eboardsolutioos.com/SU/7cvjGFeMAXplusS81dHUhceYO==
Website	California State Controller - https://sirobli.eboardsolutioos.com/SU/P16G06rhv8oslqGWli7phA==
Website	California Department of Pesticide Regulation - https://sirobli.eboardsolutioos.com/SU/oAOBdjd0jGZedpckSjhIiw==

Website	California Student Aid Commission - https://simbli.eboardsolutions.com/SU/YTrT10NffiZjZQWhb3fewg==
Website	National Association of Charter School Authorizers - https://simbli.eboardsolutions.com/SU/9nzbOGSX2WH42kMJnO6kg==
Website	California Charter Schools Association - https://simbli.eboardsolutions.com/SU/aplushtDM8pluzN2tpwTckx11kA==
Website	California Department of Education, Charter Schools - https://simbli.eboardsolutions.com/SU/PdGgkCs2Y23fwPslsbslshoGe7iQ==
Website	California Interscholastic Federation - https://simbli.eboardsolutions.com/SU/QthhhDMKplusI3akAI8GRP72g==
Website	California Office of the Attorney General - https://simbli.eboardsolutions.com/SU/SqNslsb5DoKuytasVcv9khGiA==
Website	CSBA- https://simbli.eboardsolutions.com/SU/W3QxkK2EPsDsQBnMIENxGg==
Website	U.S. Department of Education - https://simbli.eboardsolutions.com/SU/XcSslimoslsh3XhJKy4tplus7wplusA==

Cross References

Description

0420.4	Charter School Authorization - https://simbli.eboardsolutions.com/SU/Oi0m3LftdUnEu0DDGxB2mQ==
0420.4	Charter School Authorization - https://simbli.eboardsolutions.com/SU/6aKw9KbSgexgJfcQrVo5eQ==
0420.42	Charter School Renewal - https://simbli.eboardsolutions.com/SU/uuLbZeec3V3u1wMajl8dHg==
0420.43	Charter School Revocation - https://simbli.eboardsolutions.com/SU/ohXLOZICr9Y37KsqCta5dA==
0460	Local Control And Accountability Plan - https://simbli.eboardsolutions.com/SU/fwFbmazSQUOOAdI7DbzBBg==
0460	Local Control And Accountability Plan - https://simbli.eboardsolutions.com/SU/N8bGSx8fxAllgcLPJYKR9w==
0500	Accountability - https://simbli.eboardsolutions.com/SU/PDWiti8tEaGKngJbgZ4O3g==
1312.3	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/yvGJj2X8PyrSmBYInybbQA==
1312.3	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/qu1ox8qD0SpMJPXqVt6gag==
1312.3-E PDF(1)	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/BslsbPmK886oDyrBoOyAftUdg==
1312.3-E PDF(2)	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/HDslshuPXC0G3OsIshr71TMVplus4Jw==
1431	Waivers - https://simbli.eboardsolutions.com/SU/9BuYxzx0B211.rRqCSldthA==
6162.51	State Academic Achievement Tests - https://simbli.eboardsolutions.com/SU/NdqSEfnslshhwaBKplusUkKH040A==
6162.51	State Academic Achievement Tests - https://simbli.eboardsolutions.com/SU/o7bkKwYtcu0mkplusF9HZPNfQ==
7160	Charter School Facilities - https://simbli.eboardsolutions.com/SU/plussx0ytUqrR6vrkEezQAlqg==
7160	Charter School Facilities - https://simbli.eboardsolutions.com/SU/WxGxcu8vOqvCeGblR3x1KA==

Exhibit 0420.41-E(t): Charter School Oversight

Status: ADOPTED

Original Adopted Date: 07/01/2017 | Last Revised Date: 06/01/2022 | Last Reviewed Date: 06/01/2022

REQUIREMENTS FOR CHARTER SCHOOLS

CSBA NOTE: Pursuant to Education Code 47610, charter schools are exempt from Education Code provisions governing school districts unless otherwise specified in law. However, charter schools, like other public schools, are subject to the state and federal constitutions, applicable federal laws, state laws that apply to governmental agencies in general, and state laws that are expressly applicable to charter schools. The following Exhibit lists some, but not necessarily all, legal requirements that apply to charter schools and may be used by districts to monitor a charter school's compliance with law. Violation of any law may subject the charter school to revocation pursuant to Education Code 47607; see BP 0420.43 - Charter School Revocation.

A charter school shall be subject to the terms of its charter; any memorandum of understanding between the school and the district Governing Board; the state and federal constitutions; applicable federal laws; state laws that apply to governmental agencies in general; and other legal requirements that are expressly applicable to charter schools, including, but not limited to, the following requirements.

Governance

1. Comply with the Ralph M. Brown Act (Government Code 54950-54963), California Public Records Act (Government Code 6250-6270), conflict of interest laws (Government Code 1090-1099), and Political Reform Act (Government Code 81000-91014), including the adoption of a conflict of interest code pursuant to Government Code 87300 (Education Code 47604.1)
2. Except as otherwise authorized by Government Code 54954, hold the meetings of its governing body within the physical boundaries of the county in which the charter school is located or, if a nonclassroom-based charter school that does not have a facility or operates one or more resource centers, hold governing body meetings within the physical boundaries of the county in which the greatest number of students enrolled in the charter school reside. In addition, a two-way teleconference location shall be established at the school site and/or resource center, as applicable. (Education Code 47604.1)
3. The charter school's executive director or any of the charter school's employees shall not serve as a member of the county board of education in the county where the charter school is located (Education Code 1006; Government Code 1099)

Operations

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

Admission/Enrollment

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

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

If a charter school is operating as a public school of the district for purposes of special education, the district retains responsibility and must determine how to ensure that students with disabilities receive a free

appropriate public education (FAPE). However, as indicated in the California Office of Administrative Hearings ruling in *Student v. Horizon Instructional Systems Charter School*, a charter school operating as its own LEA for purposes of special education, including a charter school offering an independent study program, is the entity responsible for providing FAPE.

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

If a charter school will be physically located in a public elementary school attendance area in which 50 percent or more of the student enrollment is eligible for free or reduced-price meals, it may also establish an admission preference for students who are currently enrolled in that public elementary school and for students who reside in the public school attendance area. (Education Code 47605.3)
 - b. If the number of students who wish to attend the charter school exceeds the school's capacity, attendance shall be determined by a public random drawing, with preference extended to students currently attending the charter school and students who reside in the district, except as provided for in Education Code 47614.5. (Education Code 47605)
 - c. Other admission preferences may be permitted by the Board of the district on an individual school basis consistent with law. (Education Code 47605)
10. Not discourage a student from enrolling or seeking to enroll in the charter school, nor encourage a current student from disenrolling, for any reason, including, but not limited to, the student's academic performance, nationality, race, ethnicity, or sexual orientation or because the student is a student with disabilities, academically low achieving, an English learner, neglected or delinquent, homeless, economically disadvantaged, or a foster youth. The charter school shall not request or require a student's records to be submitted before enrollment. The charter school shall post on its web site the California Department of Education's (CDE) notice of these requirements and shall provide the notice to parents/guardians or students age 18 and older when the parent/guardian or student inquires about enrollment, before conducting an enrollment lottery, and before disenrollment of a student. (Education Code 47605)
11. Comply with the requirements of Education Code 48850-48859 regarding enrollment, identification, and placement of homeless children and unaccompanied youth (Education Code 48850, 48851, 48852.5, 48852.6; 42 USC 11431-11435)
12. Comply with the requirements of Education Code 48850-48859 regarding the enrollment and placement of foster youth (Education Code 48853.5, 48859)
13. Allow a student who is enrolled in the charter school but receiving individual instruction at home or a hospital due to a temporary disability to return to the charter school when well enough to do so, provided the student returns during the school year in which the individual instruction was initiated (Education Code 48207.3)

Nondiscrimination

14. Not discriminate against any student on the basis of the characteristics listed in Education Code 220 (Education Code 47605)
15. Adopt policy that is consistent with the model policy developed by the California Attorney General addressing the charter school's response to immigration enforcement, notify parents/guardians of their children's right to a free public education regardless of immigration status or religious beliefs, prohibit the collection of information or documents regarding the immigration status of students or their family members, and fulfill other requirements of Education Code 234.7
16. Post specified information related to the prohibition against discrimination under Title IX of the Education Amendments of 1972 in a prominent and conspicuous location on the school web site or on the web site of

the charter operator (Education Code 221.61)

17. If the charter school offers competitive athletics, annually post on the school's web site or on the web site of the charter operator the total enrollment of the school classified by gender, the number of students who participate in competitive athletics classified by gender, and the number of boys' and girls' teams classified by sport and by competition level (Education Code 221.9)
18. Provide specified accommodations to pregnant and parenting students, including, but not limited to, the provision of parental leave and reasonable accommodations on campus to a lactating student to express breast milk, breastfeed an infant child, or address other needs related to breastfeeding. The charter school shall notify pregnant and parenting students and parents/guardians of the rights and options available to pregnant and parenting students. (Education Code 222, 222.5, 46015)
19. If a direct-funded charter school, adopt and implement uniform complaint procedures to resolve complaints of unlawful discrimination or alleged violation of a state or federal law or regulation governing educational programs, in accordance with 5 CCR 4600-4670 (5 CCR 4600)

Tuition and Fees

20. Not charge tuition (Education Code 47605)

CSBA NOTE: Education Code 47605 specifically prohibits a charter school from charging tuition, but does not mention fees or other charges. As clarified in the California Department of Education's (CDE) advisory Pupil Fees, Deposits, and Other Charges, because charter schools are subject to the California Constitution, the free school guarantee of the California Constitution, Article 9, Section 5, applies to charter schools. Charter schools may only charge fees which are explicitly authorized by law for charter schools.

21. Not charge student fees for any activity that is an integral component of the educational program, except as authorized by those Education Code provisions that explicitly apply to charter schools
22. Not bill, nor take any negative action against, a student or former student for a debt owed to the charter school. The school shall provide an itemized invoice for any amount owed by the parent/guardian on behalf of a student or former student before pursuing payment of the debt and shall provide a receipt to the parent/guardian for each payment made to the school. (Education Code 49014)

School Plans

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

Curriculum and Instruction

CSBA NOTE: Education Code 47612.5 specifies, by grade level, the minimum number of instructional minutes

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

27. Offer at least the number of instructional minutes required by law for the grade levels provided by the charter school (Education Code 47612.5)
28. If the charter school offers a kindergarten program, also offer a transitional kindergarten (TK) program to students in accordance with Education Code 48000
29. If the charter school serves students in grade 9, adopt a fair, objective, and transparent mathematics placement policy with specified components (Education Code 51224.7)
30. If the charter school serves students in any of grades 7-12, provide comprehensive sexual health education and human immunodeficiency virus (HIV) prevention education at least once in junior high or middle school and once in high school (Education Code 51931, 51934)
31. If the charter school serves students in any of grades 6-12, identify and implement methods of informing parents/guardians of human trafficking prevention resources (Education Code 49381)
32. If the charter school serves students in middle or high school and offers one or more courses in health education, include in those courses instruction in mental health, as specified (Education Code 51925-51929)
33. If the charter school serves students in grade 12, comply with the requirements for student completion and submission of the Free Application for Federal Student Aid and California Dream Act Application (Education Code 51225.7, 51225.8)
34. If the charter school is planning to hold a college or career fair, the charter school shall notify each apprenticeship program in the same county as the charter school with the planned date, time, and location of the fair (Labor Code 3074.2)

CSBA NOTE: Education Code 47612.5 provides that charter schools offering independent study are subject to Education Code 51745-51749.6. Education Code 51745 requires that no course included among the courses required for graduation may be offered solely through independent study. However, pursuant to 5 CCR 11705, a charter school offering grades 9-12 shall be deemed to be an "alternative school" for purposes of independent study and thus, according to CDE, would comply with this provision because students in such alternative schools are enrolled voluntarily and, if they wished, could attend any other district high school in which the courses were offered via classroom instruction.

35. If the charter school provides independent study, meet the requirements of Education Code 51745-51749.6, except that the school may offer courses required for graduation solely through independent study as an exception to Education Code 51745(e) (Education Code 47612.5, 51747.3; 5 CCR 11705)
36. Develop a plan for offering independent study to affected students pursuant to Education Code 46393 if the governing body of the charter school submits an affidavit pursuant to Education Code 46392 necessitated by an emergency condition that resulted in a school closure (Education Code 46392, 46393)
37. Accept and provide full or partial credit for coursework satisfactorily completed by a foster youth, homeless student, former juvenile court school student, child of a military family, migrant student, or a student participating in a newcomer program while attending another school (Education Code 51225.2)
38. Meet all statewide standards and conduct any statewide assessments applicable to noncharter public schools (Education Code 47605, 47612.5, 60605)

Special Education

39. Provide assistive technology devices in a student's home or other settings if the individualized education program team determines that such access is necessary. The charter school shall also provide an assistive technology device or comparable device to a student who enrolls in another local educational agency, for two months after the student leaves the charter school or until alternative arrangements can be made, whichever occurs first. (Education Code 56040.3)

40. If the charter school is an independent member of a special education local plan area and has a master contract with a nonpublic, nonsectarian school:
 - a. Pay the full amount of the tuition or fees for students with disabilities enrolled in programs or services provided pursuant to that contract (Education Code 56365)
 - b. Conduct at least one onsite visit to the nonpublic, nonsectarian school prior to a student's placement and at least once each school year (Education Code 56366.1)

High School Graduation

41. Exempt a foster youth, homeless student, former juvenile court school student, child of a military family, or migrant student who transfers between schools after the second year of high school, or a student participating in a newcomer program for newly immigrant students in grades 11-12, from any of the charter school's graduation requirements that exceed state requirements, unless the charter school determines that the student is reasonably able to complete the requirements by the end of the fourth year of high school (Education Code 51225.1, 51225.2)
42. Grant a high school diploma to any student who completed grade 12 in the 2003-04 through 2014-15 school year and met all applicable graduation requirements other than the passage of the high school exit examination (Education Code 51413)
43. Require students to meet the state minimum course requirements for graduation as specified in Education Code 51225.3, as well as any additional graduation requirements required by the governing body (Education Code 51225.3)

Student Expression

44. Allow a student to wear traditional tribal regalia or recognized objects of religious or cultural significance as an adornment at school graduation ceremonies, unless the charter school determines that an item is likely to cause a substantial disruption of, or material interference with, the ceremony (Education Code 35183.1)

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

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

Staffing

46. Require its teachers to hold a certificate, permit, or other document issued by the Commission on Teacher Credentialing (CTC) as required for the teacher's certificated assignment. Teachers employed by the charter school during the 2019-20 school year shall have until July 1, 2025 to obtain the required certificate required. (Education Code 47605, 47605.4)
47. If the charter school offers TK, require credentialed teachers first assigned to a TK class to meet one of three specified criteria establishing qualification for the position by August 1, 2023, and to maintain adult to student ratios as specified in Education Code 48000 (Education Code 48000)
48. Review potential misassignments and vacant positions in the charter school, including data from CTC, respond to the County Superintendent of Schools when necessary to show that an employee is legally authorized for an assignment, and correct any misassignments if notified by the County Superintendent that an assignment is not legally authorized (Education Code 44258.9)
49. Not hire any person who has been convicted of a violent or serious felony except as otherwise provided by law, and, if the charter school contracts with an entity for specified services, verify that any employee of that entity who interacts with students outside of the immediate supervision and control of the student's parent/guardian or a school employee has a valid criminal records summary, unless an exception applies

(Education Code 44830.1, 45122.1, 45125.1)

50. Report to CTC any change in a certificated employee's employment status (dismissal, nonreelection, resignation, suspension, unpaid administrative leave for more than 10 days, retirement, or other decision not to employ or reemploy) as a result of an allegation of misconduct or while an allegation of misconduct is pending (Education Code 44030.5)
51. If the charter school chooses to make the state teachers' retirement plan and/or the public employees retirement system available to its employees, meet the requirements of Education Code 47611 (Education Code 47610)
52. Meet the requirements of Government Code 3540-3549.3 related to collective bargaining in public education employment (Education Code 47611.5)
53. If the charter school employs security officers and/or security officers work on the charter school campus, provide the latest course of training developed by the Bureau of Security and Investigative Services of the Department of Consumer Affairs in consultation with the Commission on Peace Officer Standards and Training, as specified (Education Code 38001.5; Business and Professions Code 7583.45)

Parent/Guardian Involvement

54. On a regular basis, consult with parents/guardians and teachers regarding the charter school's educational programs (Education Code 47605)
55. Notify parents/guardians of applicant students and currently enrolled students that parental involvement is not a requirement for acceptance to, or continued enrollment at, the charter school (Education Code 47605)
56. If 15 percent or more of the students at the charter school speak a single primary language other than English, provide all notices, reports, statements, or records sent to parents/guardians in English and in the primary language (Education Code 48985)

Nutrition

57. Provide breakfast and/or lunch free of charge during each school day to students requesting a meal regardless of the student's free or reduced-price meal eligibility. If the charter school participates in the National School Lunch Program and School Breakfast Program and is a very high poverty school, as defined, the charter school shall apply to operate a federal universal meal service provision, and upon approval, apply such service (Education Code 49501.5, 49564.3)
58. Not promote any food or beverage during the school day that does not comply with state nutritional standards pursuant to Education Code 49430-49434, and not participate in a corporate incentive program that offers free or discounted non-nutritious foods or beverages as rewards for students who reach certain academic goals (Education Code 49431.9)

Student Health

59. Adopt a policy on suicide prevention, intervention, and postvention for grades 7-12, and an age-appropriate policy for grades K-6, and review the policy at least every five years (Education Code 215)
60. If the charter school serves grades 7-12 and issues student identification cards, print the telephone numbers of the National Suicide Prevention Lifeline and the National Domestic Violence Hotline on the identification cards (Education Code 215.5)
61. Notify students and parents/guardians at least twice during the school year on how to initiate access to available student mental health services on campus or in the community (Education Code 49428)
62. Provide annual training on child abuse and neglect reporting requirements to employees and persons working on the charter school's behalf who are mandated reporters, within the first six weeks of each school year or within six weeks of employment (Education Code 44691)
63. If the charter school offers an athletic program, annually provide information sheets about concussions/head

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

64. If the charter school offers an interscholastic athletic program, develop and post a written emergency action plan that describes procedures to be followed in the event of sudden cardiac arrest and other medical emergencies, acquire at least one automated external defibrillator (AED) for the school, and make the AED available at on-campus athletic activities or events (Education Code 35179.4, 35179.6)
65. If the charter school sponsors or hosts an on-campus event in or around a swimming pool that is not part of an interscholastic athletic program, provide for the presence of at least one adult with a valid certification of cardiopulmonary resuscitation training throughout the duration of the event (Education Code 35179.6)
66. Provide school nurses or other voluntary, trained personnel with emergency epinephrine auto-injectors of the type required pursuant to Education Code 49414 (Education Code 49414)
67. If the charter school chooses to make an opioid antagonist available to persons suffering, or reasonably believed to be suffering, from an opioid overdose, comply with the requirements of Education Code 49414.3, including, but not limited to, providing training to personnel who volunteer to administer the opioid antagonist

Student Conduct/Discipline

68. Adopt a policy on bullying and cyberbullying prevention, post specified information on bullying and harassment prevention, and annually make CDE's online training module on bullying prevention available to school site certificated employees and other employees who have regular interaction with students (Education Code 234.4, 234.6, 32283.5)
69. Adopt and display a written policy on sexual harassment, include the policy as part of any orientation for new and continuing students, and post a poster notifying students of the policy (Education Code 231.5, 231.6)
70. Prohibit seclusion and behavioral restraint of students as a means of discipline, and only use such methods to control student behavior that poses a clear and present danger of serious physical harm to a student or others that cannot be immediately prevented by a less restrictive response (Education Code 49005-49006.4)
71. Neither recommend for expulsion a student in grades K-12 nor suspend a student in grades K-8 for disrupting school activities or otherwise willfully defying the authority of school personnel in the performance of their duties (Education Code 48901.1)
72. Upon request, provide a student who is suspended for two or more days with the homework assigned during the period of suspension (Education Code 47606.2, 48913.5)

Student and Parent/Guardian Records

73. Not collect or solicit social security numbers or the last four digits of social security numbers from students or their parents/guardians unless otherwise required to do so by state or federal law (Education Code 49076.7)
74. Upon written request, not include the directory information of a student or the personal information of a parent/guardian, as defined, in the minutes of a meeting of the governing body (Education Code 49073.2)
75. If a student subject to compulsory full-time education is expelled or leaves the charter school without graduating or completing the school year for any reason, notify the Superintendent of the school district of the student's last known address within 30 days and, upon request, provide that district with a copy of the student's cumulative record, including a transcript of grades or report card, and health information (Education Code 47605)
76. If the charter school serves high school students, submit to the Student Aid Commission (CSAC), for use in the Cal Grant program, the grade point average (GPA) of all students in grade 12 and verification of high school graduation or its equivalent for students who graduated in the prior academic year. However, such information

shall not be submitted when students opt out or are permitted by the rules of CSAC to provide test scores in lieu of the GPA. (Education Code 69432.9, 69432.92)

77. Upon receipt of government-issued documentation of a change of name or gender or, if such documentation is not available, upon request in accordance with the procedure in Education Code 49070, update, and reissue if requested, a former student's records to include the student's updated legal name or gender (Education Code 49062.5, 49070)

Facilities

78. Comply with the California Building Standards Code as adopted and enforced by the local building enforcement agency with jurisdiction over the area in which the charter school is located, unless the charter school facility meets either of the following conditions: (Education Code 47610, 47610.S)
 - a. The facility complies with the Field Act pursuant to Education Code 17280-17317 and 17365-17374.
 - b. The facility is exclusively owned or controlled by an entity that is not subject to the California Building Standards Code, including, but not limited to, the federal government.
79. If the charter school serves students in any of grades 6-12, stock the school's restrooms at all times with an adequate supply of menstrual products available and accessible free of cost in all women's restrooms, all-gender restrooms, and in at least one men's restroom (Education Code 35292.6)

Finance

80. Promptly respond to all reasonable inquiries from the district, the county office of education, or the Superintendent of Public Instruction (SPI), including, but not limited to, inquiries regarding the charter school's financial records (Education Code 47604.3)
81. Maintain written contemporaneous records that document all student attendance and make these records available for audit and inspection (Education Code 47612.5)
82. Identify and report to the SPI any portion of the charter school's average daily attendance that is generated through nonclassroom-based instruction, including, but not limited to, independent study, home study, work study, and distance and computer-based education (Education Code 47612.5, 47634.2; 5 CCR 11963.2)
83. Annually prepare and submit financial reports to the Board and the County Superintendent in accordance with the following reporting cycle:
 - a. By July 1, a preliminary budget for the current fiscal year. For a charter school in its first year of operation, financial statements submitted with the charter petition pursuant to Education Code 47605(g) will satisfy this requirement. (Education Code 47604.33)
 - b. By December 15, an interim financial report for the current fiscal year reflecting changes through October 31. (Education Code 47604.33)
 - c. By March 15, a second interim financial report for the current fiscal year reflecting changes through January 31. (Education Code 47604.33)
 - d. By September 15, a final unaudited report for the full prior year. The report submitted to the Board shall include an annual statement of all the charter school's receipts and expenditures for the preceding fiscal year. (Education Code 42100, 47604.33)
 - e. By December 15, a copy of the charter school's annual, independent financial audit report for the preceding fiscal year, unless the charter school's audit is encompassed in the district's audit. The audit report shall also be submitted to the State Controller and COE. (Education Code 47605)
84. If the charter school receives state facilities funding pursuant to the Leroy F. Greene School Facilities Act (Education Code 17070.10-17079.30), annually report a detailed list of all expenditures of state funds, and of the school's matching funds for completed projects, and submit an audit of completed facilities projects within one year of project completion (Education Code 41024)

Accountability

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

Policy Reference Disclaimer. These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

State References	Description
5 CCR 11700-11705	Independent study
5 CCR 11960-11969.10	Charter schools
5 CCR 4600-4670	Uniform complaint procedures
Bus. Code 7583.45	Training for security officers
CA Constitution Article 16, Section 8.5	Public finance; school accountability report card - https://simbli.eboardsolutions.com/SU/SWGOeOCplusFH2CplOCVLEpzO==
CA Constitution Article 9, Section 5	Common school system - https://simbli.eboardsolutions.com/SU/SLDHgacpLGqiftuxZapsIshOg==
Corp. Code 5110-6910	Nonprofit public benefit corporations - https://simbli.eboardsolutions.com/SU/up9YZpTlb4gRf50HwlsIsh9Og==
Ed. Code 1006	Prohibition against school district employees serving on county board of education - https://simbli.eboardsolutions.com/SU/Onj81KKU84qMv8ZXSZPu1w==
Ed. Code 17070.10-17079.30	Leroy F. Greene School Facilities Act - https://simbli.eboardsolutions.com/SU/fu4PsUtUAb4qYYOY9breHg==
Ed. Code 17280-17317	Field Act; approval of plans and supervision of construction
Ed. Code 17365-17374	Field Act; fitness for occupancy; liability of board members
Ed. Code 215	Suicide prevention policies
Ed. Code 215.5	Student identification cards; inclusion of safety hotlines
Ed. Code 220	Prohibition of discrimination
Ed. Code 221.61	Posting of Title IX information on web site
Ed. Code 221.9	Sex equity in competitive athletics
Ed. Code 222	Reasonable accommodations; lactating students
Ed. Code 222.5	Pregnant and parenting students; notification of rights
Ed. Code 231.5-231.6	Sexual harassment policy
Ed. Code 234.4	Mandated policy on bullying prevention
Ed. Code 234.6	Bullying and harassment prevention information
Ed. Code 234.7	Student protections relating to immigration and citizenship status
Ed. Code 32282	School safety plans
Ed. Code 32283.5	Bullying; online training
Ed. Code 33479-33479.9	The Eric Parades Sudden Cardiac Arrest Prevention Act
Ed. Code 35179.4-35179.6	Interscholastic athletic programs, safety; swimming pool safety that is not part of interscholastic athletic program
Ed. Code 35183.1	Graduation ceremonies; tribal regalia or recognized object of religious/cultural significance
Ed. Code 35292.6	Stocking of menstrual products
Ed. Code 35330	Field trips and excursions; student fees

Ed. Code 38001.5	Training for security officers
Ed. Code 38080-38086	School meals
Ed. Code 39831.3	Transportation safety plan
Ed. Code 39843	Disciplinary action against bus driver; report to Department of Motor Vehicles
Ed. Code 41024	Report of expenditure of state facility funds
Ed. Code 42100	Annual statement of receipts and expenditures
Ed. Code 44030.5	Reporting change in employment status due to alleged misconduct
Ed. Code 44237	Criminal record summary
Ed. Code 44258.9	Monitoring of teacher assignments
Ed. Code 44691	Information on detection of child abuse; annual training
Ed. Code 44830.1	Certificated employees; conviction of a violent or serious felony
Ed. Code 45122.1	Classified employees; conviction of a violent or serious felony
Ed. Code 45125.1	Criminal records summary; employees of contracting entity
Ed. Code 46015	Accommodations for pregnant and parenting students; parental leave
Ed. Code 46390-46393	Emergency average daily attendance
Ed. Code 47600-47616.7	Charter Schools Act of 1992
Ed. Code 47634.2	Nonclassroom-based instruction
Ed. Code 47640-47647	Special education funding for charter schools
Ed. Code 47651	Apportionment of funds; charter schools
Ed. Code 48000	Minimum age of admission for kindergarten; transitional kindergarten
Ed. Code 48010-48011	Minimum age of admission (first grade)
Ed. Code 48206.3-48208	Students with temporary disabilities; individual instruction
Ed. Code 48850-48859	Education of foster youth and homeless students
Ed. Code 48901.1	Suspension and expulsion; willful defiance
Ed. Code 48907	Exercise of free expression; time, place and manner rules and regulations
Ed. Code 48913.5	Suspended students; homework assignments
Ed. Code 48950	Speech and other communication
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 49005-49006.4	Seclusion and restraint
Ed. Code 49011	Student fees
Ed. Code 49014	Public School Fair Debt Collection Act
Ed. Code 49061	Definitions, directory information
Ed. Code 49062.5	Student records, name or gender change
Ed. Code 49070	Challenging student records
Ed. Code 49073.2	Privacy of student and parent/guardian personal information; minutes of board meeting
Ed. Code 49076.7	Student records; data privacy; social security numbers
Ed. Code 49110	Authority to issue work permits
Ed. Code 49381	Human trafficking prevention
Ed. Code 49414	Epinephrine auto-injectors
Ed. Code 49414.3	Administration of opioid antagonist

Ed. Code 49428	Notification of mental health services
Ed. Code 49430-49434	The Pupil Nutrition, Health, and Achievement Act of 2001
Ed. Code 49431.9	Prohibition of advertisement of non-nutritious foods
Ed. Code 49475	Health and safety; concussions and head injuries
Ed. Code 49501.5	Free breakfast and lunch to all students
Ed. Code 49557.5	Child Hunger Prevention and Fair Treatment Act of 2017
Ed. Code 49564	Meals for needy students
Ed. Code 49564.3	Provision of federal universal meal service
Ed. Code 49700-49701	Education of children of military families
Ed. Code 51224.7	Mathematics placement policy
Ed. Code 51225.1-51225.2	Exemption from local graduation requirements; acceptance of coursework
Ed. Code 51225.3	High school graduation requirements
Ed. Code 51225.6	Instruction in cardiopulmonary resuscitation
Ed. Code 51225.7-51225.8	Completion and submission of the Free Application for Federal Student Aid and California Dream Act Application
Ed. Code 51413	Diploma of graduation without passage of high school exit examination
Ed. Code 51745-51749.6	Independent study
Ed. Code 51925-51929	Mandatory mental health education
Ed. Code 51930-51939	California Healthy Youth Act
Ed. Code 52052	Accountability; numerically significant student subgroups
Ed. Code 52060-52077	Local control and accountability plan
Ed. Code 52075	Uniform complaint procedures
Ed. Code 56026	Special education
Ed. Code 56040.3	Availability of assistive technology device
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Ed. Code 56365-56366.12	Nonpublic, nonsectarian schools
Ed. Code 60600-60648.5	Assessment of academic achievement
Ed. Code 64000	Categorical programs included in consolidated application
Ed. Code 64001	School plan for student achievement; consolidated application programs
Ed. Code 65000-65001	School site councils
Ed. Code 69432.9-69432.92	Cal Grant program; notification of grade point average and high school graduation
Gov. Code 1090-1099	Prohibitions applicable to specified officers
Gov. Code 3540-3549.3	Educational Employment Relations Act
Gov. Code 3555-3559	Public employee communication, information and orientation
Gov. Code 54950-54963	The Ralph M. Brown Act
Gov. Code 6250-6270	California Public Records Act
Gov. Code 81000-91014	Political Reform Act of 1974
H&S Code 104420	Tobacco Use Prevention Education grant program
H&S Code 104559	Tobacco-free schools
Lab. Code 1198.5	Personnel records related to performance and grievance
Lab. Code 3074.2	Notice of college and career fairs

Pen. Code 1192.7	Definition of serious felony
Pen. Code 667.5	Definition of violent felony
Veh. Code 28160	Child safety alert system

Federal References

- 20 USC 1681-1688
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- 34 CFR 200.1-200.78
- 42 USC 11431-11435

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- Title IX of the Education Amendments of 1972; discrimination based on sex
- State plan
- Charter schools
- Accountability
- McKinney-Vento Homeless Assistance Act

Management Resources References

- Attorney General Opinion
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- Attorney General Opinion
- CA Department of Education Publication
- CA Office of Administrative Hearings Decisions
- California Department of Education publication
- California Dept. of Pesticide Reg. Publication
- California Interscholastic Federation Publication
- Court Decision
- CSBA Publication
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- U.S. DOE Guidance
- Website
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- 80 Ops.Cal.Atty.Gen. 52 (1997)
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- Pupil Fees, Deposits, and Other Charges, Fiscal Management Advisory 20-01, July 23, 2020
- School District Integrated Pest Management Plan Template
- Pursuing Victory with Honor, 1999
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- Charter Schools: A Guide for Governance Teams, rev. 2016
- Charter Schools in Focus, Issue 2: Ensuring Effective Oversight, Governance Brief, October 2017
- Uncharted Waters: Recommendations for Prioritizing Student Achievement and Effective Governance in California's Charter Schools, September 2018
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- U.S. Department of Agriculture - <https://sirobli.eboardsolutions.com/SU/RslshJVkZjGiBHO8TX9tA3tqQ==>
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- National Domestic Violence Hotline - <https://sirobli.eboardsolutions.com/SU/d1fBFpjoslsh4vvBXfu68zMWg==>
- California State Teachers Retirement System - <https://sirobli.eboardsolutions.com/SU/dDkW9gdO2YplusqCVo1qG2vslsbw==>
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- California Department of General Services, Office of Administrative Hearings - <https://simbli.eboardsolutions.com/SU/hkXUvTmkSbrSTIh3V79tXg==>
- California Commission on Teacher Credentialing - <https://sirobli.eboardsolutions.com/SU/EgDpluss7NDrgKlKmpo9MgqpluA==>

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Website	California Student Aid Commission - https://simbli.eboardsolutions.com/SU/YTrTl0NffzjZQWhb3fewg==
Website	National Association of Charter School Authorizers - https://simbli.eboardsolutions.com/SU/9nzhOGSX2VVH42kMJnO6kg==
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Website	California Interscholastic Federation - https://simbli.eboardsolutions.com/SU/OthhhDMKplusl3akAl8GRP72g==
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0500	Accountability - https://simbli.eboardsolutions.com/SU/PDWiti8tEaGKnqJbgZ4Q3g==
1312.3	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/yvGjJ2X8PyrSmBYInybbQA==
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1312.3-E PDF(2)	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/HDslsbuPXCOG3Oslsbr71TMVplus4Jw==
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Exhibit 1113-E(t): District And School Web Sites

Status: ADOPTED

Original Adopted Date: 10/01/2020 ILast Revised Date: 06/01/2022 ILast Reviewed Date: 06/01/2022

MATERIALS REQUIRED TO BE POSTED ON DISTRICT WEB SITE

CSBA NOTE: The following exhibit lists material which the law explicitly requires be posted on district or school web sites. See the referenced Board policy, administrative regulation, or Board bylaw for further information about related requirements. The exhibit does not include other postings that may be recommended throughout CSBA's sample policy manual but are not required by law.

Materials to Prominently Display

The following must be posted in a prominent location on the district's web site, such as on the home page when required by law:

1. The district's local control and accountability plan (LCAP), any updates or revisions to the LCAP, and the local control funding formula budget overview (Education Code 52064.1, 52065). See AR 0460 - Local Control and Accountability Plan.
2. A direct link to the current board agenda containing the time and location of the meeting and a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session, or a link to the district's agenda management platform where the current agenda shall be the first available (Government Code 54954.2, 54956). Post at least 72 hours before a regular board meeting or 24 hours before a special meeting. See BB 9320 - Meetings and Notices and BB 9322 - Agenda/Meeting Materials.
3. The district's policy on student suicide prevention including, for grades K-6, the age appropriateness of the policy (Education Code 234.6). See BP 5141.52 - Suicide Prevention.
4. The district's policies and procedures prohibiting discrimination, harassment, student sexual harassment, intimidation, bullying, and cyberbullying, including a section on social media bullying that includes all of the references described in Education Code 234.6 as possible forums for social media (Education Code 234.6). See AR 5131.2 - Bullying and AR 5145.3 - Nondiscrimination/Harassment.
5. The district's policy on preventing and responding to hate violence, if the district has adopted such a policy (Education Code 234.6). See BP 5145.9 - Hate-Motivated Behavior.
6. The definition of discrimination and harassment based on sex as described in Education Code 230, including the rights set forth in Education Code 221.8 (Education Code 234.6). See AR 5145.3 - Nondiscrimination/Harassment.
7. Information regarding Title IX prohibitions against discrimination based on a student's sex, gender, gender identity, pregnancy, and parental status, including the name and contact information of the Title IX Coordinator, the rights of students and the public as specified in Education Code 221.8, the responsibilities of the district under Title IX, web links to information about those rights and responsibilities on the web sites of the Office for Equal Opportunity and the U.S. Department of Education's Office for Civil Rights, a description of how to file a complaint of noncompliance under Title IX with specified components, and a link to Title IX information posted on the California Department of Education's (CDE) web site (Education Code 221.6, 221.61, 234.6; 34 CFR 106.8). See AR 5145.3 - Nondiscrimination/Harassment and AR 5145.7 - Sexual Harassment.
8. A link to statewide COE-compiled resources, including community-based organizations, that provide support to youth who have been subjected to school-based discrimination, harassment, intimidation, or bullying and to their families (Education Code 234.5, 234.6). See AR 5145.3 - Nondiscrimination/Harassment.
9. Posters published by the California Department of Fair Employment and Housing (DFEH) including, "California Law Prohibits Workplace Discrimination and Harassment," and for districts with five or more employees, "Transgender Rights in the Workplace," "Your Rights and Obligations as a Pregnant Employee," and "Family Care and Medical Leave and Pregnancy Disability Leave" (Government Code 12950). See AR 4030 - Nondiscrimination in Employment and AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave.

10. If the district has formed a community facilities district (Mello-Roos district) for the acquisition or improvement of school facilities, a copy of the annual report for the fiscal year if requested pursuant to Government Code 53343.1, the report provided to the California Debt and Investment Advisory Commission pursuant to Government Code 53359.5, and the report provided to the State Controller's office pursuant to Government Code 12463.2 (Government Code 53343.2). Post within seven months after the last day of the fiscal year. See BP 7212 - Mello-Roos Districts.

Other Postings

The following materials are also required to be posted on the district web site. However, there are no specific requirements related to where they are posted on the web site.

1. The Special Education Local Plan Area's approved comprehensive local plan for special education, annual budget plan, annual service plan, and annual assurances support plan and any updates or revisions to the plans (Education Code 56205.5). See AR 0430 - Comprehensive Local Plan for Special Education.
2. The district's nondiscrimination policy and regulation, including the complaint procedure and the compliance coordinator's contact information (34 CFR 100.6, 106.8). See BP 0410 - Nondiscrimination in District Programs and Activities and AR 4030 - Nondiscrimination in Employment.
3. Training materials used to train the Title IX Coordinator, investigator(s), decisionmaker(s), and any person(s) who facilitate an informal resolution process in response to a Title IX sexual harassment complaint (34 CFR 106.45). See AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures and AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.
4. Contact information for the district's liaison(s) for homeless students and other persons as required by Education Code 48852.6, and information regarding the educational rights and resources available to persons experiencing homelessness (Education Code 48852.6). See AR 6173 - Education for Homeless Children.
5. For all schools offering competitive athletics, the total enrollment of the school classified by gender, the number of students enrolled at the school who participate in competitive athletics classified by gender, and the number of boys' and girls' teams classified by sport and by competition level (Education Code 221.9). The information shall be posted at the end of the school year on the school's web site or, if the school does not have a web site, on the district's web site. See AR 6145.2 - Athletic Competition.
6. If the district has interdistrict attendance agreement(s), the procedures and timelines for requesting an interdistrict transfer permit, including, but not limited to, a link to the board's policy on interdistrict attendance, the date that the district will begin accepting applications, reasons that the district may approve/deny the request, the process for appeal, that failure to meet timelines will be deemed an abandonment of the request, and the condition under which an existing interdistrict transfer permit may be revoked or rescinded (Education Code 46600.2). See AR 5117 - Interdistrict Transfer.
7. If the district has elected to be a school district of choice, application information including, at a minimum, any applicable form, the timeline for a transfer, and an explanation of the selection process (Education Code 48301). See AR 5117 - Interdistrict Transfer.
8. For districts that offer grade 9, the district's policy and protocols related to student placement in mathematics courses (Education Code 51224.7). See AR 6152.1 - Placement in Mathematics Courses.
9. The section(s) of the district's employee code of conduct addressing interactions with students (Education Code 44050). Post these section(s) or a link to them on each school's web site or, if a school does not have its own web site, on the district's web site in a manner that is accessible to the public without a password. See BP 4119.21/4219.21/4319.21 - Professional Standards and BP 4119.24/4219.24/4319.24 - Maintaining Appropriate Adult-Student Interactions.
10. The district's meal payment collection policy and procedures (U.S. Department of Agriculture (USDA) Memorandum SP 46-2016). See BP/AR 3551 - Food Services Operations/Cafeteria Fund.
11. If the district includes information about the free and reduced-priced meal program on its web site, a nondiscrimination statement about the district's status as an equal opportunity provider and the address of the agency with responsibility to handle complaints made against the district (USDA FNS Instruction 113-1). For the required wording of the statement, see E 3555 - Nutrition Program Compliance.

12. The school's or district's integrated pest management plan, whenever a school chooses to use a pesticide not exempted pursuant to Education Code 17610.5 (Education Code 17611.5). Post on the school's web site or, if the school does not have a web site, then on the district's web site. See AR 3514.2 Integrated Pest Management.
13. When the California Environmental Quality Act requires an environmental impact report, negative declaration, or mitigated negative declaration, those environmental review documents, public notice of the preparation and availability of such documents within a reasonable period of time prior to certification of the environmental impact report, adoption of a negative declaration, or determination that a proposed subsequent project will have no additional significant effect on the environment, and specified notices when written requests for notices have been filed (Public Resources Code 21082.1, 21092, 21092.2).
14. When a citizens' oversight committee is formed after the approval of a bond under the 55 percent majority threshold, the committee's minutes, documents received, and reports issued (Education Code 15280). See AR 7214 - General Obligation Bonds.
15. Copy of each school's school accountability report card, on or before February 1 of each year (Education Code 35258). See BP 0510 - School Accountability Report Card.
16. Results of the Western Association of Schools and Colleges (WASC) or other accrediting agency's inspection of a school, within 60 days of receiving the results. (This notification could be made in writing to parents/guardians instead of or in addition to posting the results on the district's web site.) In addition, if a school loses its WASC or other agency's accreditation, the district and school shall post on their web sites a notice of the loss of accreditation and potential consequences (Education Code 35178.4). See BP 6190 - Evaluation of the Instructional Program.

Policy Reference Disclaimer. These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

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Bus. Code 22580-22582	Privacy Rights for California Minors in the Digital World - https://simbli.eboardsolutions.com/SU/XpZUgtS77ETvzOJMtcapFA==
Bus. Code 22584-22585	Student Online Personal Information Protection Act - https://simbli.eboardsolutions.com/SU/FnauJhplusaffvcCOodyGJjng==
Bus. Code 22586-22587	Early Learning Personal Information Protection Act - https://simbli.eboardsolutions.com/SU/HVBisqFqyGv3GFcoYAFARo==
Ed. Code 35182.5	Contracts for advertising
Ed. Code 35258	Internet access to school accountability report cards
Ed. Code 48852.6	Information regarding homelessness
Ed. Code 48907	Exercise of free expression; time, place and manner rules and regulations
Ed. Code 48950	Speech and other communication
Ed. Code 49061	Definitions, directory information
Ed. Code 49073	Release of directory information
Ed. Code 60048	Commercial brand names, contracts or logos
Gov. Code 11135	Nondiscrimination; accessibility to state web sites - https://simbli.eboardsolutions.com/SU/PcUJFWeMcInzBrKALOEtfQ==
Gov. Code 12950	California Department of Fair Employment and Housing posters
Gov. Code 3307.5	Publishing identity of public safety officers
Gov. Code 6254.21	Publishing addresses and telephone numbers of officials
Gov. Code 6254.24	Definition of public safety official

Pen. Code 14029.5	Prohibition against publishing personal information of person in witness protection program
Pub. Res. Code 21082.1	California Environmental Quality Act environmental review documents
Pub. Res. Code 21092	California Environmental Quality Act environmental review documents
Pub. Res. Code 21092.2	California Environmental Quality Act environmental review documents
Federal References	Description
16 CFR 312.1-312.12	Children's Online Privacy Protection Act
17 USC 101-122	Subject matter and scope of copyright
17 USC 504	Penalties for copyright infringement
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
29 USC 705	Definitions; Vocational Rehabilitation Act
29 USC 794	Rehabilitation Act of 1973; Section 504
34 CFR 104.1-104.61	Nondiscrimination on the basis of disability
34 CFR 99.1-99.67	Family Educational Rights and Privacy
42 USC 12101-12213	Americans with Disabilities Act
Management Resources References	Description
CA Dept of Fair Employment and Housing Publication	Family Care and Medical Leave and Pregnancy Disability Leave
CA Dept of Fair Employment and Housing Publication	California Law Prohibits Workplace Discrimination and Harassment
CA Dept of Fair Employment and Housing Publication	Transgender Rights in the Workplace
CA Dept of Fair Employment and Housing Publication	Your Rights and Obligations as a Pregnant Employee
Court Decision	Aaris v. Las Virgenes Unified School District, (1998) 64 Cal.App.4th 1112
Court Decision	City of San Jose v. Superior Court, (2017) 2 Cal.5th 608
U.S. Department of Agriculture Publication	Unpaid Meal Charges: Local Meal Charge Policies, SP 46-2016, July 2016
U.S. Department of Justice Publication	Accessibility of State and Local Government Websites to People with Disabilities, June 2003
U.S. DOE Office For Civil Rights Publication	Dear Colleague Letter, May 26, 2011
U.S. DOE Office for Civil Rights Publication	Joint Dear Colleague Letter: Electronic Book Readers, June 29, 2010
Website	Governor's Office of Planning and Research, The California Environmental Quality Act- https://simbli.eboardsolutions.com/SU/n5xh7yqpDOayPSDToPda0A
Website	California Department of Education, Web Accessibility Standards - https://simbli.eboardsolutions.com/SU/ZXERSvLLs5TmSYSTnRi4NA
Website	California School Public Relations Association - https://simbli.eboardsolutions.com/SU/csB0m6f7E6wYaEPfZWZFcw
Website	U.S. Department of Justice, Civil Rights Division, Disability Rights Section - https://simbli.eboardsolutions.com/SU/9sZBTKSqxS65pFYo7h6ktA
Website	World Wide Web Consortium, Web Accessibility Initiative - https://simbli.eboardsolutions.com/SU/bidXfpUplusS7mVvEQmst1yhA
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0440	District Technology Plan - https://simbli.eboardsolutions.com/SU/c3TEEZEDFLVMDh05wLOTCQ==
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0500	Accountability - https://sirobli.eboardsolutions.com/SU/PDWiti8tEaGKnqJbgZ4Q3g==
0510	School Accountability Report Card - https://sirobli.eboardsolutions.com/SU/tZgonRHxkvRwnPrVQ1WmBg==
1100	Communication With The Public - https://sirobli.eboardsolutions.com/SU/m4slshfz41M67B2WioVNfzUDg==
1112	Media Relations - https://sirobli.eboardsolutions.com/SU/slhlpe1iHlslshJABaNkEIIAw==
1114	District-Sponsored Social Media - https://sirobli.eboardsolutions.com/SU/oxiph1s18K0ELhbFRHpReJLZw==
1114	District-Sponsored Social Media - https://sirobli.eboardsolutions.com/SU/yjVorBCGm2rPCjkELGWSA==
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1325	Advertising And Promotion - https://sirobli.eboardsolutions.com/SU/TPq9ClqZ7jLx8c510jsyog==
1340	Access To District Records - https://sirobli.eboardsolutions.com/SU/xf1Aslsbslsh7GO4WA2Z2wFHc4ng==
1340	Access To District Records - https://sirobli.eboardsolutions.com/SU/gcCBzkrVuucd9EFStBmQQ==
3290	Gifts, Grants And Bequests - https://sirobli.eboardsolutions.com/SU/v0uPSOYKyNQGAvaslshoK4zOw==
3311	Bids - https://simbli.eboardsolutions.com/SU/HcK7HUZFN9Aj9DplusJHCDH4Q==
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3515.3 District Police/Security Department -
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<https://simbli.eboardsolutions.com/SU/NsIKZ3UxVB4jy5glgHIWg==>

3552 Summer Meal Program -
<https://simbli.eboardsolutions.com/SU/wzUihV3gK9PplusFxFxGH4lt0Fw==>

3552 Summer Meal Program -
<https://simbli.eboardsolutions.com/SU/byXd7oy4EQvJziZSatkag==>

3580 District Records -
<https://simbli.eboardsolutions.com/SU/8fsD19HykDCItBSvYLEIIA==>

3580 District Records -
<https://simbli.eboardsolutions.com/SU/gX132ogfrNalpqF5dbh66Q==>

4030 Nondiscrimination In Employment -
<https://simbli.eboardsolutions.com/SU/z8saAb1i9vjlsishyJNjIXOrA==>

4030 Nondiscrimination In Employment -
<https://simbli.eboardsolutions.com/SU/vx943OTXDnJq9P0DHTilzg==>

4040 Employee Use Of Technology -
<https://simbli.eboardsolutions.com/SU/3Md2dslshuyFrpXYhjStkTrQw==>

4040-E PDF(1) Employee Use Of Technology -
<https://simbli.eboardsolutions.com/SU/josKeRFFqslsbFcPlvEScw0Gg==>

4119.21 Professional Standards -
<https://simbli.eboardsolutions.com/SU/RUG2Aozy5plusrWMBTJVdlsyg==>

4119.21-E PDF(1) Professional Standards -
<https://simbli.eboardsolutions.com/SU/vF87GYLXytUMmUN2SXj00g==>

4119.23 Unauthorized Release Of Confidential/Privileged Information -
<https://simbli.eboardsolutions.com/SU/2wECPnGtM4813kplusPslsb0slsbSw==>

4131 Staff Development -
<https://simbli.eboardsolutions.com/SU/700vA0ysAxSYXC8kTtgs9Q==>

4132 Publication Or Creation Of Materials -
<https://simbli.eboardsolutions.com/SU/A61hj3LSheVqArWU9OaXJA==>

4161.8 Family Care And Medical Leave -
<https://simbli.eboardsolutions.com/SU/R0ajur0SY0LDobGfDwFOZA==>

4219.21 Professional Standards -
<https://simbli.eboardsolutions.com/SU/577ui4NZDgpHKGSNJplussQbA==>

4219.21-E PDF(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/52slshZb5LuY0skwfJSoBbV0Q==
4219.23	Unauthorized Release Of Confidential/Privileged Information - https://simbli.eboardsolutions.com/SU/DzT84jciN31dASodXslsbEoA==
4231	Staff Development - https://simbli.eboardsolutions.com/SU/FAuFrJnlbcVy3kgsTslsbNU6g==
4232	Publication or Creation of Materials - https://simbli.eboardsolutions.com/SU/sOOi3RNQ8O2UrE6Qdbsubg==
4261.8	Family Care And Medical Leave - https://simbli.eboardsolutions.com/SU/nBLZm9LwJchMFF3Yja1slsbFg==
4319.21	Professional Standards - https://simbli.eboardsolutions.com/SU/53YbPV2hoKqYj7h7jg34plusA==
4319.21-E PDF(1)	Professional Standards - https://simbli.eboardsolutions.com/SU/u6TpxPrplusLKIUDjY7bpOkaw==
4319.23	Unauthorized Release Of Confidential/Privileged Information - https://simbli.eboardsolutions.com/SU/X3ta8p18spkxmJVplusXplusnZQ==
4331	Staff Development - https://simbli.eboardsolutions.com/SU/3B11BFE9slsbf2AlnllsFw7ag==
4332	Publication or Creation of Materials - https://simbli.eboardsolutions.com/SU/GlslsbGwQt15nlsUrEfg1bgaA==
4361.8	Family Care And Medical Leave - https://simbli.eboardsolutions.com/SU/qfxyeoli1L04rJjMbBBXNA==
5022	Student And Family Privacy Rights - https://simbli.eboardsolutions.com/SU/3to8RplnokMSGvb2EJBQmg==
5022	Student And Family Privacy Rights - https://simbli.eboardsolutions.com/SU/nplusdgJwa04NbAQWxYfv3GKA==
5125	Student Records - https://simbli.eboardsolutions.com/SU/Jw4xw3nBZslsbn7ptplustrREaSA==
5125	Student Records - https://simbli.eboardsolutions.com/SU/9slsbJjQjwllKjNefOpjUBtbg==
5125.1	Release Of Directory Information - https://simbli.eboardsolutions.com/SU/jvtwXJDslshkuKNsmoetBdSzQ==
5125.1	Release Of Directory Information - https://simbli.eboardsolutions.com/SU/A00pFFSMUslshDODL2a9HlbtQ==
5125.1-E PDF(1)	Release Of Directory Information - https://simbli.eboardsolutions.com/SU/u8Wpluss34VJFsqplusSplusApU7gow==
5131.2	Bullying - https://simbli.eboardsolutions.com/SU/Sw0juMy0rrGlgPDYU2Rvw==
5131.2	Bullying- https://simbli.eboardsolutions.com/SU/MwcrPaiVN3oQ15PFbAoQPA==
6020	Parent Involvement - https://simbli.eboardsolutions.com/SU/8BBILRHEPN4Ze31Dgjitlg==
6020	Parent Involvement - https://simbli.eboardsolutions.com/SU/QOib1gK3KHGsHNIpTjq18A==
6145.2	Athletic Competition - https://simbli.eboardsolutions.com/SU/WjFHslshd0qOBWHJq9f7KfhSQ==
6145.2	Athletic Competition - https://simbli.eboardsolutions.com/SU/3b046reWKA4A4t9vT9uKSHg==
6152.1	Placement In Mathematics Courses - https://simbli.eboardsolutions.com/SU/jt6w4Ob915Fk3Zp4xZKDSQ==
6152.1	Placement In Mathematics Courses - https://simbli.eboardsolutions.com/SU/oGG17Kob811s1e8P3iauiA==

6162.6	Use Of Copyrighted Materials - https://simbli.eboardsolutions.com/SU/KSBwRXLbiQ7HqkoPGCSxpluw==
6162.6	Use Of Copyrighted Materials - https://simbli.eboardsolutions.com/SU/gbSCLLEvMmcAbYPOAbkflA==
6163.4	Student Use Of Technology - https://simbli.eboardsolutions.com/SU/JYZqEAGgHSQBnkf76jITkw==
6163.4-E PDF(1)	Student Use Of Technology - https://simbli.eboardsolutions.com/SU/liN2QJndz1plusqQ6wtTMtpZw==
6173	Education For Homeless Children - https://simbli.eboardsolutions.com/SU/zsjkyhfKAplusFQR21mnejd3hw==
6173	Education For Homeless Children - https://simbli.eboardsolutions.com/SU/vD4ZxTplusvHjDjcdnxYRslsbO3g==
6173-E PDF(1)	Education For Homeless Children - https://simbli.eboardsolutions.com/SU/WeRWxD20iReBezfn3aKzplusQ==
6173-E PDF(2)	Education For Homeless Children - https://simbli.eboardsolutions.com/SU/D7vRHZxZslshBORslsbL7t0wPgw==
6190	Evaluation Of The Instructional Program - https://simbli.eboardsolutions.com/SU/okRYD9py3tHKzr20XkWFZg==
7214	General Obligation Bonds - https://simbli.eboardsolutions.com/SU/dOKQx4NVWCsIFmUtUEplusXw==
7214	General Obligation Bonds - https://simbli.eboardsolutions.com/SU/UHc8Hs9xMjvZltK9cKsRUw==
9010	Public Statements - https://simbli.eboardsolutions.com/SU/cOm032UPyLms8FYn6gbPXA==
9012	Board Member Electronic Communications - https://simbli.eboardsolutions.com/SU/Xl4RzcjjBbPgUahBeuSCA==
9310	Board Policies - https://simbli.eboardsolutions.com/SU/GplusMEzk1NsVWNthQXAx4LFQ==
9320	Meetings And Notices - https://simbli.eboardsolutions.com/SU/Y0cKfotkIMiw5r0OyNix2A==
9322	Agenda/Meeting Materials - https://simbli.eboardsolutions.com/SU/rPzCGxop9pluspluscD3iWn6mhcw==

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Regulation 1312.4: Williams Uniform Complaint Procedures

Status: ADOPTED

Original Adopted Date: 11/01/2010 **ILast Revised Date:** 06/01/2022 **ILast Reviewed Date:** 06/01/2022

CSBA NOTE: Education Code 35186 mandates that districts establish policies and procedures to address complaints regarding insufficiency of textbooks and instructional materials, teacher vacancy or misassignment, and emergency or urgent facilities conditions that pose a threat to the health and safety of students or staff. When such a complaint is filed with the district, the district is required to investigate and resolve the complaint in accordance with the Williams uniform complaint procedures established pursuant to 5 CCR 4680-4687.

It is recommended that districts use these procedures only for complaints specified in law and this administrative regulation. See BP/AR 1312.3 - Uniform Complaint Procedures for a discussion of the types of complaints subject to the uniform complaint procedures established pursuant to 5 CCR 4600-4670. For procedures related to complaints about employees, see BP/AR 1312.1- Complaints Concerning District Employees. For complaints concerning the district's adoption and selection of specific instructional materials, see BP/AR 1312.2 - Complaints Concerning Instructional Materials. For complaints regarding the district's nutrition program, see BP 3555 - Nutrition Program Compliance.

Types of Complaints

The district shall use the procedures described in this administrative regulation only to investigate and resolve the following:

1. Complaints regarding the insufficiency of textbooks and instructional materials, including any complaint alleging that: (Education Code 35186; 5 CCR 4681)
 - a. A student, including an English learner, does not have standards-aligned textbooks or instructional materials or state- or district-adopted textbooks or other required instructional materials to use in class.
 - b. A student does not have access to textbooks or instructional materials to use at home or after school. This does not require two sets of textbooks or instructional materials for each student.
 - c. Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.
 - d. A student was provided photocopied sheets from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials.
2. Complaints regarding teacher vacancy or misassignment, including any complaint alleging that: (Education Code 35186; 5 CCR 4682)
 - a. A semester begins and a teacher vacancy exists.
 - b. A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learners in the class.
 - c. A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

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

CSBA NOTE: 5 CCR 4600, as amended by Register 2020, No. 21, revises the definition of "beginning of the year or semester" as provided below

Beginning of the year or semester means the time period from the first day students attend classes for a year-long course or semester-long course though not later than 20 business days afterwards.

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

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

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

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

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

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

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

CSBA NOTE: The following optional paragraph is for use by districts that maintain any of grades 6-12, and may be revised to reflect the grade levels served by the district.

Pursuant to Education Code 35292.6, as added by AB 367 (Ch. 664, Statutes of 2021), before the start of the 2022-23 school year, a school that serves any of grades 6-12 is required to stock the school's restrooms with menstrual products for use in connection with the menstrual cycle free of charge. See AR 3517 - Facilities Inspection.

Although Education Code 35292.6 does not require a complaint process, it is recommended that the Williams uniform complaint procedures be used to address any allegation of noncompliance with Education Code 35292.6 in order to ensure consistency in the procedures that districts use to address allegations of noncompliance with all restroom maintenance requirements.

In any school serving any of grades 6-12, a complaint may be filed alleging noncompliance with the requirement of Education Code 35292.6 to, at all times, stock and make available and accessible free of cost, an adequate supply of menstrual products in every women's and all-gender restroom, and in at least one men's restroom. (Education Code 35292.6)

Forms and Notices

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

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

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

The Superintendent or designee shall post in each classroom in each school a notice containing the components specified in Education Code 35186. (Education Code 35186)

Filing of Complaint

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

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

Investigation and Response

The principal or a designee of the Superintendent shall make all reasonable efforts to investigate any problem within the principal's or designee's authority. (Education Code 35186; 5 CCR 4685)

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

If the complainant has indicated on the complaint form a desire to receive a response to the complaint, the principal or Superintendent's designee shall send written resolution of the complaint to the mailing address of the complainant as indicated on the complaint within 45 working days of the initial filing of the complaint. If the principal makes this report, the information shall be reported at the same time to the Superintendent or designee. (Education Code 35186; 5 CCR 4680, 4685)

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

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

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

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

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

Reports

CSBA NOTE: During the FPM process, COE staff will expect to see the following statement.

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

Policy Reference Disclaimer. These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

5 CCR 4600-4670

5 CCR 4680-4687

Description

Uniform complaint procedures

Williams uniform complaint procedures

Ed. Code 1240	County superintendent of schools, duties - https://simbli.eboardsolutions.com/SU/zxiNblNKXQ1Z3w2HIbeZIA==
Ed. Code 17592.72	Urgent or emergency repairs; School Facility Emergency Repair Account
Ed. Code 234.1	Student protections relating to discrimination, harassment, intimidation, and bullying
Ed. Code 33126	School accountability report card
Ed. Code 35186	Williams uniform complaint procedures
Ed. Code 35292.5-35292.6	Restrooms; maintenance and cleanliness
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 60119	Hearing on sufficiency of instructional materials
Federal References	Description
20 USC 6314	Title I schoolwide program
Management Resources References	Description
Website	State Allocation Board, Office of Public School Construction - https://simbli.eboardsolutions.com/SU/UxUcDGuszWNedr16Dp8wuQ==
Website	California Department of Education, Williams Case - https://simbli.eboardsolutions.com/SU/lgEokv15m4hKA9yXFZSBA==
Website	California County Superintendents Educational Services Association - https://simbli.eboardsolutions.com/SU/Wyr1WplusZPL9SDth521MoLrg==
Website	CSBA- https://simbli.eboardsolutions.com/SU/W3QxkK2FPsDsQBnMIENxGg==
Cross References	Description
0460	Local Control And Accountability Plan - https://sirobli.eboardsolutions.com/SU/fwFbmaz5QLJQOAdI7DbzBBg==
0460	Local Control And Accountability Plan - https://simbli.eboardsolutions.com/SU/NBhGSxBfXall.gclPJYKR9w==
1100	Communication With The Public - https://simbli.eboardsolutions.com/SU/m4slshfz41M67B2WioVnfzUDg==
1250	Visitors/Outsiders - https://simbli.eboardsolutions.com/SU/fQeslYtQfPyCw4jPFcug3A==
1250	Visitors/Outsiders - https://simbli.eboardsolutions.com/SU/tWaslsh7PMJ3L8KcyZCNmtCCg==
1312.2	Complaints Concerning Instructional Materials - https://simbli.eboardsolutions.com/SU/4tJdaJKloaYSSEbRRROYJaw==
1312.2	Complaints Concerning Instructional Materials - https://simbli.eboardsolutions.com/SU/WiQNe3KFNC05p9iplusYuECZQ==
1312.2-E PDF(1)	Complaints Concerning Instructional Materials - https://sirobli.eboardsolutions.com/SU/M8iCyJFBtdadBi4mgLAsw==
1312.3	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/yvGJj2X8PyrSmBYInybbQA==
1312.3	Uniform Complaint Procedures - https://sirobli.eboardsolutions.com/SU/qu1ox8qD0SpMJXqVt6gag==
1312.3-E PDF(1)	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/BslshPMK886oDyrBoOyAftUdg==
1312.3-E PDF(2)	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/HDslshuPXC0G3Oslshr71TMVplus4Jw==

1340	Access To District Records - https://simbli.eboardsolutions.com/SU/xf1AsIsbsIsH7GO4WA2Z2wFHc4ng==
1340	Access To District Records - https://simbli.eboardsolutions.com/SU/gcCBzkrYuucd9EFSfBmQQ==
3270	Sale And Disposal Of Books, Equipment And Supplies - https://simbli.eboardsolutions.com/SU/4xVQspytceRtGBjSE9mJGQ==
3270	Sale And Disposal Of Books, Equipment And Supplies - https://simbli.eboardsolutions.com/SU/CPwhCGZXgC6KkTGvmlIgLw==
3514	Environmental Safety - https://simbli.eboardsolutions.com/SU/FREeZf6a8MvAoYS87Pslsblplusw==
3514	Environmental Safety - https://simbli.eboardsolutions.com/SU/BSLffUgO3jNMI5qQwVEu7A==
3514.2	Integrated Pest Management - https://simbli.eboardsolutions.com/SU/b5iEIQeqP351rst21A1Vxg==
3517	Facilities Inspection - https://simbli.eboardsolutions.com/SU/FwTPObvRxiINJJslshEW1LnHQ==
3517-E(1)	Facilities Inspection - https://simbli.eboardsolutions.com/SU/pluswdSb1sGBbeWLETQ8P8yIQ==
3550	Food Service/Child Nutrition Program - https://simbli.eboardsolutions.com/SU/08qN2JplusCipasRfIJ7nbplus2qg==
3550	Food Service/Child Nutrition Program - https://simbli.eboardsolutions.com/SU/Qo9sz5aT68knWPK2vi8Djg==
4112.2	Certification - https://simbli.eboardsolutions.com/SU/NtHKleuKt9J8bge0adj3gg==
4112.2	Certification - https://simbli.eboardsolutions.com/SU/tUsIsHewyAvQpluseaASVjOFaFlw==
4112.22	Staff Teaching English Learners - https://simbli.eboardsolutions.com/SU/fPplusfl4CbbT2rsQorgRbGQ==
4113	Assignment - https://simbli.eboardsolutions.com/SU/BbXEYknfTIZslshK6TX1rcPNw==
4113	Assignment - https://simbli.eboardsolutions.com/SU/BHJLvtOUWpluspJ20aXCvNApQ==
4144	Complaints - https://simbli.eboardsolutions.com/SU/gUFnuw70jWGezEp60OAEOW==
4144	Complaints - https://simbli.eboardsolutions.com/SU/slsbuuXuplus3vKAplusjaXKpilZpQQ==
4244	Complaints - https://simbli.eboardsolutions.com/SU/dpWU08slsh6hddsVYvxoilag==
4244	Complaints - https://simbli.eboardsolutions.com/SU/T94gjCe5sbe211LWxwooVA==
4344	Complaints - https://simbli.eboardsolutions.com/SU/0m0xiT7oKn9m9TLZpluszeRyA==
4344	Complaints - https://simbli.eboardsolutions.com/SU/35PWlyWDSzcCYbz2slsbslsbaWog==
6142.92	Mathematics Instruction - https://simbli.eboardsolutions.com/SU/fTMquy4qCooO0o5vPBAlDA==
6161.1	Selection And Evaluation Of Instructional Materials - https://simbli.eboardsolutions.com/SU/OknJQUnz7OqdbiwOmRU3OQ==
6161.1	Selection And Evaluation Of Instructional Materials - https://simbli.eboardsolutions.com/SU/fXBcLMA6WABwBGWhEn0Y9Q==

6161.1-E PDF(1)	Selection And Evaluation Of Instructional Materials - https://simbli.eboardsolutions.com/SU/b1DLaOxc8rcgTsfoplusV89zg
6161.2	Damaged Or Lost Instructional Materials - https://simbli.eboardsolutions.com/SU/pzjgEGaCof7djCA12snnsQ
9000	Role Of The Board - https://simbli.eboardsolutions.com/SU/8aBsIsbkYpCeLkOFduR9FE4g
9012	Board Member Electronic Communications - https://simbli.eboardsolutions.com/SU/XI4RzcjjBbPgIiabBeu5CA
9200	Limits Of Board Member Authority - https://simbli.eboardsolutions.com/SU/9D6eWnsIshrnjc4aK9zGITm60w
9322	Agenda/Meeting Materials - https://simbli.eboardsolutions.com/SU/rPzCGxop9pluspluscD3iWn6mhcw

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Exhibit 1312.4-E(2): Williams Uniform Complaint Procedures

Status: ADOPTED

Original Adopted Date: 11/01/2010 **ILast Revised Date:** 06/01/2022 **ILast Reviewed Date:** 06/01/2022

CSBA NOTE: Education Code 35186 creates the Williams uniform complaint procedures for the filing of complaints concerning deficiencies in textbooks or instructional materials, conditions of facilities that are not maintained in a clean or safe manner or in good repair, or teacher vacancy or misassignment. The following form contains elements required by Education Code 35186 and 5 CCR 4681-4683. During the Federal Program Monitoring process, California Department of Education staff will check to ensure that the complaint form includes all of the elements specified below.

**K-12 COMPLAINT FORM:
WILLIAMS UNIFORM COMPLAINT PROCEDURES**

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

Response requested? Yes No

Contact information: (if response is requested)

Name: _____
 Address: _____
 Phone number: Day: _____ Evening: _____
 E-mail address, if any: _____

Date problem was observed: _____

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

School name/address: _____
 Course title/grade level and teacher name: _____
 Room number/name of room/location of facility: _____

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

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

1. Textbooks and instructional materials: (Education Code 35186; 5 CCR 4681)
 - o A student, including an English learner, does not have standards-aligned textbooks or instructional materials or state- or district-adopted textbooks or other required instructional materials to use in class.
 - o A student does not have access to textbooks or instructional materials to use at home or after school. This does not require two sets of textbooks or instructional materials for each student.
 - o Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.
 - o A student was provided photocopied sheets from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials.

2. Teacher vacancy or misassignment: (Education Code 35186; 5 CCR 4682)
 - o A semester begins and a teacher vacancy exists. A *teacher vacancy* is a position to which a single designated certificated employee has not been assigned at the beginning of the school year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.
 - o A teacher who lacks credentials or training to teach English learners is assigned to teach a class with

more than 20 percent English learners in the class.

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

3. Facilities conditions: (Education Code 17592.72, 35186, 35292.5, 35292.6; 5 CCR 4683)

- A condition exists that poses an emergency or urgent threat to the health or safety of students or staff including gas leaks; nonfunctioning heating, ventilation, fire sprinklers, or air-conditioning systems; electrical power failure; major sewer line stoppage; major pest or vermin infestation; broken windows or exterior doors or gates that will not lock and that pose a security risk; abatement of hazardous materials previously undiscovered that pose an immediate threat to students or staff; structural damage creating a hazardous or uninhabitable condition; and any other condition deemed appropriate by the district.

- A school restroom has not been cleaned or maintained regularly, is not fully operational, or has not been stocked at all times with toilet paper, soap, or paper towels or functional hand dryers.

CSBA NOTE: The following optional item is for districts that choose to use the Williams uniform complaint procedures to address complaints alleging noncompliance with requirements to stock restrooms at certain schools with menstrual products pursuant to Education Code 35292.6; see the accompanying administrative regulation.

- For a school serving any of grades 6-12, the school has not, at all times, stocked and made available and accessible free of cost, an adequate supply of menstrual products in every women's and all-gender restroom, and in at least one men's restroom.
- The school has not kept all restrooms open during school hours when students are not in classes and has not kept a sufficient number of restrooms open during school hours when students are in classes. This does not apply when temporary closing of the restroom is necessary for student safety or to make repairs.

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

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

Please file this complaint at the following location:

 (principal or designee)

 (address)

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

 (Signature)

 (Date)

Policy Reference Disclaimer. These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

	Description
State References	
5 CCR 4600-4670	Uniform complaint procedures
5 CCR 4680-4687	Williams uniform complaint procedures
Ed. Code 1240	County superintendent of schools, duties - https://simbli.eboardsolutions.com/SU/zxiNblNKXQ1Z3w2H1beZIA==
Ed. Code 17592.72	Urgent or emergency repairs; School Facility Emergency Repair Account
Ed. Code 234.1	Student protections relating to discrimination, harassment, intimidation, and bullying
Ed. Code 33126	School accountability report card
Ed. Code 35186	Williams uniform complaint procedures
Ed. Code 35292.5-35292.6	Restrooms; maintenance and cleanliness
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 60119	Hearing on sufficiency of instructional materials
Federal References	
20 USC 6314	Title I schoolwide program
Management Resources References	
Website	State Allocation Board, Office of Public School Construction - https://simbli.eboardsolutions.com/SU/UxUcDGuszWNedr16Dp8wuQ==
Website	California Department of Education, Williams Case - https://simbli.eboardsolutions.com/SU/lgEokvI5m4hnKA9yXFZS8A==
Website	California County Superintendents Educational Services Association - https://simbli.eboardsolutions.com/SU/Wyr1WplusZPL9SDth521Molrg==
Website	CSBA - https://simbli.eboardsolutions.com/SU/W3QxkK2EPsDsQBnMIENxGg--
Cross References	
0460	Local Control And Accountability Plan - https://simbli.eboardsolutions.com/SU/fwFbmaz5QUQOAdl7DbzBBg==
0460	Local Control And Accountability Plan - https://simbli.eboardsolutions.com/SU/N8bGSx8fXallgcLPJYKR9w==
1100	Communication With The Public - https://simbli.eboardsolutions.com/SU/m4slshfz41M67B2WioVNfzUDg==
1250	Visitors/Outsiders - https://simbli.eboardsolutions.com/SU/fQeslytQfPyCw4jPFcug3A==
1250	Visitors/Outsiders - https://simbli.eboardsolutions.com/SU/tWaslsh7PMJ3L8KcyZCNmtCCg==
1312.2	Complaints Concerning Instructional Materials - https://simbli.eboardsolutions.com/SU/4tJdaJKloaYSSEbRROYJaw--
1312.2	Complaints Concerning Instructional Materials - https://simbli.eboardsolutions.com/SU/WiQNe3KFNC05p9iplusYuECZQ--
1312.2-E PDF(1)	Complaints Concerning Instructional Materials - https://simbli.eboardsolutions.com/SU/M8iCyUEBtdadBi4mgLASw--
1312.3	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/yvGJj2X8PyrSmBYInybbQA==

1312.3	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/qu1ox8qD0SpMJPXqVt6gag==
1312.3-E PDF(1)	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/BsIsbPMK886oDyrBoOyAftUdg==
1312.3-E PDF(2)	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/HDsIsbuPXC0G3OsIshr71TMVplus4Jw==
1340	Access To District Records - https://simbli.eboardsolutions.com/SU/xf1AsIsbsIsb7GO4WA2Z2wFHC4ng==
1340	Access To District Records - https://simbli.eboardsolutions.com/SU/gcCBzkrVuucd9EFSfBmQQ==
3270	Sale And Disposal Of Books, Equipment And Supplies - https://simbli.eboardsolutions.com/SU/4xVQspytceRtGBjSE9mJGQ==
3270	Sale And Disposal Of Books, Equipment And Supplies - https://simbli.eboardsolutions.com/SU/CPwhCGZXgC6KkTGvmlLgLw==
3514	Environmental Safety - https://simbli.eboardsolutions.com/SU/FREeZf6a8MvAoYS87Pslsblplusw==
3514	Environmental Safety - https://simbli.eboardsolutions.com/SU/BSLtfUgO3jNMI5qQwVEu7A==
3514.2	Integrated Pest Management - https://simbli.eboardsolutions.com/SU/b5iEIQeqP351rst21A1Vxg==
3517	Facilities Inspection - https://simbli.eboardsolutions.com/SU/FwTPObvRxiNJJslsEW1LnHQ==
3517-E(1)	Facilities Inspection - https://simbli.eboardsolutions.com/SU/pluswdSb1sGBbeWLETQBPyIQ==
3550	Food Service/Child Nutrition Program - https://simbli.eboardsolutions.com/SU/08qN2JplusCipasRtU7nbplus2qg==
3550	Food Service/Child Nutrition Program - https://simbli.eboardsolutions.com/SU/Qo9sz5aT68knWpk2vi8Djg==
4112.2	Certification - https://simbli.eboardsolutions.com/SU/NtHKleuKt9JBbge0adj3gg==
4112.2	Certification - https://simbli.eboardsolutions.com/SU/tUsIsbewyAvQpluseaASVjOFaFlw==
4112.22	Staff Teaching English Learners - https://simbli.eboardsolutions.com/SU/fPplusf4CbbT2rsQorgrRbGQ==
4113	Assignment - https://simbli.eboardsolutions.com/SU/BbXEYknfTIZslsK6TX1rcPNw==
4113	Assignment - https://simbli.eboardsolutions.com/SU/BHJLvtOUWpluspJ20aXCvNAPQ==
4144	Complaints - https://simbli.eboardsolutions.com/SU/gUFnuw70jWGezEp60OAEOW==
4144	Complaints - https://simbli.eboardsolutions.com/SU/sIshuuXuplus3vKAplusjaXKpHZpQQ==
4244	Complaints - https://simbli.eboardsolutions.com/SU/dpWU0BsIsb6hjddsVYvxoilag==
4244	Complaints - https://simbli.eboardsolutions.com/SU/T94gjCe5she2ULWxwooVA==
4344	Complaints - https://simbli.eboardsolutions.com/SU/0m0xiT7oK9m9TLZpluzeRyA==
4344	Complaints - https://simbli.eboardsolutions.com/SU/35PWlyWDSzcCYbz2sIsbsIshaWog==

6142.92	Mathematics Instruction - https://simbli.eboardsolutions.com/SU/fTMquy4qCooO0o5vPBAIDA
6161.1	Selection And Evaluation Of Instructional Materials - https://simbli.eboardsolutions.com/SU/OknJQLJnz7OqdbiwOmRLJ3OQ
6161.1	Selection And Evaluation Of Instructional Materials - https://simbli.eboardsolutions.com/SU/fXBcLMA6WABwBGWbEn0Y2Q
6161.1-E PDF(1)	Selection And Evaluation Of Instructional Materials - https://simbli.eboardsolutions.com/SU/b1DLaOxc8rcgTsfoplusV89zg
6161.2	Damaged Or Lost Instructional Materials - https://sirobli.eboardsolutions.com/SU/pzjgEGaCof7djCA12snnsQ
9000	Role Of The Board - https://simbli.eboardsolutions.com/SU/8aBsIsbkYpCeLkOFduR2EE4g
9012	Board Member Electronic Communications - https://sirobli.eboardsolutions.com/SU/XI4RzcjjBbPgIiabBeuSCA
9200	Limits Of Board Member Authority - https://simbli.eboardsolutions.com/SU/9D6eWnsIshrnjc4aK9zGITm6Ow
9322	Agenda/Meeting Materials - https://sirobli.eboardsolutions.com/SU/rPzCGxop9pluspluscD3iWn6mhcw

Policy 3110: Transfer Of Funds

Status: ADOPTED

Original Adopted Date: 06/01/2022 | Last Reviewed Date: 06/01/2022

CSBA NOTE: Education Code 41010 and 42600 require districts to expend funds in accordance with the classification of expenditures included in their adopted budget and in the "California School Accounting Manual." However, in certain limited circumstances, the Governing Board may approve interfund borrowing or the transfer of money between funds. The following policy may be revised to reflect district practice.

The Governing Board recognizes its responsibility to monitor the district's fiscal practices to ensure accountability regarding the expenditure of public funds and compliance with legal requirements.

The total amount budgeted by the district for each major classification of expenditures, as listed in the California Department of Education's budget forms, shall be the maximum amount which the district may expend for that classification for the school year. (Education Code 42600)

However, when it is in the best interest of the district, the Board may:

1. At any time, adopt a written resolution providing for transfers from the designated fund balance or the unappropriated fund balance to any expenditure classification or between classifications. The resolution shall be filed with the County Superintendent of Schools and the County Auditor. (Education Code 42600)
2. Direct the temporary transfer of monies held in any district fund or account to another fund or account as necessary for the payment of obligations. Such borrowing shall occur only when the fund or account receiving the money will earn sufficient income during the current fiscal year to repay the amount transferred. No more than 75 percent of the maximum amount held in any fund or account during the current fiscal year may be transferred. Amounts transferred shall be repaid in the same fiscal year, or in the following fiscal year if the transfer takes place within the final 120 calendar days of a fiscal year. (Education Code 42603)

CSBA NOTE: Pursuant to Education Code 42601, the district, with the approval of the Board, may identify and request that the County Superintendent of Schools make transfers at the close of a school year in order to permit the payment of district obligations incurred during that school year, as provided in item #3 below. For elementary school districts with average daily attendance (ADA) of 900 or less, high school districts with ADA of 300 or less, or unified districts with ADA of 1,500 or less, the County Superintendent may identify and make the transfers, with the consent of the Board.

3. At the close of a school year, request that the County Superintendent make transfers between the designated fund balance or the unappropriated fund balance and any expenditure classification(s), or balance any expenditure classifications of the district budget as necessary for the payment of obligations incurred during that school year. (Education Code 42601)
4. If any special reserve funds that are maintained for capital outlay or other purposes pursuant to Education Code 42842 are not actually encumbered for ongoing expenses, transfer those monies into the general fund for the general operating purposes of the district. If any monies remain in the special reserve fund at the conclusion of a project, the Board may submit a written request to the County Superintendent, Auditor, and Treasurer to discontinue the special reserve fund and transfer those monies to the district's general fund. (Education Code 42841-42843)
5. Transfer monies between other funds or accounts when authorized by law.

Policy Reference Disclaimer. These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

Description

Ed. Code 16095	Transfer of district funds to district state school building fund - https://simbli.eboardsolutions.com/SU/DckNjgplus9tDnTa0uSOC6Kdw=
Ed. Code 41301	Section A state school fund allocation schedule
Ed. Code 42125	Designated and unappropriated fund balances
Ed. Code 42238-42251	Apportionments to districts

Ed. Code 42238.01-42238.07	Local control funding formula
Ed. Code 42600	District budget limitation on expenditure
Ed. Code 42601	Transfers between funds to permit payment of obligations at close of year
Ed. Code 42603	Transfer of monies held in any fund or account to another fund; repayment
Ed. Code 42840-42843	Special reserve fund
Ed. Code 5200	Districts governed by boards of education
Ed. Code 52616.4	Expenditures from adult education fund
Ed. Code 78	Definition, governing board

Management Resources References

CA Department of Education Publication

Website

Website

Website

Description

California School Accounting Manual

California Department of Education - <https://simbli.eboardsolutions.com/SU/os2jq5DcA2RawmY2YZSFZQ==>

CSBA - <https://simbli.eboardsolutions.com/SU/W3QxkK2FPsDsQBnMIENxGg==>

Fiscal Crisis and Management Assistance Team - <https://simbli.eboardsolutions.com/SU/1KDBnxplus9GCiDTyFvbLOOxQ==>

Cross References

0460

Local Control And Accountability Plan - <https://simbli.eboardsolutions.com/SU/fwFbmaz5QIJQOAdl7DbzBBg==>

0460

Local Control And Accountability Plan - <https://simbli.eboardsolutions.com/SU/N8bGSx8fXallgcLPIYKR9w==>

3000

Concepts And Roles - <https://simbli.eboardsolutions.com/SU/cplusZbQcQ4IXPVaA11EqU7LQ==>

3100

Budget- <https://simbli.eboardsolutions.com/SU/jyvplusBDTDZP2PfaNjtUb1FQ==>

3100

Budget - <https://simbli.eboardsolutions.com/SU/msAckulxvwNnuplus4506T7slshw==>

3300

Expenditures And Purchases - <https://simbli.eboardsolutions.com/SU/mVe0QYRtN4WLxpjXZCEPuQ==>

3350

Travel Expenses - <https://simbli.eboardsolutions.com/SU/3iS9Ww7bWuqFabgSwrFJplusg==>

3400

Management Of District Assets/Accounts - <https://simbli.eboardsolutions.com/SU/qQg2QsOVtgXvS1coVhS0Pg==>

3400

Management Of District Assets/Accounts - <https://simbli.eboardsolutions.com/SU/EPPEBKLEmi83u81NRq4qNw==>

3460

Financial Reports And Accountability - <https://simbli.eboardsolutions.com/SU/0csifafQsIsbeiBbwIwWESitQ==>

3460

Financial Reports And Accountability - <https://simbli.eboardsolutions.com/SU/IP5i9D5BpfgONQiUrXYkrQ==>

3470

Debt Issuance And Management - <https://simbli.eboardsolutions.com/SU/uaUO1PslsbiQVjou0LbFBFgPg==>

3551

Food Service Operations/Cafeteria Fund - <https://simbli.eboardsolutions.com/SU/aWC2AHy6NLMMLvqBaeq7g==>

3551

Food Service Operations/Cafeteria Fund - <https://simbli.eboardsolutions.com/SU/NslKZ3UxVB4jy5glgHITWg==>

Regulation 3517: Facilities Inspection

Status: ADOPTED

Original Adopted Date: 06/01/2022 | Last Reviewed Date: 06/01/2022

CSBA NOTE: As part of the Williams litigation settlement, Education Code 17070.75 requires that each school district participating in the state's School Facility Program have a facility inspection system in place for all schools to ensure that school facilities are kept in good repair. Education Code 17002 defines "good repair" to mean that the facility is maintained in a manner that ensures that it is clean, safe, and functional as determined pursuant to the Facility Inspection Tool (FIT) developed by the Office of Public School Construction (OPSC) or a local evaluation instrument that uses the same criteria.

The Superintendent or designee shall inspect school facilities to ensure that they are maintained in good repair. At a minimum, the Superintendent or designee shall assess those facility conditions specified on the facilities inspection tool developed by the Office of Public School Construction, including, but not limited to, the following: (Education Code 17002, 35292.5)

1. Gas Leaks: Gas systems and pipes appear and smell safe, functional, and free of leaks.
2. Mechanical Systems: Heating, ventilation, and air conditioning systems, as applicable, are functional and unobstructed; appear to supply an adequate amount of air to all classrooms, work spaces, and facilities; and maintain interior temperatures within normally acceptable ranges.
3. Windows and Doors: Windows and doors are intact, functional, and open, close, and lock as designed, unless there is a valid reason they should not function as designed.
4. Fences and Gates: Fences and gates are intact, functional, and free of holes and other conditions that could present a safety hazard to students, staff, or others. Locks and other security hardware function as designed.
5. Interior Surfaces (walls, floors, ceilings): Interior surfaces are free of safety hazards from tears, holes, missing floor and ceiling tiles, torn carpet, water damage, or other cause. Ceiling tiles are intact. Surfaces display no evidence of mold or mildew.
6. Hazardous Materials: Hazardous and flammable materials are stored properly. No evidence of peeling, chipping, or cracking paint is apparent. No indicators of mold, mildew, or asbestos exposure are evident. There does not appear to be evidence of hazardous materials that may pose a threat to the health and safety of students or staff.
7. Structures: Posts, beams, supports for portable classrooms and ramps, and other structures appear intact, secure, and functional as designed. Ceilings and floors are not sloping or sagging beyond their intended design. There is no visible evidence of severe cracks, dry rot, mold, or damage that undermines structural components.
8. Fire Safety and Emergency Equipment: Fire sprinklers, fire extinguishers, emergency alarm systems, and all emergency equipment and systems appear to be functioning properly. Fire alarm pull stations are clearly visible. Fire extinguishers are current and placed in all required areas, including every classroom and assembly area. Emergency exits are clearly marked and unobstructed.
9. Electrical Systems: Electrical systems, components, and equipment, including switches, junction boxes, panels, wiring, outlets, and light fixtures, are securely enclosed, properly covered and guarded from student access, and appear to be working properly.
10. Lighting: Interior and exterior lighting appears to be adequate and working properly. Lights do not flicker, dim, or malfunction, and there is no unusual hum or noise from light fixtures.
11. Pest/Vermin Infestation: No visible or odorous indicators of pest or vermin infestation are evident.
12. Drinking Fountains: Interior and exterior drinking fountains are functional, accessible, and free of leaks. Drinking water pressure is adequate. Fountain water is clear and without unusual taste or odor, and moss, mold, or excessive staining is not evident.
13. Restrooms: Restrooms are fully operational, maintained and cleaned regularly, and stocked at all times with supplies (including toilet paper, soap, and paper towels or functional hand dryers) in accordance with Education Code 35292.5. The school keeps all restrooms open during school hours when students are not in classes and

keeps a sufficient number of restrooms open during school hours when students are in classes, except when necessary to temporarily close a restroom for student safety or to repair the facility.

CSBA NOTE: The following paragraph should be revised to reflect the grade levels served by the district. Pursuant to Education Code 35292.6, as added by AB 367 (Ch. 664, Statutes of 2021), before the start of the 2022-23 school year, a school that serves any of grades 6-12 is required to stock the school's restrooms with free menstrual products for use in connection with the menstrual cycle, and post a notice as described below. See the accompanying exhibit for a sample notice.

In addition, any school serving any of grades 6-12 shall, at all times, stock and make available and accessible free of cost, an adequate supply of menstrual products in every women's and all-gender restroom, and in at least one men's restroom. The district shall post in a prominent and conspicuous location a notice regarding this requirement that includes an email address and telephone number for a designated individual responsible for maintaining the requisite supply of menstrual products. (Education Code 35292.6)

14. Sewers: The sanitary sewer system controls odors as designed, displays no signs of stoppage, backup, or flooding in school facilities or on school grounds, and appears to be functioning properly.
15. Roofs: Roofs, gutters, roof drains, and downspouts appear to be functioning properly and are free of visible damage and evidence of disrepair when observed from the ground from inside and outside the building
16. Drainage: School grounds do not exhibit signs of drainage problems, such as visible evidence of flooded areas, eroded soil, water damage to asphalt playgrounds or parking areas, or clogged storm drain inlets.
17. Playground/School Grounds: Playground equipment (exterior fixtures, seating, tables, and equipment), school grounds, fields, walkways, and parking lot surfaces are functional and free of significant cracks, trip hazards, holes, deterioration that affects functionality or safety, and other health and safety hazards.
18. Overall Cleanliness: School grounds, buildings, common areas, and individual rooms appear to have been cleaned regularly and are free of accumulated refuse and unabated graffiti. Restrooms, drinking fountains, and food preparation or serving areas appear to have been cleaned each day that school is in session.

CSBA NOTE: Although the FIT does not specifically require districts to test for the presence of lead in drinking water, soil, or painted surfaces, such testing is recommended by the U.S. Environmental Protection Agency due to the health risks posed by lead exposure, especially for young children. Schools and child care facilities that maintain their own public water systems must test for lead pursuant to the Safe Drinking Water Act (42 USC 300f-300j-27). See AR 3514 - Environmental Safety for further information about lead testing and abatement in schools.

In addition, to ensure the health and safety of students, the Superintendent or designee shall provide for the testing of drinking water on campus and of the soil and painted surfaces of school facilities for the presence of lead and/or other harmful substances, in accordance with state and federal standards.

The Superintendent or designee shall ensure that any necessary repairs or removal of hazards identified during the inspection are made in a timely and expeditious manner.

An assessment of the safety, cleanliness, and adequacy of school facilities, including any needed maintenance to ensure good repair as defined in Education Code 17002, shall be reported on the school accountability report card. (Education Code 33126)

CSBA NOTE: Education Code 35186 provides that the Williams uniform complaint procedures should be used for any complaint alleging a school facility condition that poses an emergency or urgent threat, as defined in Education Code 17592.72, or any complaint that a school restroom is not clean, maintained, or kept open, as defined in Education Code 35292.5. See E/AR 1312.4 - Williams Uniform Complaint Procedures.

Any complaint alleging a school facility condition that poses an emergency or urgent threat to the health or safety of students or staff, or alleging that a school restroom is not clean, maintained, stocked, or kept open, shall be addressed in accordance with AR 1312.4 - Williams Uniform Complaint Procedures.

CSBA NOTE: Education Code 1240 requires the County Superintendent of Schools to visit low-performing schools to determine (1) the status of any facility condition that may create an emergency or urgent threat to the health or safety of students or staff and (2) the accuracy of data reported on the school accountability report card with respect to the safety, cleanliness, and adequacy of school facilities. Education Code 1240 requires that the County Superintendent provide a quarterly report to the Governing Board on the results of any county office of education (COE) visit. Education Code 1240 provides that, if the County Superintendent determines that a facility condition

poses an emergency or urgent threat, the County Superintendent may return to the school to verify repairs and/or prepare a report that identifies areas of noncompliance if the district has not provided evidence that the repairs will be made within 30 days or, for major repairs, in a timely manner. The County Superintendent may then present the report to the Board at a public meeting and post the report on the COE's web site.

The Superintendent or designee shall provide the Governing Board with regular reports regarding the district's facility inspections and updates of any visits to district schools by the County Superintendent of Schools to review school facilities.

Policy Reference Disclaimer. These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

	Description
2 CCR 1859.300-1859.330	Emergency Repair Program - https://simbli.eboardsolutions.com/SU/ZtX55Ue9ctaSCHdnkNBOAw==
Ed. Code 1240	County superintendent of schools, duties - https://simbli.eboardsolutions.com/SU/zxiNblNKXO1Z3w2H1beZIA==
Ed. Code 17002	State School Building Lease-Purchase Law, including definition of good repair - https://simbli.eboardsolutions.com/SU/SWCTtYtHLbJY2oTkKplusAVIw==
Ed. Code 17070.10-17077.10	Leroy F. Greene School Facilities Act of 1998 - https://simbli.eboardsolutions.com/SU/fu4PsUtUAb4qYYOY9breHg==
Ed. Code 17565-17591	Property maintenance and control
Ed. Code 17592.72	Urgent or emergency repairs; School Facility Emergency Repair Account
Ed. Code 33126	School accountability report card
Ed. Code 35186	Complaints regarding teacher vacancy or misassignment
Ed. Code 35292.5-35292.6	Restrooms; maintenance and cleanliness

Federal References

	Description
20 USC 6314	Schoolwide programs
42 USC 300f-300j-27	Safe Drinking Water Act

Management Resources References

	Description
State Allocation Board, Public School Construction	Facility Inspection Tool: School Facility Conditions Evaluation
Website	California County Superintendents Educational Services Association - https://simbli.eboardsolutions.com/SU/FJy7Gf2dJxDpluso3aMdrnckO==
Website	California Department of Education, Williams Case - https://simbli.eboardsolutions.com/SU/IgEokvI5m4hnKA9yXFZS8A==
Website	State Allocation Board, Office of Public School Construction - https://simbli.eboardsolutions.com/SU/UxIJCdGuszWNedr16Dp8wuQ==
Website	Coalition for Adequate School Housing - https://simbli.eboardsolutions.com/SU/zOaL3RZeoCPBOO9GOYjpAg==
Website	CSBA - https://simbli.eboardsolutions.com/SU/W3QxkK2EPsDsOBnMIENxGg==

Cross References

	Description
0460	Local Control And Accountability Plan - https://simbli.eboardsolutions.com/SU/fwFbmazSQUOQAdl7DbzBBg==
0460	Local Control And Accountability Plan - https://simbli.eboardsolutions.com/SU/N8bGSx8fXaIlgcLPJYKR9w==

0510	School Accountability Report Card - https://simbli.eboardsolutions.com/SU/tZgonRHxkvRwPrYQ1WmBg
1312.4	Williams Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/K4sSLEmfPDpDECIIDy3T6A
1312.4-E(1)	Williams Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/jNRJER1z7850tslshkvfY115Q
1312.4-E(2)	Williams Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/cqrHyplusslsbVG7skrokSEBEbRw
1330.1	Joint Use Agreements - https://simbli.eboardsolutions.com/SU/MApP1vZuzplus4Gqg6jSyKSKQ
3000	Concepts And Roles - https://simbli.eboardsolutions.com/SU/cplusZbQcQ4TXPVaA11FqU7LQ
3311	Bids - https://simbli.eboardsolutions.com/SU/HcK7HUZFN9Aj9DplusJHCDH4Q
3311	Bids - https://simbli.eboardsolutions.com/SU/ry0hLBz8DRvRct6kukvHHA
3511.1	Integrated Waste Management - https://simbli.eboardsolutions.com/SU/Y9FyWG0RGodKIGNRslshKMofg
3511.1	Integrated Waste Management - https://simbli.eboardsolutions.com/SU/UNtBkiqK0cpoemKmiEAE2w
3514	Environmental Safety - https://simbli.eboardsolutions.com/SU/FREeZf6a8MvAoYS87Pslsbplusw
3514	Environmental Safety - https://simbli.eboardsolutions.com/SU/BSLtfUgO3jNMISqQwVEu7A
3514.2	Integrated Pest Management - https://simbli.eboardsolutions.com/SU/b5iETQeqP351rst21A1Vxg
3516	Emergencies And Disaster Preparedness Plan - https://simbli.eboardsolutions.com/SU/x6NWrx0FV0TusDr7guOmSQ
3516	Emergencies And Disaster Preparedness Plan - https://simbli.eboardsolutions.com/SU/UzirPzb2Tud8LJ2LDoSWSw
3550	Food Service/Child Nutrition Program - https://simbli.eboardsolutions.com/SU/08qN2JplusCipasRtU7nbplus2qg
3550	Food Service/Child Nutrition Program - https://simbli.eboardsolutions.com/SU/Qo9sz5aT68knWpk2vi8Djg
6117	Year-Round Schedules - https://simbli.eboardsolutions.com/SU/PGJ0eo0FaMcrbETUgSfnfg
7110	Facilities Master Plan - https://simbli.eboardsolutions.com/SU/H0PXuOCfbfbkplussVfoH3BEA
7111	Evaluating Existing Buildings - https://simbli.eboardsolutions.com/SU/goJJck1h6pJu8MfDmEnYslsbg
9000	Role Of The Board - https://simbli.eboardsolutions.com/SU/8aBslsbkYpCeLkOFFduR9FE4g

Exhibit 3517-E(t): Facilities Inspection

Status: ADOPTED

Original Adopted Date: 06/01/2022 | Last Reviewed Date: 06/01/2022

CSBA NOTE: Education Code 35292.6 requires that the following notice be posted in a prominent and conspicuous location in each restroom where menstrual products are stocked.

NOTICE REGARDING MENSTRUAL PRODUCTS

Education Code 35292.6 requires that:

- a. On or before the start of the 2022-23 school year, a public school, including a school operated by a school district, county office of education, or charter school, maintaining any combination of classes from grades 6 to 12, inclusive, shall stock the school's restrooms at all times with an adequate supply of menstrual products, available and accessible, free of cost, in all women's restrooms and all-gender restrooms, and in at least one men's restroom.
- b. A public school described in subdivision (a) shall not charge for any menstrual products provided to pupils.
- c. A public school described in subdivision (a) shall post a notice regarding the requirements of this section in a prominent and conspicuous location in every restroom required to stock menstrual products, available and accessible, free of cost, pursuant to this section. This notice shall include the text of this section and contact information, including an email address and telephone number, for a designated individual responsible for maintaining the requisite supply of menstrual products.
- d. For purposes of this section, "menstrual products" means menstrual pads and tampons for use in connection with the menstrual cycle.
- e. This section shall become operative on July 1, 2022.

The name and contact information for the individual responsible for maintaining the requisite supply of menstrual products is:

 (name and/or title/position)

 (telephone number)

 (email address)

Policy Reference Disclaimer. These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

2 CCR 1859.300-1859.330

Ed. Code 1240

Ed. Code 17002

Ed. Code 17070.10-17077.10

Ed. Code 17565-17591

Description

Emergency Repair Program -
<https://simbli.eboardsolutions.com/SU/ZtX55Ue9ctaSCHdnkNBOAw==>

County superintendent of schools, duties -
<https://simbli.eboardsolutions.com/SU/zxiNbLNKXO1Z3w2H1beZIA==>

State School Building Lease-Purchase Law, including definition of good repair -
<https://simbli.eboardsolutions.com/SU/SWCTtYtHlBjY2oTkKplusAVTw==>

Leroy F. Greene School Facilities Act of 1998 -
<https://simbli.eboardsolutions.com/SU/fu4PsUtUAb4qYYOY9breHg==>

Property maintenance and control

Ed. Code 17592.72	Urgent or emergency repairs; School Facility Emergency Repair Account
Ed. Code 33126	School accountability report card
Ed. Code 35186	Complaints regarding teacher vacancy or misassignment
Ed. Code 35292.5-35292.6	Restrooms; maintenance and cleanliness

Federal References

20 USC 6314	Schoolwide programs
42 USC 300f-300j-27	Safe Drinking Water Act

Description

Management Resources References

State Allocation Board, Public School Construction	Facility Inspection Tool: School Facility Conditions Evaluation
Website	California County Superintendents Educational Services Association - https://simbli.eboardsolutions.com/SU/FJy7Gf2dJxDpluso3aMdrmkO
Website	California Department of Education, Williams Case - https://simbli.eboardsolutions.com/SU/IgEokvI5m4hnKA9yXFZS8A
Website	State Allocation Board, Office of Public School Construction - https://simbli.eboardsolutions.com/SU/UxUcDGuszWNedr16Dp8wuQ
Website	Coalition for Adequate School Housing - https://simbli.eboardsolutions.com/SU/zOaL3RZeOCPBOO9GOYjpAg
Website	CSBA - https://simbli.eboardsolutions.com/SU/W3QxkK2FPsDsOBnMIENxGg

Description

Cross References

0460	Local Control And Accountability Plan - https://simbli.eboardsolutions.com/SU/fwFbmazSQUOOAdI7DbzBBg
0460	Local Control And Accountability Plan - https://simbli.eboardsolutions.com/SU/N8bGSx8fXaIlgcLP.IYKR9w
0510	School Accountability Report Card - https://simbli.eboardsolutions.com/SU/tZgonRHxkvRwPrYQ1WmBg
1312.4	Williams Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/K4sSLEmfPDpDFCTIDy3T6A
1312.4-E(1)	Williams Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/jNRJER1z7850tsIshkvFYJ1SQ
1312.4-E(2)	Williams Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/cqrHypIussIshVG7skrokSE8EbRw
1330.1	Joint Use Agreements - https://simbli.eboardsolutions.com/SU/MAPp1vZuzplus4Gqg6jSyKSKQ
3000	Concepts And Roles - https://simbli.eboardsolutions.com/SU/cpluzZbQcO4TXPVaA1IFqU7LO
3311	Bids - https://simbli.eboardsolutions.com/SU/HcK7HUZFEN9Aj9DplusIHCDH4Q
3311	Bids - https://simbli.eboardsolutions.com/SU/ry0hLBz8DRvRct6kukvHHA
3511.1	Integrated Waste Management - https://simbli.eboardsolutions.com/SU/V9FyWG0RGodKIGNRslshKMofg
3511.1	Integrated Waste Management - https://simbli.eboardsolutions.com/SU/UNTbkiqKQcpoemKmiFAE2w
3514	Environmental Safety - https://simbli.eboardsolutions.com/SU/FRFz6a8MvAoYS87PslshIplusw

Description

3514	Environmental Safety - https://simbli.eboardsolutions.com/SU/BSLtfUgO3jNMI5qOwVEu7A==
3514.2	Integrated Pest Management - https://simbli.eboardsolutions.com/SU/b5iElOeqP351rst21A1Vxg==
3516	Emergencies And Disaster Preparedness Plan - https://simbli.eboardsolutions.com/SU/x6NWrX0EV0TusDr7guOmSQ==
3516	Emergencies And Disaster Preparedness Plan - https://simbli.eboardsolutions.com/SU/UzirPzb2Tud8LJ2LDo5W5w==
3550	Food Service/Child Nutrition Program - https://simbli.eboardsolutions.com/SU/08qN2JplusCipasRtU7nhplus2qg==
3550	Food Service/Child Nutrition Program - https://simbli.eboardsolutions.com/SU/Qo9sz5aT68knWPK2vi8Djg==
6117	Year-Round Schedules - https://simbli.eboardsolutions.com/SU/PGJ0eo0EaMcrbETUgSfnfg==
7110	Facilities Master Plan - https://simbli.eboardsolutions.com/SU/H0PXuOCfbfbkplussVfoH3BEA==
7111	Evaluating Existing Buildings - https://simbli.eboardsolutions.com/SU/goJCKlh6pJu8MfDmEYslshg==
9000	Role Of The Board - https://simbli.eboardsolutions.com/SU/8aBslsbkYpCeLkOFFduR9FF4g==

Policy 3523: Electronic Signatures

Status: ADOPTED

Original Adopted Date: 06/01/2022 | Last Reviewed Date: 06/01/2022

CSBA NOTE: The following optional board policy may be revised to reflect district practice. Pursuant to Government Code 16.5, public entities, including districts, are permitted to use digital signatures in their communications and operations. A digital signature is a type of electronic signature, as defined in Civil Code 1633.1. Any such digital or electronic signature has the same force and effect as a manual signature, provided the signature is created using acceptable technology and includes attributes specified in 2 CCR 22000-22005, as described in the accompanying administrative regulation. In addition, Civil Code 1633.1-1633.17 (Uniform Electronic Transactions Act) and 15 USC 7001-7006 (Electronic Records and Signatures in Commerce Act) provide a framework for ensuring the validity of electronic contracts and security of electronic signatures in commerce and governmental transactions.

The Governing Board believes that the use of electronic records and signatures is a convenient paperless option that can increase efficiency in commercial and administrative transactions, reduce costs, and contribute to environmental sustainability in district operations. The Board authorizes the use of electronic signatures in district operations when authorized by law.

The Superintendent or designee shall ensure that any electronic signature utilized by the district conforms with criteria described in law and that the level of security is sufficient for the transaction being conducted. (Government Code 16.5; 2 CCR 22003, 22005)

The Superintendent or designee shall retain electronic records in accordance with law and regulations, and as specified in BP/AR 3580 - District Records.

Policy Reference Disclaimer. These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

Description

2 CCR 22000-22005	Public entity use of electronic signatures - https://simbli.eboardsolutions.com/SU/jjoxXkoplusnSsKsUaPslsbQplusVg=
5 CCR 16020-16022	Records, general provisions
5 CCR 16023-16027	District records, retention and destruction
5 CCR430	Individual student records; definition
5 CCR432	Student records
Civ. Code 1633.1-1633.17	Uniform Electronic Transactions Act
Civ. Code 1798.29	District records; breach of security - https://simbli.eboardsolutions.com/SU/LBkkDX80IBFu9Jplus09hdW9w=
Ed. Code 35252-35255	Records and reports
Ed. Code 44031	Personnel file contents and inspection
Ed. Code 49060-49079.7	Student records
Ed. Code 8234	Electronic signatures; child care and development programs
Gov. Code 16.5	Electronic signatures
Gov. Code 6252-6265	Inspection of public records
Gov. Code 811.2	Definition of public entity

Federal References

Description

15 USC 7001-7006	Electronic Records and Signatures in Commerce Act
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 1400-1482	Individuals with Disabilities Education Act
34 CFR 300-300.818	Assistance to states for the education of students with disabilities

34 CFR 99.1-99.8

Family Educational Rights and Privacy Act

Management Resources References

CA Department of Education Publication

Description

Management Bulletin 17-13, October 2017

Cross References

3510

Green School Operations -

<https://simbli.eboardsolutions.com/SU/KOGKzAB8i2S6wgjILPFfUw==>

3580

District Records -

<https://simbli.eboardsolutions.com/SU/8fsDI9HykDCitBSvYLEIIA==>

3580

District Records -

<https://simbli.eboardsolutions.com/SU/gX132ogfrNaLpqF5dbh66Q==>

5148

Child Care **And** Development -

<https://simbli.eboardsolutions.com/SU/gY1SkyM64fyNiOsishEytQg3A==>

5148

Child Care **And** Development -

<https://simbli.eboardsolutions.com/SU/IPI7b2rDSMZyxuILH90nRA==>

5148.3

Preschool/Early Childhood Education -

<https://simbli.eboardsolutions.com/SU/3WD3cPzZScHKLGietybEKA==>

5148.3

Preschool/Early Childhood Education -

<https://simbli.eboardsolutions.com/SU/yUGzYIAmdf85jnh2JwXT6Q==>

6159.1

Procedural Safeguards And Complaints For Special Education -

<https://simbli.eboardsolutions.com/SU/SOPIFWQOdcwNeAZdN9bmYQ==>

6159.1

Procedural Safeguards And Complaints For Special Education -

<https://simbli.eboardsolutions.com/SU/3gc3YUKeG1b3e7zDpoTL3Q==>

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Regulation 3523: Electronic Signatures

Status: ADOPTED

Original Adopted Date: 06/01/2022 | Last Reviewed Date: 06/01/2022

CSBA NOTE: The following optional administrative regulation may be revised to reflect district practice. Pursuant to Government Code 16.5, public entities, including districts, are permitted to use digital signatures in their communications and operations. A digital signature is a type of electronic signature, as defined in Civil Code 1633.1. Any such digital or electronic signature has the same force and effect as a manual signature, provided the signature is created using an acceptable technology and includes attributes specified in 2 CCR 22000-22005, as described below. In addition, Civil Code 1633.1-1633.17 (Uniform Electronic Transactions Act) and 15 USC 7001-7006 (Electronic Records and Signatures in Commerce Act) provide a framework for ensuring the validity of electronic contracts and security of electronic signatures in commerce and governmental transactions.

In addition to the general authorization for use of electronic signatures as described above, an electronic signature may be used in specific instances. For example, an electronic signature may be used to fulfill the requirement for parental consent under the Individuals with Disabilities Education Act (20 USC 1400-1482). See comments to 71 Fed. Reg. 156 which provides that electronic signatures are permitted as long as the necessary steps are taken to ensure that there are appropriate safeguards to protect the integrity of the process. Also see the criteria for electronic signatures listed in Items #1-5 below and AR 6159.1 - Procedural Safeguards and Complaints for Special Education. Electronic signatures may also be used when families apply for child care and development services. See the California Department of Education's Management Bulletin 17-13.

When authorized by law, electronic signatures may be used in the operation of district business and/or administration.

In any business transaction, an electronic signature shall only be used when each party has agreed to conduct the transaction by electronic means. In other district operations, the Superintendent or designee may require the use of an electronic signature. (Civil Code 1633.5; 15 USC 7001)

CSBA NOTE: Pursuant to Civil Code 1633.2 and Government Code 16.5, a digital signature is a type of electronic signature. Aside from the definitions below, "electronic signature" will be used throughout this regulation to indicate all types of electronic signatures, including digital signatures.

A *digital signature* is defined as an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature. (Government Code 16.5)

An *electronic signature* consists of an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record. (Civil Code 1633.2)

In order for an electronic signature to be used, the electronic signature shall be: (Government Code 16.5; 2 CCR 22002)

1. Unique to the person using it
2. Capable of verification
3. Under the sole control of the person using it
4. Linked to data in such a manner that if the data are changed the electronic signature is invalidated
5. Conform to 2 CCR 22000-22005

Prior to accepting an electronic signature, the Superintendent or designee shall ensure the following: (2 CCR 22005)

1. That the signature is created by acceptable technology pursuant to 2 CCR 22003
2. That the level of security used to identify the signer of the document and to transmit the signature is sufficient for the transaction being conducted
3. That, if a certificate is a required component of the electronic signature, the certificate format used by the signer is sufficient for the security and interoperability needs of the district.

If a notarized signature is required with respect to an electronic signature, the electronic signature of the notary public together with all of the other information required by law to be included in a notarization shall accompany the electronic signature. (Civil Code 1633.11)

If a statement is required to be signed under penalty of perjury, the electronic signature shall include all of the information to which the declaration pertains together with a declaration under penalty of perjury by the person who submits the electronic signature that the information is true and correct. (Civil Code 1633.11)

Policy Reference Disclaimer. These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

	Description
2 CCR 22000-22005	Public entity use of electronic signatures - https://simbli.eboardsolutions.com/SU/jjoxXkoplusnISsKsUaPslshQplusYg==
5 CCR 16020-16022	Records, general provisions
5 CCR 16023-16027	District records, retention and destruction
5 CCR430	Individual student records; definition
5 CCR432	Student records
Civ. Code 1633.1-1633.17	Uniform Electronic Transactions Act
Civ. Code 1798.29	District records; breach of security - https://simbli.eboardsolutions.com/SU/LBkkDX80IBFu9JplusO9hdW9w==
Ed. Code 35252-35255	Records and reports
Ed. Code 44031	Personnel file contents and inspection
Ed. Code 49060-49079.7	Student records
Ed. Code 8234	Electronic signatures; child care and development programs
Gov. Code 16.5	Electronic signatures
Gov. Code 6252-6265	Inspection of public records
Gov. Code 811.2	Definition of public entity

Federal References

	Description
15 USC 7001-7006	Electronic Records and Signatures in Commerce Act
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 1400-1482	Individuals with Disabilities Education Act
34 CFR 300-300.818	Assistance to states for the education of students with disabilities
34 CFR 99.1-99.8	Family Educational Rights and Privacy Act

Management Resources References

	Description
CA Department of Education Publication	Management Bulletin 17-13, October 2017

Cross References

	Description
3510	Green School Operations - https://simbli.eboardsolutions.com/SU/K0GKzAB8i2S6wgjllPFfUw==
3580	District Records - https://simbli.eboardsolutions.com/SU/8fsDI9HykDClTBSvVLEIIA==
3580	District Records - https://simbli.eboardsolutions.com/SU/gX132ogfrNaLpqF5dbh66Q==

- 5148 Child Care And Development -
<https://simbli.eboardsolutions.com/SU/gV15kvM64fyNi0slshEytQg3A==>
- 5148 Child Care And Development -
<https://simbli.eboardsolutions.com/SU/PI7b2rDSMZyxuLLH90nRA==>
- 5148.3 Preschool/Early Childhood Education -
<https://simbli.eboardsolutions.com/SU/3WD3cPzZScHkLGieytbEKA==>
- 5148.3 Preschool/Early Childhood Education -
<https://simbli.eboardsolutions.com/SU/yUGzYIAmdf85jnh2JwXT6Q==>
- 6159.1 Procedural Safeguards And Complaints For Special Education -
<https://simbli.eboardsolutions.com/SU/S0PIEWQ0dcwNeAZdN9bmYQ==>
- 6159.1 Procedural Safeguards And Complaints For Special Education -
<https://simbli.eboardsolutions.com/SU/3gc3YUKeG1b3e7zDpoTL3Q==>

Policy 3550: Food Service/Child Nutrition Program

Status: ADOPTED

Original Adopted Date: 06/01/2022 ~~Last~~ Reviewed Date: 06/01/2022

CSBA NOTE: The following optional policy may be revised to reflect district practice. Beginning in the 2022-23 school year, Education Code 49501.5, as added by AB 130 (Ch. 44, Statutes of 2021), requires districts, during each school day, to provide a breakfast and lunch free of charge to any student who requests a meal, regardless of the student's eligibility for a federally funded free or reduced-price meal. However, in order to receive reimbursements for the meals, a district must be approved for participation in the National School Lunch Program (42 USC 1751-1769j) or the School Breakfast Program (42 USC 1773). See BP/AR 3552 - Summer Meal Program, AR 5148 - Child Care and Development, and AR 5148.2 - Before/After School Programs for nutrition requirements pertaining to those programs. For food sales outside the district's food service program (e.g., by student and adult organizations, through vending machines, or at student stores), see BP/AR 3554 - Other Food Sales.

The Governing Board recognizes that adequate, nourishing food is essential to student health and well-being, development, and ability to learn. The Superintendent or designee shall develop strategies to increase students' access to and participation in the district's food service programs and maintain fiscal integrity of the programs in accordance with law.

Foods and beverages available through the district's food service program shall:

1. Be carefully selected so as to contribute to students' nutritional well-being and the prevention of disease

CSBA NOTE: 42 USC 1758b mandates each district participating in the National School Lunch Program (42 USC 1751-1769j) or any program in the Child Nutrition Act (42 USC 1771-1791), including the School Breakfast Program, to adopt a districtwide school wellness policy which includes nutrition guidelines for all foods available on school campuses; see BP 5030 - Student Wellness for language fulfilling this mandate. In addition, Education Code 49501.5, as added by AB 130, requires that meals provided under the California Universal Meals Program qualify for federal reimbursement. Also see the accompanying administrative regulation for state and federal legal requirements pertaining to nutrition standards.

2. Meet or exceed nutrition standards specified in law
3. Be prepared in ways that will appeal to students, retain nutritive quality, and foster lifelong healthful eating habits
4. Be served in age-appropriate portions

CSBA NOTE: Education Code 49501.5, as added by AB 130, requires that nutritionally adequate meals be provided to any student who requests a meal regardless of the student's eligibility for a free or reduced-price meal. However, the district still must determine student eligibility for free or reduced-price meals under the National School Lunch or School Breakfast Program, in order to be reimbursed for such meals as the funds provided under the California Universal Meal Program are meant to supplement, not supplant, federal funds.

5. Be provided at no cost to students who request a meal

CSBA NOTE: The following paragraph is optional and may be revised to reflect district practice. In its, "Food and Nutrition Services Instruction 113-1," the U.S. Department of Agriculture (USDA) states that a district must put in place a public notification system or grassroots effort to inform applicants, participants, and potentially eligible individuals of program availability, rights and responsibilities, and nondiscrimination policy related to federally funded nutrition programs.

At the beginning of each school year, the Superintendent or designee shall communicate information related to the district's food service programs to the public through available means, including, but not limited to, the district's web site, social media, flyers, and school publications.

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. Grant funding may be available through the Fresh Fruit and Vegetable Program (42 USC 1769a) to provide elementary students with a variety of free fresh fruits and vegetables throughout the school day as a supplement to school breakfast and lunch programs. Eligible schools are those that operate the National School Lunch Program and have 50 percent or more of students eligible for free and reduced-price meals.

The district's food service program shall give priority to serving unprocessed foods and fresh fruits and vegetables.

CSBA NOTE: The following paragraph is optional. Both state and federal law support the concept of using locally grown and/or organic produce in school cafeterias. Consistent with the state meal mandate, the Instructional School Gardens Program, established pursuant to Education Code 51795-51797, encourages the creation of school gardens as a means of providing children an opportunity to learn to make healthier food choices. In addition, 42 USC 1769 permits a high poverty school (schools with 50 percent or more students eligible for free and/or reduced-price meals) that runs a community garden to use produce from the garden to supplement food provided at the school. Thus, such use is allowable provided the foods comply with health and sanitation requirements as well as applicable nutrition standards.

District schools are encouraged to establish school gardens and/or farm-to-school projects to increase the availability of safe, fresh, seasonal fruits and vegetables for school meals and to support the district's nutrition education program.

CSBA NOTE: The following paragraph is optional. Education Code 49534, as amended by AB 486 (Ch. 666, Statutes of 2021), authorizes nutrition education programs to coordinate classroom instruction with the food service program and be of sufficient variety and flexibility to meet the needs of students in the district.

To the extent possible, the school meal program shall be coordinated with the nutrition education program, instructional program for teachers, parents/guardians and food service employees, available community resources, and other related district programs.

To encourage student participation in school meal programs, schools may offer multiple choices of food items within a meal service, provided all food items meet nutrition standards and all students are given an opportunity to select any food item.

The Superintendent or designee may invite students and parents/guardians to participate in the selection of foods of good nutritional quality for school menus.

Students shall be allowed adequate time and space to eat meals. To the extent possible, school, recess, and transportation schedules shall be designed to promote participation in school meal programs.

The Superintendent or designee shall periodically review the adequacy of school cafeterias and facilities for food preparation and consumption.

CSBA NOTE: The district's food service program is subject to the food safety standards in the California Retail Food Code (Health and Safety Code 113700-114437). In addition, 42 USC 1758 and 7 CFR 210.13 and 220.7 require all schools participating in the National School Lunch and/or Breakfast Program to implement a food safety program for the storage, preparation, and service of school meals. See the accompanying administrative regulation for requirements of the food safety program.

In accordance with law, the Superintendent or designee shall develop and maintain a food safety program in order to reduce the risk of foodborne hazards at each step of the food preparation and service process.

CSBA NOTE: The following optional paragraph may be revised to reflect program evaluation indicators and reporting schedules determined by the district. Districts that participate in the National School Lunch Program, School Breakfast Program, Seamless Summer Feeding Option, and/or other federal meal program are subject to a state Administrative Review of district compliance with requirements for federal meal programs, including, but not limited to, a review of nutritional quality, meal patterns, provision of drinking water, school meal environment, and food safety. Each district is reviewed at least once every three years. Also see BP 3551 - Food Service Operations/Cafeteria Fund. However, Education Code 49431, 49431.2 and 49431.5 express legislative intent that the Governing Board annually review the district's compliance with nutrition standards for foods sold outside the National School Lunch or Breakfast Program.

Pursuant to USDA's, "Food and Nutrition Services Instruction 113-1," any district participating in federal meal programs must collect racial and ethnic data on potentially eligible populations, applicants, and program participants; see BP 3555 - Nutrition Program Compliance.

The Superintendent or designee shall annually report to the Board on student participation in the district's nutrition programs and the extent to which the district's food service program meets state and federal nutrition standards for foods and beverages. In addition, the Superintendent or designee shall provide all necessary and available documentation required for the Administrative Review conducted by the California Department of Education (CDE) to ensure the food service program's compliance with federal requirements related to nutrition standards, meal patterns, provision of drinking water, school meal environment, food safety, and other areas as required by the CDE.

Policy Reference Disclaimer. These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

	Description
5 CCR 15510	Mandatory meals for needy students
5 CCR 15530-15535	Nutrition education
5 CCR 15550-15565	School lunch and breakfast programs
5 CCR 15575-15578	Requirements for foods and beverages outside the federal meals program
Ed. Code 35182.5	Contracts for advertising
Ed. Code 38080-38103	Cafeteria; establishment and use
Ed. Code 45103.5	Contracts for management consulting services; restrictions
Ed. Code 48432.3	Voluntary enrollment in continuation education
Ed. Code 49430-49434	Pupil Nutrition, Health, and Achievement Act of 2001
Ed. Code 49490-49494	School breakfast and lunch programs
Ed. Code 49500-49505	School meals
Ed. Code 49501.5	California Universal Meals Program
Ed. Code 49510-49520	Nutrition
Ed. Code 49530-49536	Child Nutrition Act
Ed. Code 49540-49546	Child care food program
Ed. Code 49547-49548.3	Comprehensive nutrition services
Ed. Code 49550-49562	Meals for needy students
Ed. Code 49570	National School Lunch Act
Ed. Code 51795-51797	School instructional gardens
H&S Code 113700-114437	California Retail Food Code; sanitation and safety requirements

Federal References

	Description
42 USC 1751-1769j	National School Lunch Program
42 USC 1758b	Local wellness policy
42 USC 1761	Summer Food Service Program and Seamless Summer Feeding Option
42 USC 1769a	Fresh Fruit and Vegetable Program
42 USC 1771-1793	Child Nutrition Act
42 USC 1772	Special Milk Program
42 USC 1773	School Breakfast Program
7 CFR 210.1-210.31	National School Lunch Program
7 CFR 215.1-215.18	Special Milk Program
7 CFR 220.2-220.22	National School Breakfast Program
7 CFR 245.1-245.13	Eligibility for free and reduced-price meals and free milk

Management Resources References

	Description
CA Project Lean Publication	Policy in Action: A Guide to Implementing Your Local School Wellness Policy, October 2006
California Department of Education Publication	Healthy Children Ready to Learn, January 2005
California Department of Education Publication	Professional Standards in the School Nutrition Programs, Management Bulletin SNP-13-2020, Updated January 2022

CSBA Publication	Building Healthy Communities: A School Leader's Guide to Collaboration and Community Engagement, 2009
CSBA Publication	Nutrition Standards for Schools: Implications for Student Wellness, Policy Brief, rev. October 2007
CSBA Publication	Monitoring for Success: Student Wellness Policy Implementation Monitoring Report and Guide, 2007
CSBA Publication	Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide, rev. April 2006
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U.S. Department of Agriculture Publication	Civil Rights Compliance and Enforcement - Nutrition Programs and Activities, FNS Instruction 113-1, November 2005
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U.S. Department of Agriculture Publication	Food Buying Guide for Child Nutrition Programs, December 2007
U.S. Department of Agriculture Publication	Fresh Fruit and Vegetable Program: Handbook for Schools, December 2010
U.S. Department of Agriculture Publication	Guidance for School Food Authorities: Developing a School Food Safety Program Based on the Process Approach to HACCP Principles, June 2005
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Website	California Farm Bureau Federation - https://simbli.eboardsolutions.com/SU/9DOFPfd6z2oylYGKzj0qKA==
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Regulation 3550: Food Service/Child Nutrition Program

Status: ADOPTED

Original Adopted Date: 06/01/2022 | Last Reviewed Date: 06/01/2022

CSBA NOTE: The following optional administrative regulation applies to food sales through the district's food service program, including, California's Universal Meals Program (Education Code 49501.5), the National School Lunch Program (42 USC 1751-1769j), the School Breakfast Program (42 USC 1773), and the Special Milk Program (42 USC 1772). The district should select all sections below that apply to programs offered by the district. See BP/AR 3552 - Summer Meal Program, AR 5148 - Child Care and Development, and AR 5148.2 - Before/After School Programs for nutrition requirements pertaining to those programs. For food sales outside the district's food service program (e.g., by student and adult organizations, through vending machines, or at student stores), see BP/AR 3554 - Other Food Sales.

Nutrition Standards for School Meals

CSBA NOTE: The following section is for use by all districts. Education Code 49501.5, as added by AB 130 (Ch. 44, Statutes of 2021), requires all schools to provide, free of charge, two nutritiously adequate meals per school day to any student who requests a meal, regardless of a student's eligibility to participate in any federally-funded free or reduced-price meal. Education Code 49553 defines a "nutritionally adequate meal" as one that qualifies for reimbursement under federal child nutrition program regulations. Schools participating in the National School Lunch and/or Breakfast Program must extend meal service to all students enrolled in the school.

Meals, food items, and beverages provided through the district's food services program shall: (Education Code 49501.5, 49553; 42 USC 1758, 1773)

1. Comply with National School Lunch and/or Breakfast Program standards for meal patterns, nutrient levels, and calorie requirements for the ages/grade levels served, as specified in 7 CFR 210.10 or 220.8 as applicable

CSBA NOTE: Item #2 below reflects an additional requirement for (1) districts participating in the National School Lunch and/or Breakfast Program which choose to apply for state reimbursements for free and reduced-price meals in addition to their base reimbursement and (2) districts participating in the State Meal Program. Pursuant to Education Code 49430.7, such districts may not provide foods that are deep fried, par fried, or flash fried. Other districts may delete or use this item at their discretion. Although the new California Universal Meals Program (Education Code 49501.5) is not expressly subject to this requirement, it is recommended that all districts comply with it as a best practice, since only meals that qualify for federal reimbursement are reimbursable by the state under the program.

2. Not be deep fried, par fried, or flash fried, as defined in Education Code 49430 and 49430.7

Drinking Water

CSBA NOTE: The following section is for use by all districts. Pursuant to 42 USC 1758, schools participating in the National School Lunch Program are required to make free drinking water available for consumption at locations where meals are served during meal service. In addition, Education Code 38086 requires all California schools to make free drinking water available during school meal times. Pursuant to Education Code 38086, a district may be exempted from this requirement only if the Governing Board adopts a resolution, publicly noticed on at least two consecutive meeting agendas, demonstrating that the district is unable to comply due to fiscal constraints or health or safety concerns. Any district whose Board has adopted such a resolution should delete this section.

Pursuant to Education Code 38086, schools may satisfy this requirement by, among other means, providing cups and containers of water or soliciting or receiving donated water. Recommendations on the California Department of Education's web site include providing chilled water, ensuring that all water fountains are clean and operational, and encouraging water consumption through marketing and advertising.

The district shall provide access to free, fresh drinking water during meal times in food service areas at all district schools, including, but not limited to, areas where reimbursable meals under the National School Lunch or Breakfast Program are served or consumed. (Education Code 38086; 42 USC 1758)

Special Milk Program

CSBA NOTE: The following section is optional. The Special Milk Program (42 USC 1772; 7 CFR 215.1-215.18) is a federally funded program which assists in providing milk at reasonable prices to students in schools that do not participate in the National School Lunch or Breakfast Program. Pursuant to 7 CFR 215.7, districts may choose to provide milk at no charge to students who qualify for free meals; see BP 3553 - Free and Reduced Price Meals.

Any school that does not participate in the National School Lunch or Breakfast Program may participate in the Special Milk Program to provide all enrolled students with reasonably priced milk. (7 CFR 215.7)

Food Safety

CSBA NOTE: Pursuant to Health and Safety Code 113789, school cafeterias are among food facilities subject to the California Retail Food Code.

The Superintendent or designee shall ensure that the district's food service program meets the applicable sanitation and safety requirements of the California Retail Food Code as set forth in Health and Safety Code 113700-114437.

CSBA NOTE: The remainder of this section is for use by any district participating in the National School Lunch and/or Breakfast Program and may be used or revised by other districts at their discretion. 42 USC 1758 requires such participating districts to implement a food safety program applicable to any facility or part of a facility in which food is stored, prepared, or served. Pursuant to 42 USC 1758 and 7 CFR 210.13 and 220.7, the food safety program must comply with Hazard Analysis and Critical Control Point (HACCP) principles, which include establishing measures needed to prevent hazards at each stage of food production. Pursuant to 7 CFR 210.13, districts may implement either the "traditional" HACCP system or the simplified "process approach." Under the process approach, foods are grouped together according to preparation process and the same control measure is applied to all menu items within the group, rather than developing an HACCP plan for each item. These principles are described in USDA's, "Guidance for School Food Authorities: Developing a School Food Safety Program Based on the Process Approach to HACCP Principles".

For all district schools participating in the National School Lunch and/or School Breakfast Program, the Superintendent or designee shall implement a written food safety program for the storage, preparation, and service of school meals which complies with the national Hazard Analysis and Critical Control Point (HACCP) system. The district's HACCP plan shall include, but is not limited to, a determination of critical control points and critical limits at each stage of food production, monitoring procedures, corrective actions, and recordkeeping procedures. (42 USC 1758; 7 CFR 210.13, 220.7)

CSBA NOTE: Pursuant to 7 CFR 210.30, directors, managers, and staff in the food service program must complete annual training on specified topics, including, but not limited to, training on health and safety standards. Based on CDE Management Bulletin SNP-13-2020, districts must ensure that such directors, managers, and staff complete an annual continuing education or training on topics that are job-related, including, but not limited to, food safety standards. In addition, at least one employee at each food facility or site must have successfully passed an approved and accredited food safety certification examination in accordance with Health and Safety Code 113947.2-113947.3.

The Superintendent or designee shall ensure that food service directors, managers, and staff complete an annual continuing education or training as required by law. Each new employee, including a substitute, or volunteer shall complete initial food safety training prior to handling food. For each employee, the Superintendent or designee shall document the date, trainer, and subject of each training.

CSBA NOTE: The following paragraph is optional. USDA's, "Guidance for School Food Authorities: Developing a School Food Safety Program Based on the Process Approach to HACCP Principles," states that districts should maintain the following types of records in order to periodically review the food safety program and, in the event of a foodborne illness, to document that reasonable care was exercised in the operation of the school's food service program.

The Superintendent or designee shall assign staff to maintain records and logs documenting food safety activities, including, but not limited to, records of food deliveries, time and temperature monitoring during food production, equipment temperature (freezer, cooler, thermometer calibration), corrective actions, verification or review of safety efforts, and staff training.

Inspection of Food Facilities

CSBA NOTE: Health and Safety Code 113725-113725.3 require all food facilities in California to be inspected by the county environmental health agency in accordance with the timelines and procedures established in county regulations. The inspections cover all food service areas, including cafeterias, vending machines, and mobile food carts. Health and Safety Code 113725 specifies findings that would be considered violations, including (1) improper holding temperatures, improper cooling, or inadequate cooking of potentially hazardous foods (i.e., foods that require temperature control); (2) poor personal hygiene of food service employees; (3) contaminated equipment; and (4) food from unapproved sources.

All food preparation and service areas shall be inspected in accordance with Health and Safety Code 113725-

113725.1 and applicable county regulations.

CSBA NOTE: The following paragraph is for use by districts participating in the National School Lunch and/or Breakfast Program. Notwithstanding the requirements of county regulations, districts participating in these programs must obtain at least two safety inspections each school year.

Each school participating in the National School Lunch and/or Breakfast Program shall, during each school year, obtain a minimum of two food safety inspections conducted by the county environmental health agency. (42 USC 1758; 7 CFR 210.13, 220.7)

The Superintendent or designee shall retain records from the most recent food safety inspection. All schools shall post a notice indicating that the most recent inspection report is available to any interested person upon request. (Health and Safety Code 113725.1; 42 USC 1758; 7 CFR 210.13, 210.15, 220.7)

Policy Reference Disclaimer. These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

	Description
5 CCR 15510	Mandatory meals for needy students
5 CCR 15530-15535	Nutrition education
5 CCR 15550-15565	School lunch and breakfast programs
5 CCR 15575-15578	Requirements for foods and beverages outside the federal meals program
Ed. Code 35182.5	Contracts for advertising
Ed. Code 38080-38103	Cafeteria; establishment and use
Ed. Code 45103.5	Contracts for management consulting services; restrictions
Ed. Code 48432.3	Voluntary enrollment in continuation education
Ed. Code 49430-49434	Pupil Nutrition, Health, and Achievement Act of 2001
Ed. Code 49490-49494	School breakfast and lunch programs
Ed. Code 49500-49505	School meals
Ed. Code 49501.5	California Universal Meals Program
Ed. Code 49510-49520	Nutrition
Ed. Code 49530-49536	Child Nutrition Act
Ed. Code 49540-49546	Child care food program
Ed. Code 49547-49548.3	Comprehensive nutrition services
Ed. Code 49550-49562	Meals for needy students
Ed. Code 49570	National School Lunch Act
Ed. Code 51795-51797	School instructional gardens
H&S Code 113700-114437	California Retail Food Code; sanitation and safety requirements

Federal References

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42 USC 1771-1793	Child Nutrition Act
42 USC 1772	Special Milk Program
42 USC 1773	School Breakfast Program

7 CFR 210.1-210.31	National School Lunch Program
7 CFR 215.1-215.18	Special Milk Program
7 CFR 220.2-220.22	National School Breakfast Program
7 CFR 245.1-245.13	Eligibility for free and reduced-price meals and free milk

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Other Food Sales -

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3555	Nutrition Program Compliance - https://simbli.eboardsolutions.com/SU/XKe0wQEvO2cheo7acl3BFA==
3555-E PDF(1)	Nutrition Program Compliance - https://simbli.eboardsolutions.com/SU/ukhuacwucDP1t5CkuDdS3w==
3580	District Records - https://simbli.eboardsolutions.com/SU/8fsD19HykDCItBSvVLEIIA==
3580	District Records - https://simbli.eboardsolutions.com/SU/gX132ogfrNaLpqFSdbh66Q==
4131	Staff Development - https://simbli.eboardsolutions.com/SU/700vA0ysAxSYXC8kTtgs9Q==
4141.6	Concerted Action/Work Stoppage - https://simbli.eboardsolutions.com/SU/TtH8mfb4Zwc222YN76OTdg==
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4241.6	Concerted Action/Work Stoppage - https://simbli.eboardsolutions.com/SU/WSExJpluss6yHnOMElqyCk91Q==
5030	Student Wellness - https://simbli.eboardsolutions.com/SU/CvzKiloplusCH4n5fplusjplusl81jA==
5141.27	Food Allergies/Special Dietary Needs - https://simbli.eboardsolutions.com/SU/MS09fvkpcfTxfXADdn7slsbBg==
5141.27	Food Allergies/Special Dietary Needs - https://simbli.eboardsolutions.com/SU/pbePTFFyvpXAzJEa77Eu6w==
5148	Child Care And Development - https://simbli.eboardsolutions.com/SU/gV15kvM64fyoiDslsbEytQg3A==
5148	Child Care And Development - https://simbli.eboardsolutions.com/SU/IPIZb2rDSMZyulLH90nRA==
5148.2	Before/After School Programs - https://simbli.eboardsolutions.com/SU/ZCXkdpn0NOWtDDYWmvGMPw==
5148.2	Before/After School Programs - https://simbli.eboardsolutions.com/SU/6TCzxi5d2ShJygXCj1JXQ==
5148.3	Preschool/Early Childhood Education - https://simbli.eboardsolutions.com/SU/3WD3cPzZScHkLGietybEKA==
5148.3	Preschool/Early Childhood Education - https://simbli.eboardsolutions.com/SU/yUGzYIAmdf85jnh2JwXT6Q==
6142.8	Comprehensive Health Education - https://simbli.eboardsolutions.com/SU/26yNHUwMmAXRvJ1b3jpT2g==
6142.8	Comprehensive Health Education - https://simbli.eboardsolutions.com/SU/tbwOlmdoEz4Q1Vjo8rYolQ==
6173	Education For Homeless Children - https://simbli.eboardsolutions.com/SU/zsjkyhfKAplusFQR21mndj3hw==
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6173-E PDF(2)	Education For Homeless Children - https://simbli.eboardsolutions.com/SU/D7vRHxZXslshBORslshzL7t0wPgw==

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Weekend/Saturday Classes -

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Facilities Master Plan -

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Policy 3551: Food Service Operations/Cafeteria Fund

Status: ADOPTED

Original Adopted Date: 06/01/2022 | Last Reviewed Date: 06/01/2022

CSBA NOTE: The following conditionally mandated policy may be revised to reflect district practice. Pursuant to U.S. Department of Agriculture's (USDA) Memorandum SP 46-2016, districts participating in the National School Lunch and/or Breakfast Program (42 USC 1751-1769j, 1773) are mandated to adopt policy addressing meal charges; see the section "Meal Sales" below and the accompanying administrative regulation. However, with the establishment of the California Universal Meal Program pursuant to Education Code 49501.5, as added by AB 130 (Ch. 44, Statutes of 2021), all public schools in California must provide free of charge, a nutritionally adequate breakfast and lunch to any student who requests a meal, regardless of the student's free or reduced-price meal eligibility status. Consequently, certain program requirements may no longer be applicable.

Pursuant to 7 CFR 210.9, 210.14, and 220.7, districts participating in the National School Lunch and/or Breakfast program must maintain a nonprofit school food service program. Revenues received through the program may be used for the operation or improvement of the food service program, but not to purchase land or buildings unless otherwise approved by USDA's Food and Nutrition Services, or to construct buildings. Authorized expenditures are specified in Education Code 38101 and defined in the California Department of Education's (COE) "California School Accounting Manual."

The Governing Board intends that school food services shall be a self-supporting, nonprofit program. To ensure program quality and cost effectiveness, the Superintendent or designee shall centralize and direct the purchasing of foods and supplies, the planning of menus, and the auditing of all food service accounts for the district.

CSBA NOTE: The following paragraph is for use by districts that participate in the National School Lunch and/or Breakfast Program and may be adapted for use by other districts. Pursuant to 42 USC 1776 and 7 CFR 210.30, USDA has established minimum professional standards for food service directors and granted CDE the authority to adopt more flexible standards for districts with average daily attendance of less than 2,500. See CDE's Nutrition Services Division Management Bulletin SNP-13-2020 for updated information about state hiring standards.

The Superintendent or designee shall ensure that food service director(s) possess the qualifications required by 7 CFR 210.30 and California Department of Education (COE) standards.

CSBA NOTE: The following paragraph is for use by districts participating in the National School Lunch and/or Breakfast Program. Pursuant to 42 USC 1776, such districts must ensure that food service personnel and other appropriate personnel who conduct or oversee administrative procedures receive training, at least once each year, on food service administrative practices (i.e., training in application, certification, verification, meal counting, and meal claiming procedures). In addition, all food service personnel are required to receive annual training that is designed to improve the accuracy of approvals for free and reduced-price meals and the identification of reimbursable meals at the point of service and to ensure program compliance and integrity. Food service personnel must obtain certification on an annual basis to demonstrate competence in the training. Such training is required to include modules on nutrition, health and food safety standards and methodologies, and any other appropriate topics as determined by the U.S. Secretary of Agriculture. See CDE's web site for online training that meets these requirements.

At least once each year, food service administrators, other appropriate personnel who conduct or oversee administrative procedures, and other food service personnel shall receive training provided by COE. (42 USC 1776)

Meal Sales

CSBA NOTE: Commencing with the 2022-23 school year, each district is required, pursuant to Education Code 49501.5, as added by AB 130, to provide a nutritionally adequate breakfast and lunch free of charge, to any student who requests a meal, regardless of the student's eligibility for participation in the federal free or reduced-price meal program. Consequently, only nonprogram foods may be sold to students. For further information, see BP 3553 - Free and Reduced Price Meals.

Any student who requests a meal shall be served a nutritionally adequate breakfast and lunch free of charge, each school day. (Education Code 49501.5)

As permitted by law, additional or second meals, adult meals, and other nonprogram foods, such as smart snack compliant food and beverages sold in vending machines, may be sold to students. (Education Code 38082, 49501.5)

Meals may be sold to district employees, Board members, and employees or members of the fund or association maintaining the cafeteria. (Education Code 38082)

CSBA NOTE: Pursuant to Education Code 38082, the Governing Board is authorized to adopt a resolution to permit the serving of meals to individuals and organizations other than those specified in the preceding paragraph. CDE's Nutrition Services Division Management Bulletin SNP-04-2021 states that funds from the National School Lunch or Breakfast Program may not be used to serve any nonstudent. The following optional paragraph is for districts that have adopted such a resolution and should be revised to reflect district practice.

In addition, meals may be sold to nonstudents, including parents/guardians, volunteers, students' siblings, or other individuals, who are authorized by the Superintendent or designee to be on campus. Any meals served to nonstudents shall not be subsidized by federal or state reimbursements, food service revenues, or U.S. Department of Agriculture (USDA) foods.

CSBA NOTE: Pursuant to Education Code 38084, the district may determine meal prices consistent with the goal of paying the costs of maintaining the cafeterias (exclusive of the costs of housing and equipping cafeterias or other costs determined by Board resolution, which are paid from district funds other than the cafeteria fund, pursuant to Education Code 38100).

Meal prices, as recommended by the Superintendent or designee and approved by the Board, shall be based on the costs of providing food services and consistent with Education Code 38084 and 42 USC 1760.

CSBA NOTE: Pursuant to USDA Memorandum SP 46-2016, districts participating in the National School Lunch and/or Breakfast Program are mandated to have a written and clearly communicated meal charge policy. See the accompanying administrative regulation for additional language fulfilling this mandate.

The Superintendent or designee shall establish strategies and procedures for the collection of meal payments. Such procedures shall conform with 2 CFR 200.426 and any applicable CDE guidance. The Superintendent or designee shall clearly communicate these procedures to students and parents/guardians, and shall make this policy and the accompanying administrative regulation available to the public pursuant to Education Code 49557.5.

Cafeteria Fund and Account

CSBA NOTE: Pursuant to Education Code 38090, money received for the sale of food or for any services performed by the cafeterias may be paid into the county treasury to the credit of a "cafeteria fund" for the district. The Superintendent or designee shall establish a cafeteria fund independent of the district's general fund.

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. 2 CFR Part 200, Appendix VII and USDA's guidance, "Indirect Costs: Guidance for State Agencies and School Food Authorities," provide information regarding allowable indirect costs that may be charged to the nonprofit school food service account. Also see the accompanying administrative regulation.

The Superintendent or designee shall ensure that state and federal funds provided through school meal programs are allocated only for purposes related to the operation or improvement of food services and for reasonable and necessary indirect program costs as allowed by law.

CSBA NOTE: Education Code 38103 allows the Board, at its discretion and with the approval of the County Superintendent of Schools who is responsible for a countywide payroll/retirement system under Education Code 42646, to have wages, salaries, and benefits of food service employees paid either from the district's general fund (Option 1 below) or from the district's cafeteria fund (Option 2).

OPTION 1: The wages, salaries, and benefits of food service employees shall be paid from the district's general fund. At any time, the Board may order reimbursement from the district's cafeteria fund for these payments in amounts prescribed by the Board and not exceeding the costs actually incurred. (Education Code 38103)

OPTION 1 ENDS HERE

OPTION 2: The wages, salaries, and benefits of food service employees shall be paid from the cafeteria fund. (Education Code 38103)

OPTION 2 ENDS HERE

Contracts with Outside Services

CSBA NOTE: The following section is optional. Pursuant to Education Code 45103.5, the district is authorized to contract for consulting services related to food service management. Education Code 45103.5, 42 USC 1758, and 7

CFR 210.16 authorize a district, under specified conditions, and with approval of CDE, to contract with a food service management company to manage food service operations in any district school. See the accompanying administrative regulation for related requirements.

With Board approval, the district may enter into a contract for food service consulting services or management services in one or more district schools. (Education Code 45103.5; 42 USC 1758; 7 CFR 210.16)

Procurement of Foods, Equipment and Supplies

CSBA NOTE: The following two paragraphs reflect requirements for districts participating in the National School Lunch and/or Breakfast Program. Pursuant to 7 CFR 210.21, districts are required to comply with all requirements for purchasing commercial food products served in the school meal programs, including those outlined in the Buy American provision. USDA's Memorandum SP 38-2017 clarifies that a district participating in the National School Lunch and/or Breakfast Program or any entity purchasing food on its behalf must, to the maximum extent practicable, purchase domestically grown and processed foods, as defined. According to the Memorandum, a domestic commodity or product is deemed to be "substantially using" domestic agricultural commodities when over 51 percent of the final processed product consists of agricultural commodities produced in the United States.

Limited exceptions to the Buy American requirement are described in USDA's Memorandum SP 38-2017. If the district is using one of these exceptions, it must maintain documentation justifying the exception(s).

Pursuant to Education Code 49563, CDE is required to make resources, requirements, and best practices related to the Buy American provision available on its web site and to provide districts with related USDA guidance or regulations as updates are issued.

To the maximum extent practicable, foods purchased for use in school meals by the district or by any entity purchasing food on its behalf shall be domestic commodities or products. Domestic commodity or product means an agricultural commodity that is produced in the United States and a food product that is processed in the United States substantially using agricultural commodities that are produced in the United States. (42 USC 1760; 7 CFR 210.21)

A nondomestic food product may be purchased for use in the district's food service program only as a last resort when the product is not produced or manufactured in the United States in sufficient and reasonably available quantities of a satisfactory quality, or when competitive bids reveal the costs of a United States product are significantly higher than the nondomestic product. In such cases, the Superintendent or designee shall retain documentation justifying the use of the exception.

Furthermore, the district shall accept a bid or price for an agricultural product grown in California before accepting a bid or price for an agricultural product grown outside the state, if the quality of the California-grown product is comparable and the bid or price does not exceed the lowest bid or price of a product produced outside the state. (Food and Agriculture Code 58595)

CSBA NOTE: Pursuant to Public Contract Code 20111, districts participating in a federally funded child nutrition program, such as the National School Lunch and/or Breakfast Program, must comply with the federal procurement standards of 2 CFR 200.318-200.326 in regard to bid solicitations and awards. Also see BP/AR 3230 - Federal Grant Funds. Districts that do not participate in such a program may revise the following paragraph.

Bid solicitations and awards for purchases of equipment, materials, or supplies in support of the district's child nutrition program, or for contracts awarded pursuant to Public Contract Code 2000, shall be consistent with the federal procurement standards in 2 CFR 200.318-200.326. Awards shall be let to the most responsive and responsible party. Price shall be the primary consideration, but not the only determining factor, in making such an award. (Public Contract Code 20111)

Program Monitoring and Evaluation

The Superintendent or designee shall present to the Board, at least annually, financial reports regarding revenues and expenditures related to the food service program.

CSBA NOTE: The following paragraph is for use by districts that have one or more schools participating in the National School Lunch Program, School Breakfast Program, Seamless Summer Feeding Option, and/or other federal meal program. The state monitoring process (the Administrative Review) includes a review of district compliance with requirements for federal meal programs, including a review of resource management in the food service program as provided in the following paragraph. The CDE performs an Administrative Review of participating

districts every three years. See CDE's nutrition services web site for a current list of documents that may be requested for the review.

The Superintendent or designee shall provide all necessary documentation required for the Administrative Review conducted by CDE to ensure compliance of the district's food service program with federal requirements.

Policy Reference Disclaimer. These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

	Description
5 CCR 15550-15565	School lunch and breakfast programs
Ed. Code 38080-38086	School meals
Ed. Code 38090-38095	Cafeterias, funds and accounts
Ed. Code 38100-38103	Cafeterias, allocation of charges
Ed. Code 42646	Alternate payroll procedure
Ed. Code 45103.5	Contracts for management consulting services; restrictions
Ed. Code 49490-49493	School breakfast and lunch programs
Ed. Code 49500-49505	School meals
Ed. Code 49550-49564.5	Meals for needy students
Ed. Code 49554	Contract for services
Ed. Code 49580-49581	Food recovery program
F&A Code 58595	Preference for California-grown agricultural products
H&S Code 113700-114437	California Retail Food Code; sanitation and safety requirements
Pub. Cont. Code 2000-2002	Responsive bidders
Pub. Cont. Code 20111	Contracts over \$50,000; contracts for construction; award to lowest responsible bidder

Federal References

	Description
2 CFR 200	Appendix VII Indirect cost proposals
2 CFR 200.318-200.326	Procurement standards
2 CFR 200.400-200.475	Cost principles
2 CFR 200.56	Indirect costs, definition
42 USC 1751-1769j	School Lunch Program
42 USC 1771-1793	Child nutrition
42 USC 1773	School Breakfast Program
7 CFR 210.1-210.31	National School Lunch Program
7 CFR 210.1-210.33	National School Lunch Program
7 CFR 220.1-220.21	National School Breakfast Program
7 CFR 220.1-220.22	National School Breakfast Program
7 CFR 245.8	Nondiscrimination practices for students eligible for free and reduced price meal and free milk
7 CFR 250.1-250.70	USDA foods

Management Resources References

	Description
CA Department of Education Publication	California School Accounting Manual

California Department of Education Publication	Pricing of Adult Meals in the National School Lunch and School Breakfast Programs, NSD Management Bulletin, SNP-04-2021, August 2021
California Department of Education Publication	Procuring and Monitoring of Food Service Management Contracts, NSD Management Bulletin, SNP-13-2015, January 2015
California Department of Education Publication	Cafeteria Funds--Allowable Uses, NSD Management Bulletin, NSD-SNP-05-2020, February 2020
California Department of Education Publication	Food Distribution Program Administrative Manual
California Department of Education Publication	Storage and Inventory Management of U.S. Department of Agriculture Foods, NSD Management Bulletin, FDP-01-2018, January 2018
U.S. Department of Agriculture Publication	Indirect Costs: Guidance for State Agencies and School Food Authorities SP 60-2016, September 2016
U.S. Department of Agriculture Publication	Compliance with and Enforcement of the Buy American Provision in the National School Lunch Program, SP-38-2017, June 2017
U.S. Department of Agriculture Publication	Discretionary Elimination of Reduced Price Charges in the School Meal Programs, SP 17-2014, January 2014
U.S. Department of Agriculture Publication	Unpaid Meal Charges: Local Meal Charge Policies, SP-46-2016, July 2016
U.S. Dept of Agriculture Publication	School Meals - FAQs
Website	U.S. Department of Agriculture, Food and Nutrition Service - https://simbli.eboardsolutions.com/SU/Wry6HD6BSTBkfn7BqplusR7BQ==
Website	California Department of Education, Nutrition Services Division - https://simbli.eboardsolutions.com/SU/O5xpn2rIFL2uz0BslshlorGXQ==
Website	California School Nutrition Association - https://simbli.eboardsolutions.com/SU/KnWOpY7WknrOcdh5fJ85OQ==

Cross References

Description

0410	Nondiscrimination In District Programs And Activities - https://simbli.eboardsolutions.com/SU/rplusplusaBQeAF4bUpZiBFBO9dQ==
1113	District And School Web Sites - https://simbli.eboardsolutions.com/SU/tuHL5jVCCjlcBx3Rl3Hfw==
1113	District And School Web Sites - https://simbli.eboardsolutions.com/SU/ZFoW4ZKHcT3nfqlXRlR1fw==
1113-E(1)	District And School Web Sites - https://simbli.eboardsolutions.com/SU/i5TLslsh83D1nplusoytHTIsM6ew==
1340	Access To District Records - https://simbli.eboardsolutions.com/SU/xf1Aslsbslsh7GO4WA2Z2wFHc4ng==
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3100	Budget- https://simbli.eboardsolutions.com/SU/jyvplusBDTDZP2PfaNjtUb1FQ==
3100	Budget- https://simbli.eboardsolutions.com/SU/msAckulxvwNnuplus45O6T7slshw==
3110	Transfer Of Funds - https://simbli.eboardsolutions.com/SU/g7jG6Z2VGWY4vyMKAjslshXplusA==
3230	Federal Grant Funds - https://simbli.eboardsolutions.com/SU/OVH379RjCOa1aO711IEHYg==
3230	Federal Grant Funds - https://simbli.eboardsolutions.com/SU/pHfysr2KHcXTIDFyCkoN8w==
3260	Fees And Charges - https://simbli.eboardsolutions.com/SU/46smJEFyHQTgoxbzQIEJJA==

3260 Fees And Charges -
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3300 Expenditures And Purchases -
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3311 Bids -
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3311 Bids - <https://simbli.eboardsolutions.com/SU/ry0hLbZ8DRvRct6kukvHHA==>

3312 Contracts -
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3314.2 Revolving Funds -
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3400 Management Of District Assets/Accounts -
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3400 Management Of District Assets/Accounts -
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3460 Financial Reports And Accountability -
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3460 Financial Reports And Accountability -
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3510 Green School Operations -
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3511 Energy And Water Management -
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3512 Equipment -
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3512-E PDF(1) Equipment -
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3515.6 Criminal Background Checks For Contractors -
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3550 Food Service/Child Nutrition Program -
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3550 Food Service/Child Nutrition Program -
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3552 Summer Meal Program -
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3552 Summer Meal Program -
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3553 Free And Reduced Price Meals -
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3553 Free And Reduced Price Meals -
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3554 Other Food Sales -
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4212	Appointment And Conditions Of Employment - https://simbli.eboardsolutions.com/SU/lxFxNaSMhpQBwsNQbauBLA==
4212.4	Health Examinations - https://simbli.eboardsolutions.com/SU/RQiwSkZICOmKqEEHCuYAlA==
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4312.4	Health Examinations - https://simbli.eboardsolutions.com/SU/obiSk8rTaSgKJ7TuV2j8Xw==
4331	Staff Development - https://simbli.eboardsolutioos.com/SU/3B11BFF9slshf2AlolsFw7ag==
5030	Student Wellness - https://simbli.eboardsolutioos.com/SU/CvzKiloplusCH4n5fplusjpluslBljA==
5145.6	Parental Notifications - https://simbli.eboardsolutioos.com/SU/SuvNxJtlUJ0Xfallui15AA==
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Regulation 3551: Food Service Operations/Cafeteria Fund

Status: ADOPTED

Original Adopted Date: 06/01/2022 | Last Reviewed Date: 06/01/2022

CSBA NOTE: With the establishment of the California Universal Meal Program pursuant to Education Code 49501.5, as added by AB 130 (Ch. 44, Statutes of 2021), all public schools in California must provide free of charge, a nutritionally adequate breakfast and lunch to any student who requests a meal, regardless of the student's free or reduced-price meal eligibility status. To receive state reimbursement for the two meals, districts must participate in both the National School Lunch Program and the School Breakfast Program and comply with the requirement to have a written and clearly communicated meal charge policy as mandated pursuant to U.S. Department of Agriculture's (USDA) Memorandum SP 46-2016. However, some requirements of the National School Lunch Program and/or School Breakfast Program are no longer applicable.

Payments for Meals

The Superintendent or designee shall maintain a system for accurately recording payments received and tracking meals provided to each student.

At the beginning of the school year, the Superintendent or designee shall communicate the district's meal payment policies through multiple methods, including, but not limited to:

1. Explaining the meal charge policy within registration materials provided to parents/guardians at the start of the school year
2. Including the policy in print versions of student handbooks, if provided to parents/guardians annually
3. Providing the policy whenever parents/guardians are notified regarding the application process for free and reduced-price meals, such as in the distribution of eligibility forms at the start of the school year
4. Posting the policy on the district's web site

Reimbursement Claims

CSBA NOTE: To streamline administration of state and federal meal programs, the California Department of Education (COE) has developed an online Child Nutrition Information and Payment System which must be used to submit reimbursement claims and to submit and track the status of applications and USDA food requests.

The Superintendent or designee shall maintain records of the number of meals served each day by school site and by category of free and reduced-price meals. The Superintendent or designee shall submit reimbursement claims for school meals to the California Department of Education (COE) using the online Child Nutrition Information and Payment System.

Donation of Leftover Food

To minimize waste and reduce food insecurity, the district may provide sharing tables where students and staff may return appropriate unused cafeteria food items to be made available to students during the course of a regular school meal time. If food on the sharing tables is not taken by a student, the school cafeteria may donate the food to a food bank or any other nonprofit charitable organization. (Health and Safety Code 114079)

Food that may be donated includes prepackaged, nonpotentially hazardous food with the packaging still intact and in good condition, whole uncut produce that complies with Health and Safety Code 113992, unopened bags of sliced fruit, unopened containers of milk that are immediately stored in a cooling bin maintained at 41 degrees Fahrenheit or below, and perishable prepackaged food if it is placed in a proper temperature-controlled environment. The preparation, safety, and donation of food shall be consistent with Health and Safety Code 113980. (Health and Safety Code 114079)

Cafeteria Fund and Account

CSBA NOTE: Education Code 38093 authorizes the Governing Board to establish one or more cafeteria revolving accounts to be treated as revolving cash accounts of the cafeteria fund.

All proceeds from food sales and other services offered by the cafeteria shall be deposited in the cafeteria fund as provided by law. (Education Code 38090, 38093)

CSBA NOTE: Education Code 38101 permits a district, with approval from CDE, to utilize cafeteria funds to pay for the purchase of a mobile food facility. However, if the district uses federal reimbursements from any of the federal child nutrition programs for such purchase, the mobile food facility shall only be used to support the administration of those federal programs. Mobile food facilities used for any purposes other than to support the administration of federal child nutrition programs shall not be purchased with cafeteria funds.

The cafeteria fund shall be used only for those expenditures authorized by the Governing Board as necessary for the operation of school cafeterias in accordance with Education Code 38100-38103, 2 CFR Part 200 Appendix VII, and the California School Accounting Manual.

CSBA NOTE: The following paragraph is optional. By law, cafeteria funds may be used for the operation and improvement of school food services. For example, pursuant to Education Code 49550.5, districts may use cafeteria funds to supplement the cost of providing universal breakfast provided they submit the required certification to CDE.

The district may use cafeteria funds to supplement the provision of a nutritionally adequate breakfast and/or lunch to district students when permitted by law.

Any charges to, or transfers from, a food service program shall be dated and accompanied by a written explanation of the purpose of and basis for the expenditure. (Education Code 38101)

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. 2 CFR Part 200 Appendix VII and USDA's guidance, "SP 60-2016, Indirect Costs: Guidance for State Agencies and School Food Authorities," provide information regarding allowable indirect costs that may be charged to the nonprofit school food service account. Indirect costs are those that are incurred for the benefit of multiple programs or objectives and typically support administrative overhead functions (e.g., accounting, payroll, purchasing, utilities, janitorial services). Each program or objective that benefits from the indirect cost bears a commensurate portion of the cost. Costs may be charged to the nonprofit food service account only if properly documented.

Indirect costs charged to the food service program shall be based on either the district's prior year indirect cost rate as approved by CDE or the statewide average approved indirect cost rate for the second prior fiscal year, whichever is less. (Education Code 38101)

CSBA NOTE: Pursuant to 7 CFR 210.14 and 220.7, net cash resources (i.e., all monies that have accrued to the nonprofit school food service at any given time, less cash payable) should not exceed three months' average expenditures. If there is a surplus, then according to USDA's guidance, "Indirect Costs: Guidance for State Agencies and School Food Authorities," the district must lower the price of paid lunches, improve food quality, or make other improvements to school meal operations. CDE's Nutrition Services Division Management Bulletin NSD-SNP-07-2013 provides that CDE may approve a district's net cash resources in an amount greater than three months' average expenditures if the district has a spending plan for the excess funds in place with the Nutrition Services Division.

Net cash resources in the nonprofit school food service shall not exceed three months' average expenditures. (7 CFR 210.14, 220.7)

U.S. Department of Agriculture Foods

CSBA NOTE: The following optional section is for use by districts that participate in the National School Lunch Program and receive foods from USDA pursuant to 42 USC 1755 and 7 CFR 250.1-250.70. CDE is responsible for ordering and distributing USDA foods for use in California schools.

The district shall provide facilities for the storage and control of foods received through the U.S. Department of Agriculture (USDA) that protect against theft, spoilage, damage, or other loss. Such storage facilities shall maintain donated foods in sanitary conditions, at the proper temperature and humidity, and with adequate air circulation. The district shall comply with all federal, state, or local requirements related to food safety and health and procedures for responding to a food recall, as applicable, and shall obtain all required health inspections. (7 CFR 250.14)

The Superintendent or designee shall maintain inventories of USDA foods in accordance with 7 CFR 250.59 and CDE procedures, and shall ensure that foods are used before their expiration dates.

USDA donated foods shall be used in school lunches as far as practicable. USDA foods also may be used in other nonprofit food service activities, including, but not limited to, school breakfasts or other meals, a la carte foods sold to students, meals served to adults directly involved in the operation and administration of the food service and to other school staff, and training in nutrition, health, food service, or general home economics instruction for students, provided that any revenues from such activities accrue to the district's nonprofit food service account. (7 CFR

250.59)

Contracts with Outside Services

CSBA NOTE: The following optional section is for use by districts that contract for food service management services pursuant to Education Code 49554, 42 USC 1758, or 7 CFR 210.16 or consulting services pursuant to Education Code 45103.5, and should be modified to reflect the type(s) of contracts the district maintains; see the accompanying Board policy.

The term of any contract for food service management or consulting services shall not exceed one year. Any renewal of the contract or further requests for proposals to provide such services shall be considered on a year-to-year basis. (Education Code 45103.5; 7 CFR 210.16)

Any contract for management of the food service operation shall be approved by CDE and comply with the conditions in Education Code 49554 and 7 CFR 210.16 as applicable. The district shall retain control of the quality, extent, and general nature of its food services. (Education Code 49554; 42 USC 1758; 7 CFR 210.16)

Any contract for consulting services shall not result in the supervision of food service classified staff by the management consultant, nor shall it result in the elimination of any food service classified staff or position or have any adverse effect on the wages, benefits, or other terms and conditions of employment of classified food service staff or positions. All persons providing consulting services shall be subject to applicable employment conditions related to health and safety as listed in Education Code 45103.5. (Education Code 45103.5)

Policy Reference Disclaimer. These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

	Description
5 CCR 15550-15565	School lunch and breakfast programs
Ed. Code 38080-38086	School meals
Ed. Code 38090-38095	Cafeterias, funds and accounts
Ed. Code 38100-38103	Cafeterias, allocation of charges
Ed. Code 42646	Alternate payroll procedure
Ed. Code 45103.5	Contracts for management consulting services; restrictions
Ed. Code 49490-49493	School breakfast and lunch programs
Ed. Code 49500-49505	School meals
Ed. Code 49550-49564.5	Meals for needy students
Ed. Code 49554	Contract for services
Ed. Code 49580-49581	Food recovery program
F&A Code 58595	Preference for California-grown agricultural products
H&S Code 113700-114437	California Retail Food Code; sanitation and safety requirements
Pub. Cont. Code 2000-2002	Responsive bidders
Pub. Cont. Code 20111	Contracts over \$50,000; contracts for construction; award to lowest responsible bidder

Federal References

	Description
2 CFR 200	Appendix VII Indirect cost proposals
2 CFR 200.318-200.326	Procurement standards
2 CFR 200.400-200.475	Cost principles
2 CFR 200.56	Indirect costs, definition
42 USC 1751-1769j	School Lunch Program

42 USC 1771-1793	Child nutrition
42 USC 1773	School Breakfast Program
7 CFR 210.1-210.31	National School Lunch Program
7 CFR 210.1-210.33	National School Lunch Program
7 CFR 220.1-220.21	National School Breakfast Program
7 CFR 220.1-220.22	National School Breakfast Program
7 CFR 245.8	Nondiscrimination practices for students eligible for free and reduced price meal and free milk
7 CFR 250.1-250.70	USDA foods

Management Resources References

	Description
CA Department of Education Publication	California School Accounting Manual
California Department of Education Publication	Pricing of Adult Meals in the National School Lunch and School Breakfast Programs, NSD Management Bulletin, SNP-04-2021, August 2021
California Department of Education Publication	Procuring and Monitoring of Food Service Management Contracts, NSD Management Bulletin, SNP-13-2015, January 2015
California Department of Education Publication	Cafeteria Funds--Allowable Uses, NSD Management Bulletin, NSD-SNP-05-2020, February 2020
California Department of Education Publication	Food Distribution Program Administrative Manual
California Department of Education Publication	Storage and Inventory Management of U.S. Department of Agriculture Foods, NSD Management Bulletin, FDP-01-2018, January 2018
U.S. Department of Agriculture Publication	Indirect Costs: Guidance for State Agencies and School Food Authorities SP 60-2016, September 2016
U.S. Department of Agriculture Publication	Compliance with and Enforcement of the Buy American Provision in the National School Lunch Program, SP-38-2017, June 2017
U.S. Department of Agriculture Publication	Discretionary Elimination of Reduced Price Charges in the School Meal Programs, SP 17-2014, January 2014
U.S. Department of Agriculture Publication	Unpaid Meal Charges: Local Meal Charge Policies, SP-46-2016, July 2016
U.S. Dept of Agriculture Publication	School Meals - FAQs
Website	U.S. Department of Agriculture, Food and Nutrition Service - https://simbli.eboardsolutions.com/SU/Wry6HD6BSTBkfn7BqplusR7BO
Website	California Department of Education, Nutrition Services Division - https://simbli.eboardsolutions.com/SU/O5xpo2rIEl2uz0BslshlorGXQ
Website	California School Nutrition Association - https://simbli.eboardsolutions.com/SU/KnWOpY7WknrOcdh5fJ85OQ

Cross References

	Description
0410	Nondiscrimination In District Programs And Activities - https://simbli.eboardsolutions.com/SU/rplusplusaBQeAE4bUpZiBFBO9dQ
1113	District And School Web Sites - https://simbli.eboardsolutions.com/SU/tuHLSjVCCjJcBx3RI3Hfw
1113	District And School Web Sites - https://simbli.eboardsolutions.com/SU/ZFoW4ZKHcT3nfqLxRIR1fw
1113-E(1)	District And School Web Sites - https://simbli.eboardsolutions.com/SU/iSILslsh83D1nplusoytHTIsM6ew
1340	Access To District Records - https://simbli.eboardsolutions.com/SU/xf1Aslshslsh7GO4WA2Z2wFHc4ng
1340	Access To District Records - https://simbli.eboardsolutions.com/SU/gcCBzokrV11ucd9EFStBmOQ

3100	Budget- https://simbli.eboardsolutions.com/SU/jyvplusBDTDZP2PfaNjUb1.FQ==
3100	Budget- https://simbli.eboardsolutions.com/SU/msAckulxvwNnuplus45O6T7slsbw==
3110	Transfer Of Funds - https://simbli.eboardsolutions.com/SU/g7jG6Z2VGWY4vyMKAjshXplusA==
3230	Federal Grant Funds - https://simbli.eboardsolutions.com/SU/OVH379RjCOa1aO711IEHYg==
3230	Federal Grant Funds - https://simbli.eboardsolutions.com/SU/pHfysr2KHcXTIDFyCkoN8w==
3260	Fees And Charges - https://simbli.eboardsolutions.com/SU/46smJEFyHOTgoxbzQIEJJA==
3260	Fees And Charges - https://simbli.eboardsolutions.com/SU/FeWbTzBdYgA9xdZd3xUExA==
3300	Expenditures And Purchases - https://simbli.eboardsolutions.com/SU/mVe0OYRtN4WLxpjXZCEPuQ==
3311	Bids - https://simbli.eboardsolutions.com/SU/HcK7HUZFN9Aj9DplusJHCDH4Q==
3311	Bids - https://simbli.eboardsolutions.com/SU/ry0hLBz8DRvRct6kukvHHA==
3312	Contracts - https://simbli.eboardsolutions.com/SU/fXvC3hMz5b6WCslsh8VCWplus8OQ==
3314.2	Revolving Funds - https://simbli.eboardsolutions.com/SU/JsIsbEYCCuajlw6avqMYfuJug==
3400	Management Of District Assets/Accounts - https://simbli.eboardsolutions.com/SU/qOg2Os0VtgXvS1coVhS0Pg==
3400	Management Of District Assets/Accounts - https://simbli.eboardsolutions.com/SU/EEPE8KLEmi83u81NRq4qNw==
3460	Financial Reports And Accountability - https://simbli.eboardsolutions.com/SU/0csifafQslsbei8bwlwWEsitQ==
3460	Financial Reports And Accountability - https://simbli.eboardsolutions.com/SU/IP5i9D5BpfgONQjUrXYkrQ==
3510	Green School Operations - https://simbli.eboardsolutions.com/SU/KOGKzAB8i2S6wgjLPPfUw==
3511	Energy And Water Management- https://simbli.eboardsolutions.com/SU/6U4LYM8ognqwmrbp8zWccQ==
3511	Energy And Water Management - https://simbli.eboardsolutions.com/SU/iAnvY3u49coMifpxvKeARg==
3512	Equipment - https://simbli.eboardsolutions.com/SU/eZslshZHMnYpluscHnfpO2vztUslshg==
3512-E PDF(1)	Equipment - https://simbli.eboardsolutions.com/SU/vT6eQv7UTk91kiR0gVplusiBg==
3515.6	Criminal Background Checks For Contractors - https://simbli.eboardsolutions.com/SU/geomrY9Sslshaklhn9Zl2plusQbA==
3550	Food Service/Child Nutrition Program - https://simbli.eboardsolutions.com/SU/08qN2JplusCipasRtU7nbplus2qg==
3550	Food Service/Child Nutrition Program - https://simbli.eboardsolutions.com/SU/Qo9sz5aT68knWPk2vi8Djg==
3552	Summer Meal Program - https://simbli.eboardsolutions.com/SU/wzUihV3gK9PplusFxGH4lt0Ew==
3552	Summer Meal Program - https://simbli.eboardsolutions.com/SU/byXci7oy4EQvJziZSatkag==

3553	Free And Reduced Price Meals - https://simbli.eboardsolutioos.com/SU/V07PII5plus2xHEiLURmRHYzQ==
3553	Free And Reduced Price Meals - https://simbli.eboardsolutioos.com/SU/0Q5co4sXK4An7L2TouWocg==
3554	Other Food Sales - https://simbli.eboardsolutioos.com/SU/XA2ZvkzJLpluswEugplusbBS11Yw==
3554	Other Food Sales - https://simbli.eboardsolutioos.com/SU/npluzsuymEvcWm0UlgSnn61aQ==
3555	Nutrition Program Compliance - https://simbli.eboardsolutions.com/SU/XKe0wQEvO2cheo7acl3BFA==
3555-E PDF(1)	Nutrition Program Compliance - https://simbli.eboardsolutioos.com/SU/ukhuacwucDP1t5CkuDdS3w==
3580	District Records - https://simbli.eboardsolutions.com/SU/8fsDl9HykDCItBSvVLEIIA==
3580	District Records - https://simbli.eboardsolutioos.com/SU/gX132ogfrNaLpqF5dbh66Q==
4112.4	Health Examinations - https://simbli.eboardsolutions.com/SU/slMLslshxU2YOPYoMMU2U7w==
4212	Appointment And Conditions Of Employment - https://simbli.eboardsolutioos.com/SU/lxFxNaSMhpQBwsNQbauBLA==
4212.4	Health Examinations - https://simbli.eboardsolutions.com/SU/RQiwSkZIComkqEEHCuVAIA==
4231	Staff Development - https://simbli.eboardsolutioos.com/SU/FAuFrJnlbcVy3kgsTslshNU6g==
4312.4	Health Examinations - https://simbli.eboardsolutions.com/SU/obiSk8rTaSgKl7TuV2j8Xw==
4331	Staff Development - https://simbli.eboardsolutioos.com/SU/3BIIBEE2sIsbf2AlollsFw7ag==
5030	Student Wellness - https://simbli.eboardsolutions.com/SU/CvzKiloplusCH4n5fplusjplusl81jA==
5145.6	Parental Notifications - https://simbli.eboardsolutioos.com/SU/SuvNxJtlUJ0XfallLui15AA==
5145.6-E PDF(1)	Parental Notifications - https://simbli.eboardsolutioos.com/SU/3aQzL6ew2HsIsblwslsb02DIEyMg==

Policy 3553: Free And Reduced Price Meals

Status: ADOPTED

Original Adopted Date: 06/01/2022 | Last Reviewed Date: 06/01/2022

CSBA NOTE: In addition to the requirement, pursuant to Education Code 49550, that all districts provide at least one nutritionally adequate meal during each school day to needy students, as defined in Education Code 49552, commencing June 1, 2022, all districts are required pursuant to Education Code 49501.5, as added by AB 130 (Ch. 44, Statutes of 2021), to provide a free, nutritionally adequate breakfast and lunch each school day, to any student who requests a meal, regardless of the student's free or reduced-price meal eligibility. To be eligible for state reimbursement for provision of meals under Education Code 49501.5, a district must participate in the National School Lunch and/or School Breakfast Programs. Consequently, the federal rules and regulations governing those programs are applicable to districts that may want to seek state reimbursement for the cost of meals required pursuant to Education Code 49501.5.

Pursuant to 42 USC 1758 and 1773, districts that participate in the National School Lunch and/or Breakfast Program (42 USC 1751-1769j, 1773) may receive a higher reimbursement rate for free and reduced-price meals than that provided for meals for noneligible students. In addition, state funding may be available through the State Breakfast and Lunch Program (Education Code 49490-49494). The district may apply to the California Department of Education (CDE) for available state and federal funds.

The requirement to provide at least one nutritionally adequate meal to needy students applies during summer school sessions unless the district receives a waiver from the State Board of Education (SBE) under the conditions described in Education Code 49548. In order to receive a waiver, the district is required to submit a waiver request no later than 60 days before the last regular meeting of the SBE before the start of the summer school session for which the waiver is sought. Funding to support the provision of summer school meals is available through the Seamless Summer Feeding Option and/or Summer Food Service Program (Education Code 49547.5; 42 USC 1761); see BP/AR 3552 - Summer Meal Program.

Student eligibility for free and reduced-price meals serves as the basis for identifying students as low income for a variety of purposes, including, but not limited to, state allocations of supplemental and concentration funding within the local control funding formula. Districts must use such funding to increase or improve services for low-income students and other populations of "unduplicated students" (see BP/AR 3100 - Budget) and must establish goals and specific actions for low-income students in the local control and accountability plan (see BP/AR 0460 - Local Control and Accountability Plan).

The following policy is mandated for any district that authorizes employee access to students' free and reduced-price meal eligibility information for the disaggregation of academic achievement data and other specified purposes; see section "Confidentiality/Release of Records" below.

The Governing Board recognizes that adequate nutrition is essential to the development, health and well-being, and learning of all students. The Superintendent or designee shall facilitate and encourage the participation of all students in the district's food service program.

Each school day, the district shall provide, free of charge, a nutritionally adequate breakfast and lunch for any student who requests a meal. (Education Code 49501.5)

CSBA NOTE: Education Code 49564.3, as added by AB 130, requires districts with a "high poverty school," defined as a school that is eligible to operate the Community Eligibility Provision (CEP) pursuant to 42 USC 1759a, to adopt a universal meal service provision such as the CEP or Provision 2 no later than June 30, 2022.

To provide optimal nutrition and ensure that schools receive maximum federal meal reimbursement, the Superintendent or designee shall assess the eligibility of district schools to operate a federal universal meal service provision, such as Provision 2 or the Community Eligibility Provision, pursuant to 42 USC 1759a. The Superintendent or designee shall submit an application to operate a federal universal meal provision to the California Department of Education (CDE) on behalf of any district school that meets the definition of a "high poverty school." (Education Code 49564.3)

CSBA NOTE: In order to be reimbursed for the California Universal Meal Program established pursuant to Education Code 49501.5, as added by AB 130, or for free and reduced-price meals under the federal National School Lunch or School Breakfast Program, a school must meet state and/or federal nutritional guidelines in Education Code 49430 and 49430.7 and 7 CFR 210.10 and 220.8, as described in AR 3550 - Food Service/Child Nutrition Program.

The Superintendent or designee shall ensure that meals served under the school nutrition program meet applicable state and/or federal nutritional standards in accordance with law, Board policy, and administrative regulation.

CSBA NOTE: Education Code 49557 requires the district to develop a plan ensuring that students eligible to receive free and reduced-price meals are not treated differently in the implementation of the food services program. See the accompanying administrative regulation for plan requirements.

The Board shall approve, and shall submit to CDE for approval, a plan that ensures that students eligible to receive free or reduced-price meals are not treated differently from other students and that meets other requirements specified in Education Code 49557.

Confidentiality/Release of Records

All applications and records related to eligibility for the free and reduced-price meal program shall be confidential and may not be disclosed except as provided by law and authorized by the Board or pursuant to a court order. (Education Code 49558)

CSBA NOTE: The remainder of this section should be revised to reflect the purposes for sharing free and reduced-price eligibility information that are authorized by the Board. Districts wishing to use free and reduced-price meal records for the following purposes are mandated by Education Code 49558 to adopt a policy authorizing employee access. See the accompanying administrative regulation for additional requirements applicable to districts that authorize such access.

The Board authorizes designated employees to use records pertaining to an individual student's eligibility for the free and reduced-price meal program for the following purposes: (Education Code 49558)

1. Disaggregation of academic achievement data

CSBA NOTE: Education Code 49558 allows districts to use the name and eligibility status of students participating in the free and reduced-price meal program to identify students eligible for school choice and supplemental educational services (SES) in Title I schools identified for program improvement. However, the Every Student Succeeds Act (P.L. 114-95) repealed 20 USC 6316 which had required the provision of student transfers and SES.

Although Education Code 49558 has not yet been amended to reflect the repeal of 20 USC 6316, CSBA believes that the use of free and reduced-price eligibility data would be necessary to implement Title I, Part A of the Elementary and Secondary Education Act, which provides financial assistance to meet the needs of students from low-income families, as well as other federal programs. The district should consult legal counsel if it has questions about the use of free and reduced-price meal information for these or other purposes.

2. Identification of students eligible for services under the federal Elementary and Secondary Education Act pursuant to 20 USC 6301-6576

CSBA NOTE: In its Management Bulletin SNP-02-2018, CDE clarified that designated school officials authorized to administer the free and reduced-price meal program may share the name and eligibility status of a student with other school officials within the district for purposes not directly related to the free and reduced-price meal program, such as to facilitate the provision of educational services and support to students who participate in the free and reduced-price meal program on a targeted basis rather than on a schoolwide or districtwide basis, in accordance with the local control accountability plan.

3. Facilitation of targeted educational services and supports to individual students based on the local control accountability plan

CSBA NOTE: According to CDE's Management Bulletin SNP-12-2015, Education Code 49558 does not prohibit the sharing of free and reduced-price meal application information to other districts/schools for the purpose of determining student eligibility. For this purpose, the district may provide only a student's name and eligibility status unless the applicant consents to the sharing of additional information.

If a student transfers from the district to another district, charter school, county office of education program, or private school, the Superintendent or designee may share the student's meal eligibility information to the other educational agency to assist that other educational agency in ensuring that the student continues to receive school meals.

The Superintendent or designee may release the name and eligibility status of a student participating in the free or reduced-price meal program to another school district, charter school, or county office of education that is serving a

student living in the same household for purposes related to program eligibility and data used in local control funding formula (LCFF) calculations. (Education Code 49558}

The Superintendent or designee may release the name and eligibility status of a student participating in the free or reduced-price meal program to the Superintendent of Public Instruction for purposes of determining allocations under the LCFF and for assessing accountability of that funding. (Education Code 49558}

The Superintendent or designee may release information on the school lunch program application to the local agency that determines eligibility for participation in the Medi-Cal program if the student has been approved for free meals or, if included in the agreement with the local agency, for reduced-price meals. The Superintendent or designee also may release information on the school lunch application to the local agency that determines eligibility for Cal Fresh or another nutrition assistance program authorized under 7 CFR 210.1 if the student has been approved for free or reduced-price meals. Information may be released for these purposes only if the student's parent/guardian consents to the sharing of information and the district has entered into a memorandum of understanding with the local agency which, at a minimum, includes the roles and responsibilities of the district and local agency and the process for sharing the information. After sharing information with the local agency for purposes of determining eligibility for that program, no further information shall be shared unless otherwise authorized by law. (Education Code 49557.2, 49557.3, 49558}

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

	Description
5 CCR 15510	Mandatory meals for needy students
5 CCR 15530-15535	Nutrition education
5 CCR 15550-15565	School lunch and breakfast programs
Ed. Code 48980	Parent/Guardian notifications
Ed. Code 49430-49434	Pupil Nutrition, Health, and Achievement Act of 2001
Ed. Code 49490-49494	School breakfast and lunch programs
Ed. Code 49500-49505	School meals
Ed. Code 49501.5	California Universal Meals Program
Ed. Code 49510-49520	Nutrition
Ed. Code 49530-49536	Child Nutrition Act
Ed. Code 49547-49548.3	Comprehensive nutrition services
Ed. Code 49550-49564.5	Meals for needy students
Ed. Code 49564.3	High-poverty schools; universal meal service

Federal References

	Description
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 6301-6576	Title I Improving the Academic Achievement of the Disadvantaged
42 USC 1751-1769j	School Lunch Program
42 USC 1771-1791	Child nutrition
42 USC 1773	School Breakfast Program
7 CFR 210.1-210.31	National School Lunch Program
7 CFR 220.10-220.21	National School Breakfast Program
7 CFR 245.1-245.13	Eligibility for free and reduced-price meals and free milk

Management Resources References

Description

California Department of Education Publication	Clarification on the Sharing of Individual Student Eligibility Information for Local Control and Accountability Plan Purposes, Management Bulletin SNP-02-2018, May 2018
CSBA Publication	Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide, 2012
CSBA Publication	Monitoring for Success: A Guide for Assessing and Strengthening Student Wellness Policies, rev. 2012
U.S. Department of Agriculture Publication	Provision 2 Guidance: National School Lunch and School Breakfast Programs, Summer 2002
U.S. Dept of Agriculture Publication	Eligibility Manual for School Meals: Determining and Verifying Eligibility, July 2017
Website	U.S. Department of Agriculture, Food and Nutrition Service - https://simbli.eboardsolutions.com/SU/Wry6HD6BSTBkfn7BqplusR7BO
Website	Nourish California - https://simbli.eboardsolutions.com/SU/5GeuYdUZHF4aLG3NFy4PTg
Website	California Project LEAN (Leaders Encouraging Activity and Nutrition) - https://simbli.eboardsolutioos.com/SU/lzuCbbhn3rBrfeZTSNnYCw
Website	California Department of Education, Nutrition Services Division - https://simbli.eboardsolutioos.com/SU/OSxpo2riEL2uz0BslsblorGXO
Website	CSBA- https://simbli.eboardsolutioos.com/SU/W3QxkK2EPsDQbnMIENxGg

Cross References

	Description
0200	Goals For The School District - https://simbli.eboardsolutions.com/SU/9j90oJApXGvO9isl11yD8g
0410	Nondiscrimination In District Programs And Activities - https://simbli.eboardsolutioos.com/SU/rplusplusaBOeAF4bUpZiBFBO9dQ
0460	Local Control And Accountability Plan - https://simbli.eboardsolutioos.com/SU/fwFbmazSQUOOAdIZDbzBBg
0460	Local Control And Accountability Plan - https://simbli.eboardsolutioos.com/SU/N8bGSx8fxAllgcLPIYKR9w
0470	COVID-19 Mitigation Plan - https://simbli.eboardsolutioos.com/SU/UonRXG6LPiZi7EgplusqAd8g
1340	Access To District Records - https://simbli.eboardsolutions.com/SU/xf1Aslshslsh7GO4WA2Z2wFHC4ng
1340	Access To District Records - https://simbli.eboardsolutions.com/SU/gcCBzekerYuucd9FFStBmOQ
1400	Relations Between Other Governmental Agencies And The Schools - https://simbli.eboardsolutioos.com/SU/vJHizKcTUNWljEFgnHx4CA
3100	Budget- https://simbli.eboardsolutions.com/SU/jyvplusBDTDZP2PfaNjtUb1FO
3100	Budget- https://simbli.eboardsolutioos.com/SU/msAckulxvwNnuplus4506T7slsbw
3250	Transportation Fees - https://simbli.eboardsolutions.com/SU/52vnhtEZtk37HQDb8atpZw
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3260	Fees And Charges - https://simbli.eboardsolutions.com/SU/46smJEFyHOTgoxbzQIEJJA
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3550	Food Service/Child Nutrition Program - https://simbli.eboardsolutions.com/SU/0BqN2JplusCipasRtU7nhplus2qg==
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3551	Food Service Operations/Cafeteria Fund - https://simbli.eboardsolutions.com/SU/aWC2AHy6NI.mMI.vqBaeqp7g==
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3552	Summer Meal Program - https://simbli.eboardsolutions.com/SU/wzUjhV3gk9PplusFvGH4It0Ew==
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3554	Other Food Sales - https://simbli.eboardsolutions.com/SU/XA2ZyvkJLpluswEugplusbBS1IVw==
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5030	Student Wellness - https://simbli.eboardsolutions.com/SU/CvzKilnplusCH4n5fplusjplusl8lJA==
5117	Interdistrict Attendance - https://simbli.eboardsolutions.com/SU/be8UrO5tYpPBjYfPslshJOslshgg==
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5141.6	School Health Services - https://simbli.eboardsolutions.com/SU/KxDBTjSkEdlUR2Gj3BFRPw==
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5145.3	Nondiscrimination/Harassment - https://simbli.eboardsolutions.com/SU/m3D8kgCbvt75xXsRw6Y27Q==
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6177	Summer Learning Programs - https://simbli.eboardsolutions.com/SU/ezqaj3pDRTAplus4B0SUJGzw==

Regulation 3553: Free And Reduced Price Meals

Status: ADOPTED

Original Adopted Date: 06/01/2022 | Last Reviewed Date: 06/01/2022

CSBA NOTE: In addition to the requirement pursuant to Education Code 49550, that all districts provide at least one nutritionally adequate meal during each school day to needy students, as defined in Education Code 49552, commencing June 1, 2022, all districts are required pursuant to Education Code 49501.5, as added by AB 130 (Ch. 44, Statutes of 2021), to provide a free, nutritionally adequate breakfast and lunch each school day to any student who requests a meal, regardless of the student's free or reduced-price meal eligibility. To be eligible for state reimbursement for provision of meals under Education Code 49501.5, a district must participate in the National School Lunch and/or School Breakfast Programs. Consequently, the federal rules and regulations governing those programs are applicable to districts that may want to seek state reimbursement for the cost of meals required pursuant to Education Code 49501.5.

The following administrative regulation is for use by all districts, regardless of whether they receive reimbursement for free and reduced-price meals through the National School Lunch and/or Breakfast Program (42 USC 1751-1769j, 1773) and/or the State Meal Program (Education Code 49490-49494).

Applications

CSBA NOTE: The California Department of Education's (CDE), "Universal Meals Program Questions and Answers," clarifies that districts participating in the National School Lunch and/or Breakfast Program must continue to collect meal applications, as meal counts for reimbursement purposes need to be claimed in accordance with the amount of free, reduced-price, and paid meals served.

The Superintendent or designee shall ensure that the district's application form for free and reduced-price meals and related materials include the statements specified in Education Code 49557 and 7 CFR 245.5. The district's application packet shall include the notifications and information listed in Education Code 49557.2.

The application form and related information shall be distributed in paper form to all parents/guardians at the beginning of each school year and shall be available to students at all times during the school day. (Education Code 48980, 49520; 42 USC 1758; 7 CFR 245.5)

CSBA NOTE: The following paragraph is optional. In addition to the paper application form described above, Education Code 49557 authorizes districts to make the application for free or reduced-price meals available online, provided that it complies with specified requirements.

In addition, the district application form for free and reduced price meals shall be available online. The online application form shall require completion of only those questions necessary for determining eligibility, contain clear instructions for families that are homeless or migrant, and comply with other requirements specified in Education Code 49557.

CSBA NOTE: According to the U.S. Department of Agriculture's (USDA), "Eligibility Manual for School Meals: Determining and Verifying Eligibility," households enrolling a new student after the start of the school year must also be provided an application and related materials.

An application form and related information shall also be provided whenever a new student is enrolled.

At the beginning of each school year, the Superintendent or designee shall send a public release, containing the same information supplied to parents/guardians and including eligibility criteria, to local media, the local unemployment office, and any major employers in the district attendance area contemplating large layoffs. Copies of the public release shall be made available upon request to any interested person. (7 CFR 245.5)

Eligibility

CSBA NOTE: Districts are responsible for determining students' eligibility for free and reduced-price meals in accordance with criteria established by CDE consistent with 42 USC 1758 and 1773 and 7 CFR 245.3. Family income levels that qualify for free or reduced-price meals, by household size, are annually posted on CDE's web site.

Pursuant to 42 USC 1769c, a district that has demonstrated a high level of, or a high risk for, administrative error may be required to implement a second-level, independent review of the eligibility determination for each application. Such districts also will be subject to additional CDE reporting requirements.

The Superintendent or designee shall determine students' eligibility for the free and reduced-price meal program based on the criteria specified in 42 USC 1758 and 1773 and 7 CFR 245.1-245.13 and made available by the

CSBA NOTE: In accordance with law, participants in certain state and federal programs are deemed to have met the income eligibility requirements of the free and reduced-price meal program and therefore may be directly certified as eligible without further action or additional application. For purpose of direct certification, districts may obtain data through the California Longitudinal Pupil Achievement Data System (CALPADS) or may enter into a local agreement with the county department of social or welfare services to match enrollment data.

Pursuant to 42 USC 1758 and 7 CFR 245.6, districts must directly certify for enrollment in the free and reduced-price meal program students who participate in the CalFresh program or California Work Opportunity and Responsibility to Kids (CalWORKs) program. 42 USC 1758 and 7 CFR 245.6 also authorize, but do not require, districts to directly certify any student who is homeless, migratory, a foster youth, or enrolled in a Head Start program. Education Code 49562, also requires districts to use participation data in the Medi-Cal program to directly certify students as eligible for free and reduced-price meals, beginning with participation data from the 2017-18 school year as provided by CDE.

Further information about direct certification and eligibility is available in the USDA's "Eligibility Guidance for School Meals Manual."

Pursuant to 42 USC 1759a, certain districts located in high poverty areas may be eligible to participate in alternative processes for annual determinations of student eligibility for free and reduced-price meals (Provisions 1, 2, 3, and 4). Districts participating in these alternative processes should revise the following section to reflect district practice.

Participants in the CalFresh, California Work Opportunity and Responsibility to Kids (CalWORKS), and Medi-Cal programs shall be directly certified for enrollment in the free and reduced-price meal program without further application. Participants in other state or federal programs may be directly certified when authorized by law. (Education Code 49561, 49562; 42 USC 1758; 7 CFR 245.6)

Verification of Eligibility

Not later than November 15 of each year, the Superintendent or designee shall verify the eligibility of a sample of household applications approved for the school year in accordance with the sample sizes and procedures specified in 42 USC 1758 and 7 CFR 245.6a. (42 USC 1758; 7 CFR 245.6a)

If the review indicates that the initial eligibility determination is correct, the Superintendent or designee shall verify the approved household application. If the review indicates that the initial eligibility determination is incorrect, the Superintendent or designee shall: (42 USC 1758; 7 CFR 245.6a)

1. If the eligibility status changes from reduced price to free, make the increased benefits immediately available and notify the household of the change in benefits
2. If the eligibility status changes from free to reduced price, first verify the application, then notify the household of the correct eligibility status, and, when required by law, send a notice of adverse action as described below
3. If the eligibility status changes from free or reduced price to paid, send the household a notice of adverse action as described below

If as a result of verification activities, the eligibility of a household that is receiving free or reduced-price benefits cannot be confirmed, or if the household fails to cooperate with verification efforts, the Superintendent or designee shall reduce or terminate benefits, as applicable, and shall properly document and retain on file in the district the reasons for the household's ineligibility. At least 10 days prior to the actual reduction or termination, the Superintendent or designee shall send a notice of adverse action to the household. The notice shall advise the household of: (7 CFR 245.6a)

1. The change and the reasons for the change
2. The right to appeal, when the appeal must be filed to ensure continued benefits while awaiting a hearing and decision, and instructions on how to appeal
3. The right to reapply at any time during the school year

Confidentiality/Release of Records

CSBA NOTE: The following section is for use by districts that have adopted a policy, pursuant to Education Code 49558, allowing designated district employees to use individual student records compiled in the administration of the free and reduced-price meal program for the purpose of disaggregation of academic achievement data and/or the provision of services under the federal Elementary and Secondary Education Act pursuant to 20 USC 6301-6576. See the accompanying Board policy. The district should consult legal counsel if it has questions about the use of free and reduced-price meal information for these or other purposes.

It is recommended that the district designate by name or job title the employee(s) authorized to use records for these purposes. Districts should identify the specific title(s) of the designated employee(s) in the space provided below, such as Title I Coordinator.

The Superintendent designates the following district employee(s) to disclose a student's name and eligibility status from individual meal records only for the purpose of disaggregation of academic achievement data and/or the provision of services under the federal Elementary and Secondary Education Act pursuant to 20 USC 6301-6576.

_____ (title or position)

In permitting the disclosure of student records for such purposes, the Superintendent or designee shall ensure that: (Education Code 49558)

1. No individual indicators of participation in the free and reduced-price meal program are maintained in the permanent records of any student if not otherwise allowed by law.
2. Information regarding individual student participation in the free and reduced-price meal program is not publicly released.
3. All other confidentiality provisions required by law are met.
4. Information collected regarding individual students certified to participate in the free and reduced-price meal program is destroyed when no longer needed for its intended purpose.

Nondiscrimination Plan

CSBA NOTE: Pursuant to Education Code 49557, even with the establishment of the universal meal program, the legal obligation under federal law to ensure that students who are eligible for free and reduced-price meals are not treated differently remains applicable to districts.

In implementing the district's food service programs for students who are eligible to receive free or reduced-price meals, the district shall ensure the following: (Education Code 49557; 42 USC 1758)

1. The names of the students shall not be published, posted, or announced in any manner, or used for any purpose other than the National School Lunch and School Breakfast Programs, unless otherwise provided by law.
2. There shall be no overt identification of any of the students by the use of special tokens or tickets or by any other means.
3. The students shall not be required to work for their meals.
4. The students shall not be required to use a separate dining area, go through a separate serving line or entrance, or consume their meals at a different time.

Polley Reference Disclaimer. These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References	Description
5 CCR 15510	Mandatory meals for needy students
5 CCR 15530-15535	Nutrition education

5 CCR 15550-15565
 Ed. Code 48980
 Ed. Code 49430-49434
 Ed. Code 49490-49494
 Ed. Code 49500-49505
 Ed. Code 49501.5
 Ed. Code 49510-49520
 Ed. Code 49530-49536
 Ed. Code 49547-49548.3
 Ed. Code 49550-49564.5
 Ed. Code 49564.3

School lunch and breakfast programs
 Parent/Guardian notifications
 Pupil Nutrition, Health, and Achievement Act of 2001
 School breakfast and lunch programs
 School meals
 California Universal Meals Program
 Nutrition
 Child Nutrition Act
 Comprehensive nutrition services
 Meals for needy students
 High-poverty schools; universal meal service

Federal References

20 USC 1232g
 20 USC 6301-6576
 42 USC 1751-1769j
 42 USC 1771-1791
 42 USC 1773
 7 CFR 210.1-210.31
 7 CFR 220.10-220.21
 7 CFR 245.1-245.13

Description

Family Educational Rights and Privacy Act (FERPA) of 1974
 Title I Improving the Academic Achievement of the Disadvantaged
 School Lunch Program
 Child nutrition
 School Breakfast Program
 National School Lunch Program
 National School Breakfast Program
 Eligibility for free and reduced-price meals and free milk

Management Resources References

California Department of Education Publication
 CSBA Publication
 CSBA Publication
 U.S. Department of Agriculture Publication
 U.S. Dept of Agriculture Publication
 Website
 Website
 Website
 Website
 Website

Description

Clarification on the Sharing of Individual Student Eligibility Information for Local Control and Accountability Plan Purposes, Management Bulletin SNP-02-2018, May 2018
 Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide, 2012
 Monitoring for Success: A Guide for Assessing and Strengthening Student Wellness Policies, rev. 2012
 Provision 2 Guidance: National School Lunch and School Breakfast Programs, Summer 2002
 Eligibility Manual for School Meals: Determining and Verifying Eligibility, July 2017
 U.S. Department of Agriculture, Food and Nutrition Service - <https://simbli.eboardsolutions.com/SU/Wry6HD6BSTBkfn7BqplusR7BQ==>
 Nourish California - <https://sirobli.eboardsolutions.com/SU/5GeuYdU7HE4aLG3NFy4Pig==>
 California Project LEAN (Leaders Encouraging Activity and Nutrition) - <https://sirobli.eboardsolutions.com/SU/lzuCbbhn3rBrfeZTSNnYCw==>
 California Department of Education, Nutrition Services Division - <https://sirobli.eboardsolutions.com/SU/O5xpn2rTEL2uz0BsIsblorGXQ==>
 CSBA- <https://sirobli.eboardsolutions.com/SU/W3QxkK2FPsDsQBnMIENxGg==>

Cross References

Description

0200 Goals For The School District -
<https://simbli.eboardsolutions.com/SU/9j90oJApXGvO9isl11yD8g==>

0410 Nondiscrimination In District Programs And Activities -
<https://simbli.eboardsolutions.com/SU/rph1sph1saBQeAE4bUpZiBEO9dQ==>

0460 Local Control And Accountability Plan -
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0460 Local Control And Accountability Plan -
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1400 Relations Between Other Governmental Agencies And The Schools -
<https://simbli.eboardsolutions.com/SU/vJHizKctUNwJfEfGnHx4CA==>

3100 Budget-
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<https://simbli.eboardsolutions.com/SU/eEi167SF33ZkvAHsw1fl7g==>
- 6176 Weekend/Saturday Classes -
<https://simbli.eboardsolutions.com/SU/gT9qUoycslshwAqFdyaRaqF4w==>
- 6177 Summer Learning Programs -
<https://simbli.eboardsolutions.com/SU/ezqaj3pDRTAplus4B0SUJGzw==>

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Regulation 4112.2: Certification

Status: ADOPTED

Original Adopted Date: 06/01/2022 | Last Reviewed Date: 06/01/2022

Verification of Credentials

CSBA NOTE: The following optional section may be revised to reflect district practice. Pursuant to Education Code 44330, 44332.5, and 44857, each person employed in a position requiring certification qualifications must register a valid credential not later than 60 days after beginning employment in the district or not later than 60 days after renewing a credential. Pursuant to Education Code 44332.5, a district with over 10,000 average daily attendance (ADA) may provide for the registration of its own certificated employees' credentials. If it does not do so, or if the district has 10,000 ADA or less, certificated employees' credentials must be registered with the county office of education (COE). The following section may be revised to reflect district practice.

The Commission on Teacher Credentialing (CTC) does not provide credentials in a paper format. Pursuant to 5 CCR 80001, the official record of a credential includes any credential in a paper or electronic format, including, but not limited to, information obtained from CTC's web site. For all other certificated staff, the district must obtain verification of its employees' certification through CTC's online service and may print the displayed information.

The Superintendent or designee shall verify that each employee in a position requiring certification qualifications possesses a valid certification document issued by the Commission on Teacher Credentialing (CTC). Such verification shall occur not later than 60 days after the commencement of employment or the renewal of a credential. (Education Code 44857)

CSBA NOTE: Pursuant to Education Code 44332, 44332.5, and 44332.6, an individual may be employed while CTC is processing the application if the individual holds a temporary certificate issued by a district with over 10,000 ADA or the COE, indicating that the individual has passed the state assessment of teachers' basic skills and completed a criminal record check. Education Code 44332, 44332.5, and 44332.6 require the district or COE, prior to issuing a temporary certificate, to obtain a certificate of clearance (fingerprint clearance) from CTC to satisfy the criminal record check requirement.

The Superintendent or designee shall verify that any person who is employed by the district while CTC is processing the application for certification possesses a temporary certificate based on a demonstration of basic skills and completion of a criminal background check. (Education Code 44332, 44332.5, 44332.6)

The Superintendent or designee shall maintain records of the appropriate certification of all employees serving in certificated positions.

Basic Skills Proficiency

CSBA NOTE: Education Code 44830 provides that a district cannot employ an individual in a position requiring certification unless that person has met the basic skills proficiency requirement or is exempted from the requirement by law. Such exemptions are specified in Education Code 44252 and 44830. Unless exempted, persons who have been granted a credential by CTC have met the basic skills proficiency requirement as a condition of obtaining the credential.

The district shall not initially hire a person in a position requiring certification, on a permanent, temporary, or substitute basis, unless that person has demonstrated basic skills proficiency in reading, writing, and mathematics or is specifically exempted from the requirement by law. (Education Code 44252, 44252.6, 44830)

CSBA NOTE: According to CTC leaflet CL-667, "Basic Skills Requirement", the basic skills proficiency requirement may be met as reflected in Items #1-8, below.

A person may demonstrate basic skills proficiency in reading, writing, and mathematics by:

1. Passage of the California Basic Educational Skills Test (CBEST) (Education Code 44252.5)
2. Passage of the California Subject Examinations for Teachers plus Writing Skills Examination
3. Passage of the California State University (CSU) Early Assessment Program or the CSU Placement Examinations (Education Code 44252)
4. Achieving a qualifying score on the Scholastic Aptitude Test or the American College Test (Education Code 44252)

5. Achieving a qualifying score on College Board Advanced Placement Examinations
6. Passage of a basic skills examination from another state

CSBA NOTE: Pursuant to Education Code 44252, as amended by AB 130 (Ch. 44, Statutes of 2021), a person is exempt from the basic skills proficiency test requirement by earning at least a letter grade of B in qualifying coursework determined by a credential preparation program, or determined by CTC for an applicant not enrolled in a California credential preparation program. "Qualifying coursework" means a course or courses taken at a regionally accredited institution of higher education for academic credit that applies toward the requirements for an associate's degree, baccalaureate degree, or higher degree. Qualifying coursework does not include professional development or continuing education units, inservice training or workshops, or courses where credits do not apply toward the requirements for an associate's degree, baccalaureate degree, or higher degree. Pursuant to Education Code 44203, as amended by AB 320 (Ch. 663, Statutes of 2021), the definition of a "regionally accredited institution" includes an institution of higher education that held preaccreditation status at the time the degree of an applicant for a credential was conferred if the institution achieved full accreditation status within five years of earning preaccreditation status in addition to an institution of higher education that has already been designated as regionally accredited. CTC is proposing emergency regulations to implement the statutory changes to subject matter competence requirements enacted by AB 130; see CTC Coded Correspondence 21-06 for more information on the proposed regulations.

7. Qualifying coursework (Education Code 44252)

CSBA NOTE: Pursuant to Education Code 44252, as amended by AB 130 and AB 167 (Ch. 252, Statutes of 2021), a person is exempt from the basic skills proficiency test requirement if a credential preparation program or CTC determines that an applicant has demonstrated proficiency through a combination of coursework, as described in Item #7, above, passage of a component or components of the basic skills proficiency test, and scores described in Items #3 and 4, above.

8. Qualifying coursework and exams (Education Code 44252)

The district may hire a certificated employee who has not taken a test of basic skills proficiency if the employee has not yet been afforded the opportunity to take the test, provided that the employee takes the test at the earliest opportunity. The employee may remain employed by the district pending the receipt of the test results. (Education Code 44830)

An out-of-state prepared teacher shall meet the basic skills requirement within one year of being issued a California preliminary credential by CTC unless the teacher has completed a basic skills proficiency test in another state, passed a basic skills proficiency test developed and administered by the district, by cooperating districts or by the county office of education (COE), or is otherwise exempted by law. The district shall develop a basic skills proficiency test, which shall be at least equivalent to the district test required for high school graduation, for purposes of assessing out-of-state prepared teachers pending completion of the basic skills requirement. (Education Code 44252, 44274.2; 5 CCR 80071.4, 80413.3)

CSBA NOTE: Pursuant to Education Code 44252 and 44830, persons holding or applying for a "designated subjects special subjects" credential must be assessed with a district basic skills proficiency test, unless their credential requires possession of a bachelor's degree in which case they are required to meet the state basic skills proficiency requirement. When such persons are employed by a consortium of districts or a joint powers agreement, the test may instead be established by the boards of those entities.

Any person holding or applying for a "designated subjects special subjects" credential which does not require possession of a bachelor's degree shall pass a district proficiency test in lieu of meeting the state basic skills proficiency requirement. (Education Code 44252, 44830)

The district may charge a fee to cover the costs of developing, administering, and grading the district proficiency test. (Education Code 44252, 44830)

Short-Term Staff Permit

CSBA NOTE: 5 CCR 80021 establishes the short-term staff permit (STSP) to immediately fill teacher vacancies based on unforeseen circumstances. Pursuant to 5 CCR 80021, CTC will issue the STSP to an individual only once and for no more than one year. The STSP will expire no later than July 1, unless the STSP is for a summer school

assignment in which case the STSP will expire no later than September 1.

The district may request that CTC issue a short-term staff permit (STSP) to a qualified applicant whenever there is a need to immediately fill a classroom based on unforeseen circumstances, including, but not limited to: (5 CCR 80021)

1. Enrollment adjustments requiring the addition of another teacher
2. Inability of the teacher of record to finish the school year due to approved leave or illness
3. The applicant's need for additional time to complete preservice requirements for enrollment into an approved internship program
4. Inability of the applicant to enroll in an approved internship program due to timelines or lack of space in the program
5. Unavailability of a third-year extension of an internship program or the applicant's withdrawal from an internship program

The Superintendent or designee shall ensure that the applicant possesses a bachelor's or higher degree from a regionally accredited college or university, has met the basic skills proficiency requirement unless exempted by state law or regulations, and has satisfied the coursework/experience requirements specified in 5 CCR 80021 for the multiple subject, single subject, or education specialist STSP as appropriate. (5 CCR 80021)

When requesting issuance of an STSP, the Superintendent or designee shall submit to CTC: (5 CCR 80021)

1. Verification that the district has conducted a local recruitment for the permit being requested
2. Verification that the district has provided the permit holder with orientation to the curriculum and to instruction and classroom management techniques and has assigned a mentor teacher for the term of the permit
3. Written justification for the permit signed by the Superintendent or designee

CSBA NOTE: 5 CCR 80021 provides that a holder of the STSP is authorized to provide the same service as a holder of the preliminary or clear credential of the same type (i.e., multiple subject, single subject, education specialist). 5 CCR 80021 provides that all STSPs will also include an English learner authorization allowing the holder to provide services in English language development (ELD) or specially designed academic instruction in English (SDAIE); see AR 4112.22 - Staff Teaching English Learners. Upon request by the district and verification of the applicant's target-language proficiency, the STSP may instead include a bilingual authorization allowing the holder to provide instruction for primary language development or content instruction delivered in the primary language, in addition to ELD and SDAIE.

The holder of an STSP may be assigned to provide the same service as a holder of a multiple subject, single subject, or education specialist credential in accordance with the authorizations specified on the permit. (5 CCR 80021)

Provisional Internship Permit

CSBA NOTE: 5 CCR 80021.1 establishes the provisional internship permit (PIP) to staff classrooms when appropriately credentialed teachers cannot be found after a diligent search. 5 CCR 80021.1 provides that the PIP will be issued for one calendar year and may not be renewed.

Before requesting that CTC issue a provisional internship permit (PIP), the district shall conduct a diligent search for a suitable credentialed teacher or intern, including, but not limited to, distributing job announcements, contacting college and university placement centers, and advertising in print or electronic media. (5 CCR 80021.1)

Whenever a suitable credentialed teacher cannot be found after a diligent search, the Superintendent or designee may request that CTC issue a PIP to an applicant who possesses a bachelor's or higher degree from a regionally accredited college or university, has met the basic skills proficiency requirement unless exempted by state law or regulations, and has satisfied the coursework/experience requirements specified in 5 CCR 80021.1 for the multiple subject, single subject, or education specialist PIP as appropriate. (5 CCR 80021.1)

When submitting the request for a PIP, the district shall provide verification of all of the following: (5 CCR 80021.1, 80026.5)

1. A diligent search has been conducted for a suitable credentialed teacher or suitable qualified intern as evidenced by documentation of the search.
2. Orientation, guidance, and assistance shall be provided to the permit holder as specified in 5 CCR 80026.5.

The orientation shall include, but not be limited to, an overview of the curriculum the permit holder is expected to teach and effective instruction and classroom management techniques at the permit holder's assigned level. The permit holder also shall receive guidance and assistance from an experienced educator who is a certificated district employee or a certificated retiree from a California district or COE and who has completed at least three years of full-time classroom teaching experience.

3. The district shall assist the permit holder in developing a personalized plan through a district-selected assessment that would lead to subject-matter competence related to the permit.
4. The district shall assist the permit holder to seek and enroll in subject-matter training, such as workshops or seminars and site-based courses, along with training in test-taking strategies, and shall assist the permit holder in meeting the credential subject-matter competence requirement related to the permit.
5. A notice of intent to employ the applicant in the identified position has been made public.

The district shall submit a copy of the agenda item presented at an open Governing Board meeting which shall state the name of the applicant, the assignment in which the applicant will be employed including the name of the school, subject(s), and grade(s) that the applicant will be teaching, and that the applicant will be employed on the basis of a PIP. The district also shall submit a signed statement from the Superintendent or designee that the agenda item was acted upon favorably.

6. The candidate has been apprised of steps to earn a credential and enroll in an intern program.

CSBA NOTE: 5 CCR 80021.1 provides that a holder of the PIP is authorized to provide the same service as a holder of the preliminary or clear credential of the same type (i.e., multiple subject, single subject, education specialist). In addition, 5 CCR 80021.1 provides that all PIPs will include an English learner authorization allowing the holder to provide services in ELD or SDAIE; see AR 4112.22 - Staff Teaching English Learners. Upon request by the district and verification of the applicant's target-language proficiency, the PIP may instead include a bilingual authorization allowing the holder to provide instruction for primary language development or content instruction delivered in the primary language, in addition to ELD and SDAIE.

The holder of a PIP may be assigned to provide the same service as a holder of a multiple subject, single subject, or education specialist credential in accordance with the authorizations specified on the permit. (5 CCR 80021.1)

Teaching Permit for Statutory Leave

CSBA NOTE: 5 CCR 80022 establishes the Teaching Permit for Statutory Leave (TPSL), which authorizes the holder to serve as the interim teacher of record when a teacher takes a statutory leave. The applicable statutory leaves are specified in 5 CCR 80022 and, as clarified by CTC Coded Correspondence 16-10, exclude administrative leave. The TPSL is valid for one calendar year from the first day of the month immediately following the date of issuance, but may be renewed on an annual basis provided that the holder completes additional requirements as specified and the district verifies that it will provide continued mentoring and support.

Qualifications required for the TPSL include possession of a bachelor's or higher degree, completion of the basic skills requirement unless exempted by state law or regulations, completion of a subject-matter requirement, and 45 hours of preservice preparation in the content areas listed in 5 CCR 80022. The design and delivery of the preservice preparation are at the discretion of the district and, as described in CTC Coded Correspondence 16-10, may include existing training and development programs, new preparation courses or modules, and/or partnerships with the COE, neighboring districts, colleges and universities, or private companies. CTC does not accredit or oversee any TPSL preparation. The following paragraph may be revised to reflect district practice.

Whenever there is an anticipated need for the district to temporarily fill the teaching assignment of a teacher of record who will be on sick leave, differential sick leave, industrial accident or illness leave, pregnancy disability leave, or family care and medical leave under the federal Family and Medical Leave Act or California Family Rights Act, the Superintendent or designee may request that CTC issue a Teaching Permit for Statutory Leave (TPSL) to a qualified individual who will be serving as the interim teacher of record. Prior to submitting an application to CTC, the district shall provide the applicant with 45 hours of preparation in the content areas listed in 5 CCR 80022. (5 CCR 80022)

A request for the TPSL shall only be submitted if the district has made reasonable efforts to hire a substitute with a full teaching credential that matches the setting and/or subject for the statutory leave position and no such candidate is available. (5 CCR 80022)

The district shall verify to CTC that it will provide the interim teacher: (5 CCR 80022)

1. An orientation to the assignment before or during the first month of service in the statutory leave assignment
2. An average of two hours of mentoring, support, and/or coaching per week through a system of support coordinated and/or provided by a mentor who possesses a valid life or clear credential that would also authorize service in the statutory leave assignment
3. Lesson plans for the first four weeks of the assignment as well as continued assistance in the development of curriculum, lesson planning, and individualized education programs

CSBA NOTE: The TPSL authorizes the interim teacher of record to serve for the full length of the statutory leave. CTC Coded Correspondence 16-10 clarifies that, when more than one acceptable leave is taken consecutively, the holder of the TPSL may continue to serve as the interim teacher of record for the entire length of those leaves.

The holder of the TPSL may serve as the interim teacher of record for up to the full length of the leave(s) during the school year. (5 CCR 80022)

The Superintendent or designee shall maintain documentation on the assignment in accordance with 5 CCR 80022 and annually report data on the use of the TPSL to the County Superintendent of Schools for assignment monitoring pursuant to Education Code 44258.9. (5 CCR 80022)

The Superintendent or designee may annually request renewal of the TPSL, provided that no substitute with a full teaching credential is available for the assignment. The application for each reissuance shall include verification that the interim teacher has completed an additional 45 hours of preparation and the district is continuing to provide mentoring in accordance with items #2-3 above. (5 CCR 80022)

Long-Term Emergency Permits

CSBA NOTE: Pursuant to Education Code 44225.7, the district may request that CTC grant an applicant a one-year emergency permit (Education Code 44300; 5 CCR 80023-80026.6) when a "fully prepared teacher," defined as a teacher who has completed a teacher preparation program, is unavailable to the district. Emergency permits may only be issued for the resource specialist permit (5 CCR 80024.3.1), teacher librarian services permit (5 CCR 80024.6), crosscultural, language and academic development permit (CLAD) (5 CCR 80024.8), and bilingual authorization permit (5 CCR 80024.7).

Pursuant to 5 CCR 80023.1, an emergency permit may be renewed for up to two additional one-year periods (for a maximum of three years of service).

In order to request an emergency permit, the district must first demonstrate that it has made reasonable efforts to recruit candidates who are enrolled in an intern program or are scheduled to complete preliminary credential requirements within six months and must submit a Declaration of Need for Fully Qualified Educators; see the accompanying Board policy.

As necessary, the Superintendent or designee may request that CTC issue an emergency resource specialist permit, emergency teacher librarian services permit, emergency crosscultural language and academic development permit (CLAD), or emergency bilingual authorization permit. (5 CCR 80024.3.1, 80024.6, 80024.7, 80024.8)

The Superintendent or designee shall provide any first-time recipient of an emergency teaching permit with an orientation which, to the extent reasonably feasible, shall occur before beginning a teaching assignment. The Superintendent or designee may vary the nature, content, and duration of the orientation to match the amount of training and experience previously completed by the emergency permit teacher. The orientation shall include, but not be limited to, the curriculum the teacher is expected to teach and effective techniques of classroom instruction and classroom management at the assigned grade-level span. The emergency permit holder also shall receive guidance and assistance from an experienced educator who is a certificated district employee or a certificated retiree from a California district or COE and who has completed at least three years of full-time classroom teaching experience. (5 CCR 80026.5)

Substitute Teaching Permits

The district may employ a person whose credential or permit authorizes substitute teaching services, provided that:

1. A person holding an emergency 30-day substitute teaching permit, STSP, PIP, TPSL, or any valid teaching or services credential that requires at least a bachelor's degree and completion of the CBEST, shall not serve as a substitute for more than 30 days for any one teacher during the school year or as a substitute in a special education classroom for more than 20 days for any one teacher during the school year. (5 CCR 80025, 80025.3, 80025.4)
2. A person with an emergency career substitute teaching permit shall not serve as a substitute for more than 60 days for any one teacher during the school year. (5 CCR 80025.1)
3. A person with an emergency substitute teaching permit for prospective teachers shall not serve as a substitute for more than 30 days for any one teacher during the school year and not more than 90 days total during the school year. (5 CCR 80025.2)
4. A person with an emergency designated subjects 30-day substitute teaching permit for career technical education shall teach only in a program of technical, trade, or vocational education and shall not serve as a substitute for more than 30 days for any one teacher during the school year. (5 CCR 80025.5)

CSBA NOTE: 5 CCR 80025 and 80025.5 require the district to have a Statement of Need on file before employing a person with an emergency substitute permit pursuant to item #1 or 4 above. The CTC form for the Statement of Need may be found in CTC's online, "Credential Information Guide," which may be accessed only by employers.

Before employing a person with an emergency substitute permit pursuant to item #1 or 4 above, the Superintendent or designee shall prepare and keep on file a signed Statement of Need for the school year. The Statement of Need shall describe the situation or circumstances that necessitate the use of a 30-day substitute permit holder and state either that a credentialed person is not available or that the available credentialed person does not meet the district's specified employment criteria. (5 CCR 80025, 80025.5)

Policy Reference Disclaimer. These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

5 CCR 80001-80674.6

Ed. Code 32340-32341

Ed. Code 35186

Ed. Code 44066

Ed. Code 44200-44418

Ed. Code 44250-44277

Ed. Code 44300-44302

Ed. Code 44325-44328

Ed. Code 44330-44355

Ed. Code 44420-44440

Ed. Code 44450-44468

Ed. Code 44830-44929

Ed. Code 56060-56063

Ed. Code 8295-8305

Description

Commission on Teacher Credentialing

Unlawful issuance of a credential

Complaints regarding teacher vacancy or misassignment

Limitations on certification requirements

Teacher credentialing

Credentials and assignment of teachers

Emergency permit

District interns

Certificates and credentials

Revocation and suspension of credentials

University internship program

Employment of certificated persons; requirement of proficiency in basic skills

Substitute teachers in special education

Child development program personnel qualifications

Federal References

20 USC 6312

Description

Title I local educational agency plans; notifications regarding teacher qualifications

34 CFR 200.61

Parent notification regarding teacher qualifications

Management Resources References

Commission on Teacher Credentialing
Publication

Commission on Teacher Credentialing
Publication

Commission on Teacher Credentialing
Publication

Commission on Teacher Credentialing
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Commission on Teacher Credentialing
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Commission on Teacher Credentialing
Publication

Commission on Teacher Credentialing
Publication

Court Decision

Nat'l Board for Prof. Teaching Stds. Publication

Nat'l Board for Prof. Teaching Stds. Publication

Website

Website

Website

Website

Website

Website

Website

Desaaption

Proposed Amendments and Additions to Title 5 of the California Code of Regulations Pertaining to Subject Matter Competence, Coded Correspondence 21-06, September 20, 2021

Assembly Bill 320: Regional Accreditation for Coursework and Degrees Used for Certification Purposes, Credential Information Alert 22-02, March 1, 2022

Waiver Requests Guidebook, 2015

Credential Information Guide

Hiring Hierarchy in Education Code 44225.7, Coded Correspondence 13-01, January 30, 2013

Approved Addition and Amendments to Title 5 of the California Code of Regulations Pertaining to Teaching Permit for Statutory Leave (TPSL), Coded Correspondence 16-10, Aug 23, 2016

California Standards for the Teaching Profession (CSTP), 2009

CL-667 Basic Skills Requirement

CL-856 Provisional Internship Permit

CL-858 Short-Term Staff Permit

Subject Matter Authorization Guideline Book, December 2019

Supplementary Authorization Guideline Book, December 2019

The Administrator's Assignment Manual, 2021

Association of Mexican-American Educators et al. v. State of California and the Commission on Teacher Credentialing, (1993) 836 F.Supp. 1534

Using Federal Funds for National Board Activities: An Action-Planning Guide

Considerations for Using Federal Funds to Support National Board Certification

California Department of Education, CA NBPTS Certification Incentive Program 2021-26 -

<https://simbli.eboardsolutions.com/SU/uKmxEBWIFbmXZaxGIRRVQ==>

National Board Resource Center -

<https://simbli.eboardsolutions.com/SU/g0vplusStn5VnplussyM4I8jU2DSw==>

National Board for Professional Teaching Standards -

<https://simbli.eboardsolutions.com/SU/W4bc1FgKOics8tTmuq7qslsbw==>

Commission on Teacher Credentialing -

<https://simbli.eboardsolutions.com/SU/cxWNIqRUuIsaq7efc7aH4Q==>

Commission on Teacher Credentialing, Credential Information Guide (for employers' use only) -

<https://simbli.eboardsolutions.com/SU/B9uurcEnb6RjWX7bEk1slshew==>

CSBA -

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U.S. Department of Education -

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Cross References**Description**

0460	Local Control And Accountability Plan - https://simbli.eboardsolutioos.com/SU/fwFbmaz5QUOOAd17DbzBBg==
0460	Local Control And Accountability Plan - https://simbli.eboardsolutioos.com/SU/N8bGSx8fXallgcLPJYKR9w==
1312.4	Williams Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/K4sSLEmfDPdDFCTIDy3T6A==
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1312.4-E(2)	Williams Uniform Complaint Procedures - https://simbli.eboardsolutioos.com/SU/cqrHyplusslsbYG7skrok5E8EbRw==
3580	District Records - https://simbli.eboardsolutions.com/SU/8fsDI9HykDCitBSvYLEIA==
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4111	Recruitment And Selection - https://simbli.eboardsolutions.com/SU/6LxlmEQPrUDOLAOZQgkLNQ==
4112	Appointment And Conditions Of Employment - https://simbli.eboardsolutioos.com/SU/MPR97KriNiwH94qpqg6SRw==
4112.21	Interns - https://simbli.eboardsolutions.com/SU/vFi1KKO0DAwU3OQWMybsMg==
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4112.6	Personnel Files - https://simbli.eboardsolutioos.com/SU/slshc7i5jiYl8plyA79vr9rhw==
4113	Assignment - https://simbli.eboardsolutions.com/SU/BbXEYknUIZslsbK6TX1rcPNw==
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4114	Transfers - https://simbli.eboardsolutioos.com/SU/mFpJXC1QmDMIC74Qi4Fig==
4117.14	Postretirement Employment - https://simbli.eboardsolutioos.com/SU/xvIGEjSlgZpfUxnfhwzIQ==
4117.3	Personnel Reduction - https://simbli.eboardsolutioos.com/SU/42Hj6RreDPOONvlww41j4g==
4119.21	Professional Standards - https://simbli.eboardsolutioos.com/SU/RUG2Aozy5plusrWMBTJYdlsyg==
4119.21-E PDF(1)	Professional Standards - https://simbli.eboardsolutioos.com/SU/vF87GYLXytUMmuN2SXjO0g==
4121	Temporary/Substitute Personnel - https://simbli.eboardsolutioos.com/SU/UQYHOa8Qzs52Adry5FhGeA==
4121	Temporary/Substitute Personnel - https://simbli.eboardsolutioos.com/SU/Eytslsh362LYDb2oiivuLmBgA==

4131	Staff Development - https://simbH.eboardsolutioos.com/SU/700vA0ysAxSYXC8kTtgs9Q==
4131.1	Teacher Support And Guidance - https://simbH.eboardsolutioos.com/SU/o63bybiWnOwMSkCYo8bBlg==
4131.1	Teacher Support And Guidance - https://simbli.eboardsolutioos.com/SU/zlGKbGOaVplusrkemb3xUUw==
4161.1	Personal Illness/Injury Leave - https://simbH.eboardsolutioos.com/SU/wmtZ2H4oDc4HcrB9slsbN1zcv==
4161.11	Industrial Accident/Illness Leave - https://simbli.eboardsolutioos.com/SU/HDSz3OhqJ1829uMir9NEw=-
4161.3	Professional Leaves - https://simbli.eboardsolutioos.com/SU/zWPmj61a8hznXqi20AMUCA==
4161.8	Family Care And Medical Leave - https://simbli.eboardsolutions.com/SU/R0ajur0SY0LDobGfDwFOZA==
4211	Recruitment And Selection - https://simbH.eboardsolutioos.com/SU/1n85hkOTllxsOq8EGSzpLA==
4212.5	Criminal Record Check - https://simbH.eboardsolutioos.com/SU/zlCOLKslshYyocj135d8hWslshpQ==
4212.5-E PDF(1)	Criminal Record Check - https://simbli.eboardsolutioos.com/SU/sDVasU4nkvGVxDODtvXKqg==
4212.6	Personnel Files - https://simbH.eboardsolutioos.com/SU/Kp3DemXWMRr4slshb8EnhyJPw==
4219.21	Professional Standards - https://simbH.eboardsolutioos.com/SU/577ui4N7DgpgHKGSNjplussQbA==
4219.21-E PDF(1)	Professional Standards - https://simbH.eboardsolutioos.com/SU/52slshZb5LuY0skwflJSoBbV0Q==
4222	Teacher Aides/Paraprofessionals - https://simbli.eboardsolutioos.com/SU/711NKzpluscCSc9QZsJCydyEA==
4222	Teacher Aides/Paraprofessionals - https://simbH.eboardsolutioos.com/SU/jkXUUGTR98mNmDdapRslsbHplussw==
4261.11	Industrial Accident/Illness Leave - https://simbli.eboardsolutioos.com/SU/4NdayG8LNJplusn9rWReq8arA==
4261.8	Family Care And Medical Leave - https://simbH.eboardsolutioos.com/SU/nBLZm9LwlchMFF3Yja1slshFg==
4311	Recruitment And Selection - https://simbH.eboardsolutioos.com/SU/1tX2HeplusXbGqlpeJplussFnMOA==
4312.5	Criminal Record Check - https://simbli.eboardsolutioos.com/SU/87h9kHb1ois8QFmawLNjVQ==
4312.5-E PDF(1)	Criminal Record Check - https://simbli.eboardsolutioos.com/SU/4ekuJY8plusKIIYoslsbRBAHkptw==
4312.6	Personnel Files - https://simbli.eboardsolutioos.com/SU/flfVux1oWapNdGxQ1UZ7Fg==
4317.14	Postretirement Employment - https://simbH.eboardsolutioos.com/SU/v39zADRglBil2D19oplusjQcw==
4319.21	Professional Standards - https://simbH.eboardsolutioos.com/SU/53YbPY2hoKqYj7h7jg34plusA==
4319.21-E PDF(1)	Professional Standards - https://simbH.eboardsolutioos.com/SU/u6TpxPrplusLKIUDjYZbpOkaw==
4361.1	Personal Illness/Injury Leave - https://simbli.eboardsolutioos.com/SU/VCSQ7zJplus5y1nFHLGslsbriSoA==

4361.11	Industrial Accident/Illness Leave - https://simbli.eboardsolutioos.com/SU/SsWihes2DRXblzGW5Aplus4xw==
4361.8	Family Care And Medical Leave - https://simbli.eboardsolutioos.com/SU/qfxyeoli1L04rJjMbB8XNA==
5145.6	Parental Notifications - https://simbli.eboardsolutioos.com/SU/SuvNxTtIUJ0XfalLui15AA==
5145.6-E PDF(1)	Parental Notifications - https://simbli.eboardsolutioos.com/SU/3aOzL6ew2Hslshlwsish02DTEyMg==
5148	Child Care And Development - https://simbli.eboardsolutioos.com/SU/gV15kvM64fYoi0slshFytOg3A==
5148	Child Care And Development - https://simbli.eboardsolutioos.com/SU/IPi7b2rDSMZyXulLH90nRA==
6142.7	Physical Education And Activity - https://simbli.eboardsolutioos.com/SU/ZmslshJWRRGIhooOnK0kYcl2w==
6142.7	Physical Education And Activity - https://simbli.eboardsolutioos.com/SU/7Tuzch26C948slshkHXr3eriw==
6146.1	High School Graduation Requirements - https://simbli.eboardsolutioos.com/SU/plus2yglNOrozRrjEUJ1zO9qQ==
6146.1	High School Graduation Requirements - https://simbli.eboardsolutioos.com/SU/S5uBuYQ9RoSFW1PcOZAtxg==
6146.2	Certificate Of Proficiency/High School Equivalency - https://simbli.eboardsolutioos.com/SU/clTMplus79VZe95z6A99iDmRQ==
6146.2	Certificate Of Proficiency/High School Equivalency - https://simbli.eboardsolutioos.com/SU/kon9InuDV3XhBqmyROfdAw==
6146.2-E PDF(1)	Certificate Of Proficiency/High School Equivalency - https://simbli.eboardsolutioos.com/SU/oac3slshgc169eold8U7bc6aO==
6158	Independent Study - https://simbli.eboardsolutioos.com/SU/JFSAJy2WqeTljHrNpblnEQ==
6158	Independent Study - https://simbli.eboardsolutioos.com/SU/Z18D4sZXp7plusSTih3MOU21w==
6162.51	State Academic Achievement Tests - https://simbli.eboardsolutioos.com/SU/NdqSEfnslshhwaBKplusUkKHo40A==
6162.51	State Academic Achievement Tests - https://simbli.eboardsolutioos.com/SU/oZbkKwYtcu0mkplusF9HZPNfQ==
6163.1	Library Media Centers - https://simbli.eboardsolutioos.com/SU/OOUjppuyAwZwqqwJNVcdg==
6164.2	Guidance/Counseling Services - https://simbli.eboardsolutioos.com/SU/Ba6VUEQG9hX91drdoa1Sjg==
6170.1	Transitional Kindergarten - https://simbli.eboardsolutioos.com/SU/aCnQ5oW06Lvo9JIEC8t1zQ==
6172	Gifted And Talented Student Program - https://simbli.eboardsolutioos.com/SU/wTl8EVvu0t04845390RuGw==
6172	Gifted And Talented Student Program - https://simbli.eboardsolutioos.com/SU/G268I3K6kr8FEbTmbkVa2A==
6178	Career Technical Education - https://simbli.eboardsolutioos.com/SU/rwiNrLDQwuDqO6bbGPQaslsHA==
6178	Career Technical Education - https://simbli.eboardsolutioos.com/SU/V6yhFPjUJKuJyXslshaa40i7w==
6178.1	Work-Based Learning - https://simbli.eboardsolutioos.com/SU/avQYbt3iAAr7wkf1xeEMuA==

- 6178.1 Work-Based Learning - <https://simbli.eboardsolutions.com/SU/wLcNslshgmpusmQlg9zvVgyCIMQ> ==
- 6183 Home And Hospital Instruction - <https://simbli.eboardsolutions.com/SU/splusGW8slshHtohMvCGn2HgfrFA> ==
- 6200 Adult Education - https://simbli.eboardsolutions.com/SU/DZM_1Ty9otkplusv0slshplusEqTiy9A ==
- 6200 Adult Education - <https://simbli.eboardsolutions.com/SU/lyPOFCCBmrwCn4VXvTqslsbg> ==

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Regulation 4161.8: Family Care And Medical Leave

Status: ADOPTED

Original Adopted Date: 06/01/2022 | Last Reviewed Date: 06/01/2022

CSBA NOTE: The following optional administrative regulation addresses mandatory subjects of bargaining. The laws referenced in this regulation provide minimum amounts of leave which the district must grant its employees if more generous benefits are not provided as part of its collective bargaining agreement. Any covered subject that is already addressed in the district's collective bargaining agreements should be deleted from this administrative regulation.

Both federal and state law provide for family care and medical leave (29 USC 2601-2654, the Family and Medical Leave Act of 1993 (FMLA), and Government Code 12945.1-12945.2, the California Family Rights Act (CFRA)). However, these laws do not always provide identical rights or operate in the same manner. For example, pregnancy as a "serious health condition" is covered under FMLA but not under CFRA. Instead, under state law, an employee who is disabled due to pregnancy, childbirth, or a related medical condition is entitled to pregnancy disability leave (PDL) pursuant to Government Code 12945. Where there is a difference between state and federal law, the law that grants the greatest benefits generally controls. In those situations, legal counsel should be consulted as needed.

The district shall not deny any eligible employee the right to family care or medical leave pursuant to the Family and Medical Leave Act (FMLA) or the California Family Rights Act (CFRA), or to Pregnancy Disability Leave (PDL), when an employee is disabled by a pregnancy, childbirth, or related medical condition. The district shall not interfere with, restrain, or deny the exercise of an employee's right to any such leave, nor shall the district discharge, discriminate against, or retaliate against an employee for taking such leave, opposing or challenging an unlawful employment practice in relation to any of these laws, or being involved in any related inquiry or proceeding. (Government Code 12945, 12945.2; 2 CCR 11094; 29 USC 2615)

Definitions

The words and phrases defined below shall have the same meaning throughout this administrative regulation except where a different meaning is otherwise specified.

Child means a biological, adopted, or foster child; a stepchild; a legal ward; or a person to whom the employee stands in loco parentis. For purposes of CFRA leave, child also includes a child of a registered domestic partner. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611)

Eligible employee, for FMLA and CFRA purposes, means an employee who has been employed with the district for at least 12 months and who has at least 1,250 hours of service with the district during the 12 months immediately preceding the leave. However, these requirements shall not apply when an employee applies for PDL. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611; 29 CFR 825.110)

CSBA NOTE: Government Code 12945.2, as amended by AB 1033 (Ch. 327, Statutes of 2021), includes a parent-in-law in the definition of "parent" for purposes of CFRA leave.

Eligible family member means an employee's child, parent, or spouse. For purposes of leave to care for a family member with a serious health condition pursuant to CFRA, eligible family member includes an employee's child, parent, parent-in-law, spouse, registered domestic partner, grandparent, grandchild, or sibling. (Government Code 12945.2; 2 CCR 11087; 29 USC 2612)

Employee disabled by pregnancy means an employee whose health care provider states that the employee is: (2 CCR 11035)

1. Unable because of pregnancy to perform any one or more of the essential functions of the job or to perform any of them without undue risk to the employee or other persons or to the pregnancy's successful completion
2. Suffering from severe "morning sickness" or needs to take time off for prenatal or postnatal care, bed rest, gestational diabetes, pregnancy-induced hypertension, preeclampsia, postpartum depression, childbirth, loss or end of pregnancy, recovery from childbirth or loss or end of pregnancy, or any other pregnancy-related condition

Parent means a biological, foster, or adoptive parent; a parent-in-law; a stepparent; a legal guardian; or another person who stood in loco parentis to the employee when the employee was a child. However, for FMLA purposes, parent does not include a spouse's parents. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611; 29 CFR 825.122)

Serious health condition means an illness, injury (including, but not limited to, on-the-job injuries), impairment, or physical or mental condition of the employee or an eligible family member of the employee that involves either inpatient care or continuing treatment, including treatment for substance abuse, as follows: (Government Code 12945.2; 2 CCR 11087, 11097; 29 USC 2611, 2612; 29 CFR 825.113-825.115)

1. Inpatient care in a hospital, hospice, or residential health care facility, any subsequent treatment in connection with such inpatient care, or any period of incapacity

A person is considered an inpatient when formally admitted to a health care facility with the expectation of remaining overnight and occupying a bed, even if it later develops that the person can be discharged or transferred to another facility and does not actually remain overnight.

Incapacity means the inability to work, attend school, or perform other regular daily activities due to a serious health condition, its treatment, or the recovery that it requires.

2. Continuing treatment or continuing supervision by a health care provider, including one or more of the following:
 - a. A period of incapacity of more than three consecutive full days
 - b. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition
 - c. Any period of incapacity due to pregnancy or for prenatal care under FMLA
 - d. Any period of incapacity which is permanent or long term due to a condition for which treatment may not be effective
 - e. Any period of absence to receive multiple treatments, including recovery, by a health care provider

Spouse means a partner in marriage as defined in Family Code 300, including same sex partners in marriage. For purposes of CFRA leave, spouse also includes a registered domestic partner within the meaning of Family Code 297-297.5. (Family Code 297, 297.5, 300; 2 CCR 11087; 29 CFR 825.122)

Eligibility/Purposes of Leave

CSBA NOTE: Government Code 12945.2 and 29 USC 2611-2612 require a district to grant family care and medical leave to an eligible employee for any of the reasons stated below. These requirements apply to all public agencies regardless of the number of employees.

The district shall grant FMLA or CFRA leave to eligible employees for any of the following reasons: (Government Code 12945.2; 29 USC 2612; 29 CFR 825.112, 825.126, 825.127)

1. The birth of a child of the employee or placement of a child with the employee in connection with the employee's adoption or foster care of the child (parental leave)
2. The care of an eligible family member with a serious health condition
3. The employee's own serious health condition that makes the employee unable to perform the job functions of the position

CSBA NOTE: Pursuant to 29 CFR 825.126, FMLA military family leave is available to any eligible employee for a qualifying exigency while the employee's spouse, child, or parent who is a military member is on covered active duty during deployment to a foreign country. Government Code 12945.2 provides exigency leave under CFRA for an employee whose registered domestic partner is on active duty. For requirements related to qualifying exigency leave, see the section "Military Family Leave Resulting from Qualifying Exigencies" below.

4. A qualifying exigency arising out of the fact that the employee's spouse, child, parent, or, for CFRA leave only, a registered domestic partner, is a military member on covered active duty or call to covered active duty (or has been notified of an impending call or order to covered active duty)

CSBA NOTE: Pursuant to 29 CFR 825.127, military caregiver leave is available to any eligible employee who

is a family member of a covered servicemember with a serious injury or illness. For requirements related to military caregiver leave, see the section on "Military Caregiver Leave" below.

5. The care of a covered servicemember with a serious injury or illness when the employee is a spouse, child, parent, or next of kin of the covered servicemember

CSBA NOTE: Under federal law, pregnancy as a "serious health condition" is covered as part of FMLA leave. However, disability due to pregnancy is explicitly excluded from coverage under CFRA (2 CCR 11093). Instead, pursuant to Government Code 12926 and 12945, any California employee who is "disabled because of pregnancy, childbirth, or related medical conditions" is entitled to unpaid POL of up to four months if the employer has five or more employees. Therefore, such an employee is entitled to up to four months of POL and an additional 12 weeks of CFRA leave following the birth of the child.

Additionally, pursuant to 2 CCR 11037, POL is not subject to eligibility requirements for other FMLA and CFRA leaves, such as minimum hours worked or length of service.

In addition, the district shall grant POL to any employee who is disabled by pregnancy, childbirth, or other related medical condition. (Government Code 12945; 2 CCR 11037)

Terms of Leave

CSBA NOTE: Pursuant to Government Code 12945.2, leaves common to CFRA and FMLA run concurrently so that total leave to which an employee is entitled would not be more than 12 work weeks.

An eligible employee shall be entitled to a total of 12 work weeks of FMLA or CFRA leave during any 12-month period, except in the case of leave to care for a covered servicemember as provided under "Military Caregiver Leave" below. To the extent allowed by law, CFRA and FMLA leaves shall run concurrently. (Government Code 12945.2; 29 USC 2612)

CSBA NOTE: To determine the 12-month period in which the leave entitlement occurs, the district may use any of the methods identified in 29 CFR 825.200 and specified in options #1-4 below. However, a district may choose not to use any of these options and may instead choose some other fixed 12-month period. Whichever option is selected, it must be applied uniformly to all employees. If the district fails to select a method for calculating the 12-month period, the method that provides the most beneficial outcome for the employee will be used. Pursuant to 2 CCR 11090, if the district decides to change the calculation method, it must provide at least 60 days' notice to all employees.

OPTION 1: The 12-month period shall coincide with the calendar year. (29 CFR 825.200)

OPTION 2: The 12-month period shall coincide with the fiscal year. (29 CFR 825.200)

OPTION 3: The 12-month period shall be measured forward from the date the employee's first family care and medical leave begins. (29 CFR 825.200)

OPTION 4: The 12-month period shall be a rolling period measured backward from the date an employee uses any family care and medical leave, as defined in 29 CFR 825.200. (29 CFR 825.200)

CSBA NOTE: 2 CCR 11042 clarifies that the four months of POL to which an employee is entitled means the number of days or hours that the employee would normally work within the four calendar months. For employees who work 40 hours per week, POL leave is defined as 17-1/3 weeks, 122 days, or 693 hours.

In addition, any employee who is disabled by pregnancy, childbirth, or other related condition shall be entitled to POL for the period of the disability not to exceed four months. For a part-time employee, the four months shall be calculated on a proportional basis. (Government Code 12945; 2 CCR 11042)

CSBA NOTE: While leaves common to CFRA and FMLA run concurrently, POL is separate and distinct from CFRA leave. Consequently, pursuant to 2 CCR 11046, an employee who is "disabled by pregnancy" may be entitled to up to four months of POL, followed by 12 work weeks of CFRA leave for the birth of the child (baby bonding). Determining which leaves run concurrently is a complex endeavor and districts should consult legal counsel as needed.

POL shall run concurrently with FMLA leave for disability caused by an employee's pregnancy. At the end of the employee's FMLA leave for disability caused by pregnancy, or at the end of four months of POL, whichever occurs first, a CFRA-eligible employee may request to take CFRA leave of up to 12 work weeks, for the reason of the birth of a child or to bond with or care for the child. (Government Code 12945, 12945.2; 2 CCR 11046, 11093)

Leave taken for the birth or placement of a child must be concluded within the 12-month period beginning on the date of the birth or placement of the child. Such leave does not need to be taken in one continuous period of time. (2 CCR 11090; 29 USC 2612)

CSBA NOTE: Although 29 USC 2612 allows the district to limit the aggregate number of work weeks of leave to which two parents may be entitled when both parents work for the district, such leave is covered under both FMLA and CFRA and state law prevails since it provides greater rights to employees.

Each eligible employee shall be granted up to 12 work weeks for family care and medical leave related to the birth or placement of a child, regardless of whether both parents of the child work for the district.

Use/Substitution of Paid Leave

CSBA NOTE: The district may require employees (Option 1) or employees may elect (Option 2) to use paid leave during an otherwise unpaid portion of CFRA or FMLA leave or POL. Pursuant to 2 CCR 11044 and 11092, the district may only require an employee to use sick leave if the leave is for the employee's own serious health condition or for POL, unless mutually agreed to by the district and the employee.

OPTION 1: During any otherwise unpaid period of FMLA or CFRA leave, except leave for an employee's own serious health condition, an employee shall use accrued paid leave, including, but not limited to, vacation leave, personal leave, or family leave. If the leave is for the employee's own serious health condition, the employee shall use accrued paid leave, including but not limited to, vacation leave, personal leave, or sick leave. During an unpaid period of POL, the employee shall use any accrued sick leave and may elect to use any vacation time or other accrued personal time off. (Government Code 12945, 12945.2; 2 CCR 11044, 11092; 29 USC 2612)

OPTION 2: During any otherwise unpaid period of POL or any FMLA or CFRA leave, the employee may elect to use accrued vacation leave, or any other paid time off negotiated with the district that the employee is eligible to use. If the leave is for the employee's own serious health condition or POL, the employee may also elect to use accrued sick leave during the period of leave. (Government Code 12945, 12945.2; 2 CCR 11044; 11092; 29 USC 2612)

CSBA NOTE: The following paragraph is for use with either option above.

The district and employee may also come to agreement regarding the use of any additional paid or unpaid time off instead of using the employee's CFRA leave. (2 CCR 11092)

Intermittent Leave/Reduced Work or Leave Schedule

POL and family care and medical leave for the serious health condition of an employee or eligible family member may be taken intermittently or on a reduced work or leave schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. However, the district shall limit leave increments to the shortest period of time that the district's payroll system uses to account for absences or use of leave provided it is not to be greater than one hour. (Government Code 12945.2; 2 CCR 11042, 11090; 29 USC 2612)

CSBA NOTE: Pursuant to 2 CCR 11090, the minimum duration of CFRA parental leave for the birth, adoption, or foster care placement of a child is generally two weeks. However, the district must grant a request for CFRA leave of less than two weeks duration on any two occasions and may grant additional requests.

The basic minimum duration of leave for the birth, adoption, or foster care placement of a child shall be two weeks. However, the district shall grant a request for such leave of less than two weeks on any two occasions. (2 CCR 11090; 29 USC 2612)

The district may require an employee to transfer temporarily to an available alternative position under any of the following circumstances: (2 CCR 11041, 11090; 29 USC 2612)

1. The employee needs intermittent leave or leave on a reduced work schedule that is foreseeable based on a planned medical treatment for the employee or family member.

CSBA NOTE: Pursuant to 2 CCR 11041, the district must accommodate the transfer request of a pregnant employee to the same extent that it accommodates transfer requests for other temporarily disabled employees.

2. A medical certification is provided by the employee's health care provider that, because of pregnancy, the employee has a medical need to take intermittent leave or leave on a reduced work schedule.

3. The district agrees to permit intermittent leave or leave on a reduced work schedule due to the birth, adoption, or foster care placement of the employee's child.

The alternative position must have equivalent pay and benefits and must better accommodate recurring periods of leave than the employee's regular job, and the employee must be qualified for the position. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced work or leave schedule. (2 CCR 11041, 11090; 29 USC 2612)

Request for Leave

CSBA NOTE: Pursuant to 2 CCR 11050 and 11091, an employee is required to notify the district of the need to take POL or family care and medical leave. The employee must provide at least verbal notice sufficient to make the district aware that the employee needs qualifying leave, and the anticipated timing and duration of the leave. However, the employee does not need to assert rights under CFRA or FMLA or even mention CFRA or FMLA to meet the notice requirement, but must state the reason the leave is needed. If there is a question about whether leave is FMLA/CFRA qualifying or if the district is considering denying CFRA leave based on an employee's refusal to provide further information, legal counsel should be consulted.

The district shall consider an employee's request for POL or family care and medical leave only if the employee provides at least verbal notice sufficient to make the district aware of the need to take the leave and the anticipated timing and duration of the leave. (2 CCR 11050, 11091)

For family care and medical leave, the employee need not expressly assert or mention FMLA/CFRA to satisfy this requirement. However, the employee must state the reason the leave is needed (e.g., birth of child, medical treatment). If more information is necessary to determine whether the employee is eligible for family care and medical leave, the Superintendent or designee shall inquire further and obtain the necessary details of the leave to be taken. (2 CCR 11091)

The district shall respond to requests for leave as soon as practicable, but no later than five business days after receiving the employee's request. (2 CCR 11091)

CSBA NOTE: Both 29 CFR 825.300 and 2 CCR 11091 require the district to provide an employee with notice of the designation of leave as either qualifying for CFRA or FMLA protection. See section entitled "Notifications" below for further requirements of this "designation notice" as well as other required notifications.

Pursuant to 2 CCR 11091, an employee has the obligation to respond to questions designed to determine whether an absence is potentially CFRA qualifying. If the district is unable to determine whether requested leave is CFRA qualifying because of an employee's refusal to respond to its inquiries, the employee may be denied CFRA protection.

Based on the information provided by the employee, the Superintendent or designee shall designate the leave, paid or unpaid, as FMLA/CFRA qualifying leave and shall give notice of such designation to the employee. Failure of an employee to respond to permissible inquiries regarding the leave request may result in denial of CFRA protection if the district is unable to determine whether the leave is CFRA qualifying. (2 CCR 11091; 29 CFR 825.300)

CSBA NOTE: Pursuant to 2 CCR 11091, the district may require an employee to provide at least 30 days advance notice of the need for family care and medical leave, if the need is foreseeable. If the district requires such advance notice from employees, then the district's notification of FMLA/CFRA rights must so specify; see section below entitled "Notifications."

Pursuant to 2 CCR 11050, an employee requesting POL is required to provide the district at least 30 days advance notice if the need for POL is foreseeable.

When an employee is able to foresee the need for POL or family care and medical leave at least 30 days in advance of the leave, the employee shall provide the district with at least 30 days advance notice before the leave. When the 30 days' notice is not practicable because of a lack of knowledge of when leave will be required to begin, a change in circumstances, a medical emergency, or other good cause, the employee shall provide the district with notice as soon as practicable. Failure of an employee to provide required notice may result in a denial of leave. (2 CCR 11050, 11091)

In all instances, the employee shall consult with the Superintendent or designee and make a reasonable effort to schedule, subject to the health care provider's approval, any planned appointment or medical treatment or supervision so as to minimize disruption to district operations. (Government Code 12945.2; 2 CCR 11050, 11091)

Certification of Health Condition

CSBA NOTE: The following optional section is for use by districts that require an employee to submit a medical certification of the need for family care and medical leave for an employee's own serious health condition or to care for the employee's eligible family member with a serious health condition. In order to help avoid claims of discrimination, the district should generally treat all such employees uniformly; thus, districts using this section should request a medical certification from all such employees.

Districts requiring written medical certification from employees may develop their own form, utilize one provided by the employee's health care provider, or use the form provided in 2 CCR 11097.

Within five business days of an employee's request for family care and medical leave for the serious health condition of the employee or an eligible family member, the Superintendent or designee shall request that the employee provide certification by a health care provider of the need for leave. Upon receiving the district's request, the employee shall provide the certification within 15 calendar days, unless either the Superintendent or designee provides additional time or it is not practicable under the particular circumstances, despite the employee's diligent, good faith efforts. (2 CCR 11087, 11091; 29 CFR 825.305)

The certification shall include the following: (Government Code 12945.2; 2 CCR 11087; 29 USC 2613)

1. The date on which the serious health condition began
2. The probable duration of the condition

CSBA NOTE: Item #3 below addresses an eligible employee's request for leave to care for an eligible family member. In such a case, 2 CCR 11087 provides that the health care provider's certification need not identify the serious health condition involved. The U.S. Department of Labor (DOL) provides a form, "Certification of Health Care Provider for Family Member's Serious Health Condition under the Family and Medical Leave Act," that districts may use for this purpose to avoid unauthorized disclosure of the serious health condition.

3. If the employee is requesting leave to care for an eligible family member with a serious health condition, both of the following:
 - a. Statement that the serious health condition warrants the participation of the employee to provide care, such as by providing psychological comfort, arranging for third party care, or directly providing or participating in the medical care of the eligible family member during a period of the treatment or supervision
 - b. Estimated amount of time the health care provider believes the employee needs to care for the eligible family member
4. If the employee is requesting leave because of the employee's own serious health condition, a statement that due to the serious health condition, the employee is unable to work at all or is unable to perform one or more essential job functions of the position
5. If the employee is requesting leave for intermittent treatment or on a reduced work or leave schedule for planned medical treatment, a statement of the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave

CSBA NOTE: Government Code 12940 and other provisions of the California Genetic Information Nondiscrimination Act of 2011 prohibit an employer from making a non-job related inquiry into an employee's genetic information. A district which believes that an employee's leave may require obtaining this information should consult with legal counsel.

The Superintendent or designee shall not request any genetic information related to an employee except as authorized by law in accordance with the California Genetic Information Nondiscrimination Act of 2011. (Government Code 12940)

When an employee has provided sufficient medical certification to enable the district to determine whether the employee's leave request is FMLA/CFRA-eligible, the Superintendent or designee shall notify the employee within five business days whether the leave is FMLA/CFRA-eligible. The Superintendent or designee may also retroactively designate leave as FMLA/CFRA leave as long as appropriate notice is given to the employee and there is no harm or injury to the employee. (2 CCR 11091; 29 CFR 825.301)

If the Superintendent or designee has a good faith objective reason to doubt the validity of a certification that accompanies a request for leave for the employee's own serious health condition, the Superintendent or designee may require the employee to obtain a second opinion from a district-approved health care provider, at district expense. If the second opinion is contrary to the first, the Superintendent or designee may require the employee to obtain a third medical opinion from a third health care provider approved by both the employee and the district, again at district expense. The opinion of the third health care provider shall be final and binding. (Government Code 12945.2; 2 CCR 11091; 29 USC 2613)

Certification for PDL

CSBA NOTE: The following optional section is for use by districts that require an employee to submit a medical certification of the need for leave along with the request for POL. Districts requiring written medical certification from employees who request reasonable accommodation, transfer, or disability leave because of pregnancy may develop their own form, utilize one provided by the employee's health care provider, or use the form provided in 2 CCR 11050.

The Superintendent or designee shall request that an employee who is requesting POL provide certification by a health care provider of the need for leave at the time the employee gives notice of the need for POL, or within two business days of giving the notice. If the need for POL is unforeseen, the Superintendent or designee shall request the medical certification within two business days after the leave commences. The Superintendent or designee may request certification at some later date if the Superintendent or designee has reason to question the appropriateness of the leave or its duration. (2 CCR 11050)

For PDL that is foreseeable and for which at least 30 days' notice has been given, the employee shall provide the medical certification before the leave begins. When this is not practicable, the employee shall provide the certification within the time frame specified by the Superintendent or designee which must be at least 15 calendar days after the request, unless it is not practicable under the particular circumstances despite the employee's diligent, good faith efforts. (2 CCR 11050)

Medical certification for POL purposes shall include a statement that the employee needs to take the leave because the employee is disabled by pregnancy, childbirth, or a related medical condition, the date on which the employee became disabled because of pregnancy, and the estimated duration of the leave. (2 CCR 11050)

If additional POL or family care and medical leave is needed when the time estimated by the health care provider expires, the district may require the employee to provide recertification in the manner specified for the leave. (Government Code 12945.2; 2 CCR 11050; 29 USC 2613)

Release to Return to Work

CSBA NOTE: The following optional section is for use by districts that choose to require a return-to-work certification and may be modified to list the specific positions for which certification is required. Pursuant to 2 CCR 11091, the district may require an employee to submit a return-to-work certification from the employee's health provider, stating that the employee is able to return to work. However, this requirement may only be made if the district has a uniformly applied practice of requiring such releases when employees return to work after illness, injury, or disability, any fitness-for-duty examination is job related and consistent with business necessity, and the practice is not forbidden by its collective bargaining agreement. 2 CCR 11050 has similar requirements when an employee is returning to work after POL.

Pursuant to 29 CFR 825.312, when the health care provider certifies that the employee is able to resume work, the district may also require the health care provider to address the employee's ability to perform the essential functions of the job. If such a requirement is imposed, then the district must provide the employee with a list of the employee's essential job functions with the "designation notice"; see section entitled "Notifications" below.

Upon expiration of an employee's POL or family care and medical leave taken for the employee's own serious health condition, the employee shall present certification from the health care provider of the employee's ability to resume work. The certification shall address the employee's ability to perform the essential job functions of the position.

Rights to Reinstatement

CSBA NOTE: Pursuant to Government Code 12945.2, 2 CCR 11043 and 11089, and 29 USC 2614, an employee on POL or family care and medical leave has the right to be reinstated to the same or a comparable position upon return from such leave. However, such an employee has no greater right to reinstatement or other benefits than the employee would have if employment had been continuous.

Upon granting an employee's request for PDL or FMLA/CFRA leave, the Superintendent or designee shall guarantee to reinstate the employee in the same or a comparable position when the leave ends. (Government Code 12945.2; 2 CCR 11043, 11089; 29 USC 2614)

The district may refuse to reinstate an employee to the same or a comparable position if the FMLA/CFRA leave was fraudulently obtained by the employee. (2 CCR 11089; 29 CFR 825.216)

The district may refuse to reinstate an employee to the same position after taking PDL if, at the time the reinstatement is requested, the employee would not otherwise have been employed in that position for legitimate business reasons unrelated to the employee's PDL. (2 CCR 11043)

Maintenance of Benefits/Failure to Return from Leave

During the period when an employee is on PDL or family care and medical leave, the employee shall maintain employee status with the district and the leave shall not constitute a break in service for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan. (Government Code 12945.2; 2 CCR 11092; 29 USC 2614)

CSBA NOTE: Pursuant to 2 CCR 11044 and 11092, the time that the district maintains and pays for group health coverage during PDL shall not be used to meet its obligation to pay for 12 weeks of group health coverage during leave taken under CFRA, even where the district designates the PDL as FMLA or CFRA leave. The entitlements to employer-paid group health coverage during PDL and during CFRA are two separate and distinct entitlements.

For up to a maximum of four months for PDL and 12 work weeks for other family care and medical leave, the district shall continue to provide an eligible employee the group health plan coverage that was in place before the employee took the leave. The employee shall reimburse the district for premiums paid during the leave if the employee fails to return to district employment after the expiration of all available leaves and the failure is for a reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond the employee's control. (Government Code 12945.2; 2 CCR 11044, 11092; 29 USC 2614; 29 CFR 825.213)

In addition, during the period when an employee is on PDL or family care and medical leave, the employee shall be entitled to continue to participate in other employee benefit plans including life insurance, short-term or long-term disability insurance, accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as would apply to an unpaid leave taken for any other purpose.

However, for purposes of pension and retirement plans, the district shall not make plan payments for an employee during any unpaid portion of the leave period and the leave period shall not be counted for purposes of time accrued under the plan. (Government Code 12945.2; 2 CCR 11044, 11092)

Military Family Leave Resulting from Qualifying Exigencies

CSBA NOTE: The following optional section reflects 29 USC 2611 and 2612 which authorize an eligible employee to take up to 12 work weeks of unpaid FMLA leave to attend to an "exigency" arising out of the fact that the employee's spouse, child, or parent is on active duty or on call to active duty status in the National Guard or Reserves, or is a member of the regular Armed Forces on deployment to a foreign country. Pursuant to Government Code 12945.2, an employee may take unpaid leave under CFRA to attend to an exigency involving the employee's registered domestic partner.

Pursuant to 29 CFR 825.200, an employee is entitled to 12 work weeks of qualifying exigency leave during each 12-month period established by the district; see section entitled "Terms of Leave" above. According to DOL's, "Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers," an employee may take all 12 weeks of FMLA leave entitlement as a qualifying exigency leave or take a combination of the 12 weeks of leave for both qualifying exigency leave and other FMLA leave, such as leave for a serious health condition.

An eligible employee may take up to 12 work weeks of unpaid FMLA/CFRA leave, during each 12-month period established by the district in the section entitled "Terms of Leave" above, for one or more qualifying exigencies while the employee's child, parent, spouse, or, for purposes of CFRA leave, registered domestic partner, who is a military member is on covered active duty or on call to covered active duty status. (Government Code 12945.2; 29 USC 2612; 29 CFR 825.126)

Covered active duty means, for members of the Regular Armed forces, duty during the deployment of a member of the regular Armed Forces to a foreign country or, for members of the Reserve components of the Armed forces, duty during the deployment of a member of the National Guard or Reserves to a foreign country under a call or an order to active duty in support of a contingency operation pursuant to law. Deployment to a foreign country includes deployment to international waters. (29 USC 2611; 29 CFR 825.126)

CSBA NOTE: Pursuant to 29 CFR 825.126, a "qualifying exigency" may include "other events" agreed to by the district and the employee. As an example of such other event, DOL's, "Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers," and the California Department of Human Resources', "Questions and Answers - Military Family Leave - FMLA," list leave to spend time with the military member either prior to or post deployment or to attend to household emergencies that would normally have been handled by the military member.

Qualifying exigencies include time needed to: (29 CFR 825.126)

1. Address issues arising from short notice deployment of up to seven calendar days from the date of receipt of call or order of short notice deployment
2. Attend military events and related activities, such as any official ceremony or family assistance program related to the covered active duty or call to covered active duty status
3. Arrange child care or attend school activities arising from the covered active duty or call to covered active duty, such as arranging for alternative child care, enrolling or transferring a child to a new school, or attending meetings
4. Make or update financial and legal arrangements to address a military member's absence
5. Attend counseling provided by someone other than a health care provider
6. Spend time (up to 15 calendar days of leave per instance) with a military member who is on short-term, temporary, rest and recuperation leave during deployment
7. Attend to certain post-deployment activities, such as arrival ceremonies or reintegration briefings
8. Care for a military member's parent who is incapable of self-care when the care is necessitated by the military member's covered active duty
9. Address any other event that the employee and district agree is a qualifying exigency

The employee shall provide the Superintendent or designee with notice of the need for the qualifying exigency leave as soon as practicable, regardless of how far in advance such leave is foreseeable. (29 CFR 825.302)

CSBA NOTE: The district may require the employee to provide certification of the qualifying exigency containing the information specified in 29 CFR 825.309. A form has been developed by DOL for this purpose and is available on its web site.

The following paragraph is optional and should be deleted by those districts that do not require such documentation. In order to help avoid claims of discrimination, the district should generally treat all employees uniformly; thus, districts using this paragraph should request certification from all employees requesting such leave.

An employee who is requesting leave for qualifying exigencies shall provide the Superintendent or designee with a copy of the military member's active duty orders, or other documentation issued by the military, and the dates of the service. In addition, the employee shall provide the Superintendent or designee with certification of the qualifying exigency necessitating the leave. The certification shall contain the information specified in 29 CFR 825.309.

The employee's qualifying exigency leave may be taken on an intermittent or reduced work or leave schedule basis. (29 CFR 825.302)

CSBA NOTE: Pursuant to 29 USC 2612 and 29 CFR 825.207, the district has the option to require or give employees discretion to use paid leave when taking FMLA/CFRA leave; see Options 1 and 2 in the section entitled "Use/Substitution of Paid Leave" above. Whichever option is selected by the district with regards to FMLA/CFRA leave is also applicable to qualified exigency leave.

During the period of qualified exigency leave, the district's rule regarding an employee's use of accrued vacation leave and any other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

Military Caregiver Leave

CSBA NOTE: 29 USC 2612 and 29 CFR 825.127 authorize an eligible employee to take up to 26 work weeks of unpaid military caregiver leave, as defined below, during a single 12-month period. According to DOL's, "Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers," if an employee does not use the entire 26-week entitlement in a single 12-month period, unused weeks cannot be carried over into another 12-month period. However, the employee may qualify for nonmilitary FMLA leave.

The district shall grant an eligible employee up to a total of 26 work weeks of leave during a single 12-month period, measured forward from the first date the leave is taken, to care for a covered servicemember with a serious illness or injury. In order to be eligible for such military caregiver leave, the employee must be the spouse, child, parent, or next of kin of the covered servicemember. This 26-week period is inclusive of the 12 work weeks of leave that may be taken for other FMLA qualifying reasons. (29 USC 2611, 2612; 29 CFR 825.127)

Covered servicemember may be: (29 CFR 825.127)

1. A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness
2. A veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran

Child of a covered servicemember means the covered servicemember's biological, adopted, or foster child, stepchild, legal ward, or child for whom the covered servicemember stood in loco parentis, and who is of any age. (29 CFR 825.127)

Parent of a covered servicemember means the covered servicemember's biological, adopted, step, or foster parent, or any other individual who stood in loco parentis to the covered servicemember (except "parents in law"). (29 CFR 825.127)

Next of kin means the nearest blood relative to the covered servicemember, other than the spouse, parent, or child, unless designated in writing by the covered servicemember. (29 USC 2611, 2612; 29 CFR 825.127)

Outpatient status means the status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. (29 USC 2611; 29 CFR 825.127)

CSBA NOTE: 29 USC 2611 defines "serious injury or illness" for active members of the Armed Forces and for veterans, as provided below. Pursuant to 29 CFR 825.127, a veteran's injury or illness will qualify as a "serious injury or illness" for the purpose of this leave, only if one of the four conditions listed in Item #2 below is present.

Serious injury or illness means: (29 USC 2611; 29 CFR 825.127)

1. For a current member of the Armed Forces, an injury or illness incurred by the member in the line of duty on active duty, or that existed before the beginning of the member's active duty and was aggravated by the member's service in the line of duty while on active duty in the Armed Forces, and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.
2. For a veteran, an injury or illness incurred or aggravated by the member's service in the line of duty on active duty in the Armed Forces, including the National Guard or Reserves, that manifested itself before or after the member became a veteran and that is at least one of the following:
 - a. A continuation of a serious injury or illness incurred or aggravated while the veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank, or rating
 - b. A physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs (VA) Service-Related Disability Rating of 50 percent or greater, based wholly or partly on that physical or mental condition
 - c. A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of one or more disabilities related to the servicemember's military service or that would do so but for treatment received by the veteran

- d. An injury, including a psychological injury, on the basis of which the veteran has been enrolled in the VA's Program of Comprehensive Assistance for Family Caregivers

CSBA NOTE: As is the case for other types of FMLA/CFRA leave, 29 CFR 825.302 requires the employee, when the need for the leave is foreseeable, to provide 30 days advance notice to the district before the leave is to begin. The employee shall provide reasonable and practicable notice of the need for the leave in accordance with the procedures in the section entitled "Request for Leave" above.

CSBA NOTE: 29 CFR 825.310 authorizes the district to require employees to provide certification of the need for the leave, which is to be completed by an authorized health care provider of the covered servicemember.

The following paragraph is optional. In order to help avoid claims of discrimination, the district should generally treat all employees uniformly; thus, districts using this paragraph should request a medical certification from all employees requesting such leave.

An employee requesting leave to care for a covered servicemember with a serious injury or illness shall provide the Superintendent or designee with certification from an authorized health care provider of the servicemember that contains the information specified in 29 CFR 825.310.

CSBA NOTE: Pursuant to 29 CFR 825.127, an employee may take up to a total of 26 work weeks of leave for both regular FMLA and military caregiver leave during the 12-month leave entitlement period. However, the employee may not take more than 12 weeks for regular FMLA leave. For example, according to DOL's, "Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers," an employee could take 12 weeks of FMLA leave to care for a newborn child and 14 weeks of military caregiver leave but could not take 16 weeks to care for a newborn and 10 weeks of military caregiver leave. If the leave qualifies as both military caregiver leave and leave to care for a family member with a serious health condition, 29 CFR 825.127 specifies that the district must first designate the leave as military caregiver leave.

The leave may be taken intermittently or on a reduced work or leave schedule when medically necessary. An employee taking military caregiver leave in combination with other family care and medical leaves pursuant to this administrative regulation shall be entitled to a combined total of 26 work weeks of leave during a single 12-month period. When both spouses work for the district and both wish to take such leave, the spouses are limited to a maximum combined total of 26 work weeks during a single 12-month period. (29 USC 2612)

CSBA NOTE: Pursuant to 29 USC 2612 and 29 CFR 825.207, the district has the option to require or give employees discretion to substitute paid leave when taking FMLA/CFRA leave; see Options 1 and 2 in section entitled "Use/Substitution of Paid Leave" above. Whichever option is selected by the district with regard to FMLA/CFRA leave is also applicable to military caregiver leave.

During the period of military caregiver leave, the district's rule regarding an employee's use of accrued vacation leave and other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

Notifications

CSBA NOTE: Both 29 CFR 825.300 and 2 CCR 11095 require employers to provide general notification to employees of their rights under the FMLA/CFRA as well as specific notifications when an employee has requested leave, as detailed below. 2 CCR 11049 contains similar notice requirements for POL purposes. Samples of notices which describe an employee's rights are available on the web sites of the California Department of Fair Employment and Housing and the DOL.

Pursuant to 2 CCR 11095, the district must translate the notice into every language that is spoken by at least 10 percent of the district's employees at any facility.

The Superintendent or designee shall provide the following notifications regarding state and federal law related to POL or FMLA/CFRA leave:

1. General Notice: Information explaining the provisions of the Fair Employment and Housing Act/POL and FMLA/CFRA and employees' rights and obligations shall be posted in a conspicuous place on district premises, or electronically, and shall be included in employee handbooks. (2 CCR 11049, 11095; 29 USC 2619)

CSBA NOTE: Pursuant to 2 CCR 11050 and 11091, a district may require an employee, when the need for the leave is foreseeable, to provide at least 30 days advance notice before the leave is to begin; see the section entitled "Request for Leave" above. 2 CCR 11049 and 11091 specify that districts requiring such

notice from employees must give them "reasonable advance notice" of their obligation and that incorporation of the requirement into the general notice satisfies the "advance notice" requirement.

The following optional paragraph is for use by districts that require employees to provide advance notice.

2. The general notice shall also explain an employee's obligation to provide the Superintendent or designee with at least 30 days' notice of the need for the requested leave, when the need is reasonably foreseeable at least 30 days prior to the start of the leave. (2 CCR 11049, 11050, 11091)
3. Eligibility Notice: When an employee requests leave, including PDL, or when the Superintendent or designee acquires knowledge that an employee's leave may be for an FMLA/CFRA qualifying reason, the Superintendent or designee shall, within five business days, provide notification to the employee of eligibility to take such leave. (2 CCR 11049, 11091; 29 CFR 825.300)
4. Rights and Responsibilities Notice: Each time the eligibility notice is provided to an employee, the Superintendent or designee shall provide written notification explaining the specific expectations and obligations of the employee, including any consequences for a failure to meet those obligations. Such notice shall include, as applicable: (29 CFR 825.300)
 - a. A statement that the leave may be designated and counted against the employee's annual FMLA/CFRA leave entitlement and the appropriate 12-month entitlement period, if qualifying

CSBA NOTE: Item #4b below is for use by districts that require medical certification to the effect that the employee is able to resume work. See the section entitled "Release to Return to Work" above.

- b. Any requirements for the employee to furnish medical certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of active duty or call to active duty status and the consequences of failing to provide the certification
- c. The employee's right to use paid leave, whether the district will require use of paid leave, conditions related to any use of paid leave, and the employee's entitlement to take unpaid leave if the employee does not meet the conditions for paid leave
- d. Any requirements for the employee to make premium payments necessary to maintain health benefits, the arrangement for making such payments, and the possible consequences of failure to make payments on a timely basis
- e. The employee's right to maintenance of benefits during the leave and restoration to the same or an equivalent job upon return from leave
- f. The employee's potential liability for health insurance premiums paid by the district during the employee's unpaid FMLA leave should the employee not return to service after the leave

Any time the information provided in the above notice changes, the Superintendent or designee shall, within five business days of receipt of an employee's first notice of need for leave, provide the employee with a written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

5. Designation Notice: When the Superintendent or designee has information (e.g., sufficient medical certification) to determine whether the leave qualifies as FMLA/CFRA leave, the Superintendent or designee shall, within five business days, provide written notification designating the leave as FMLA/CFRA qualifying or, if the leave will not be so designated, the reason for that determination. (2 CCR 11091; 29 CFR 825.300)

If the amount of leave needed is known, the notice shall include the number of hours, days, or weeks that will be counted against the employee's FMLA/CFRA entitlement. If it is not possible to provide that number at the time of the designation notice, notification shall be provided of the amount of leave counted against the employee's entitlement upon request by the employee and at least once in every 30-day period if leave was taken in that period. (29 CFR 825.300)

CSBA NOTE: 29 CFR 825.300 requires the designation notice to specify whether the district requires paid leave to be used during an otherwise unpaid family care and medical leave, whether the district requires an employee to present release to return to work certification, and whether that certification must address the employee's ability to perform the essential functions of the job. See the sections entitled "Use/Substitution

of Paid Leave" and "Release to Return to Work" above. The following paragraph should be revised to reflect district practice.

6. If the district requires paid leave to be used during an otherwise unpaid family care and medical leave, the notice shall so specify. If the district requires an employee to present a release to return to work certification that addresses the employee's ability to perform the essential functions of the job, the notice shall also specify that requirement. (2 CCR 11091, 11097; 29 CFR 825.300)

Any time the information provided in the designation notice changes, the Superintendent or designee shall, within five business days, provide the employee with written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

Records

CSBA NOTE: Government Code 12946, 29 USC 2616, and 29 CFR 825.500 require districts to maintain records of, among other things, applications, dates, and personnel and employment action related to family care and medical leave. Pursuant to 42 USC 2000ff-1, any individually identifiable genetic information possessed by the district must be treated as a confidential medical record of the employee involved.

The Superintendent or designee shall maintain records pertaining to an individual employee's use of FMLA or CFRA leave or PDL in accordance with law. (Government Code 12946; 29 USC 2616; 42 USC 2000ff-1; 29 CFR 825.500)

Policy Reference Disclaimer. These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

	Description
2 CCR 11035-11051	Unlawful sex discrimination: pregnancy, childbirth and related medical conditions - https://simbli.eboardsolutions.com/SU/GpluSgYNhBpluS6hlimWMyAuhwJw==
2 CCR 11087-11098	California Family Rights Act - https://simbli.eboardsolutions.com/SU/abM0slshHCKrMbGboplusCdDilag==
Ed. Code 44965	Granting of leaves of absence for pregnancy and childbirth
Fam. Code 297-297.5	Rights, protections, benefits under the law; registered domestic partners
Fam. Code 300	Definition of marriage
Gov. Code 12926	Definitions
Gov. Code 12940	Unlawful discriminatory employment practices
Gov. Code 12945	Unlawful discrimination based on pregnancy, childbirth, or related medical conditions
Gov. Code 12945.1-12945.2	California Family Rights Act
Gov. Code 12945.6	Parental leave
Gov. Code 12946	Fair employment and Housing Act: discrimination prohibited

Federal References

	Description
1 USC 7	Definition of marriage and spouse - https://simbli.eboardsolutions.com/SU/zna14bZkEoCQSILKxeKqGw==
29 CFR 825.100-825.702	Family and Medical Leave Act of 1993
29 USC 2601-2654	Family Care and Medical Leave Act
42 USC 2000ff-2000ff-11	Genetic Information Nondiscrimination Act of 2008

Management Resources References

	Description
Court Decision	Faust v. California Portland Cement Company, (2007) 150 Cal.App.4th 864
Court Decision	Tellis v. Alaska Airlines, (9th Cir., 2005) 414 F.3d 1045

Court Decision	United States v. Windsor, (2013) 699 F.3d 169
U.S. Department of Labor Publication	Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers
Website	U.S. Department of Labor, FMLA - https://simbli.eboardsolutions.com/SU/gTctHyc7Ra9nNTUgNmxAhw==
Website	California Department of Fair Employment and Housing - https://simbli.eboardsolutions.com/SU/RRvNseNogmlMLy18K40jw==

Cross References

Description

0410	Nondiscrimination In District Programs And Activities - https://simbli.eboardsolutions.com/SU/rpluplusaBOeAF4bUpZiBFBO9dQ==
0470	COVID-19 Mitigation Plan - https://simbli.eboardsolutions.com/SU/UonRXG6LPiZi7EgyplusqAd8g==
1113	District And School Web Sites - https://simbli.eboardsolutions.com/SU/tuHLSjVCOJcBx3R13Hfw==
1113	District And School Web Sites - https://simbli.eboardsolutions.com/SU/ZFoW4ZKHcT3nfqLxRIR1fw==
1113-E(1)	District And School Web Sites - https://simbli.eboardsolutions.com/SU/iSTLslsh83D1npluseoyHTIsM6ew==
2121	Superintendent's Contract - https://simbli.eboardsolutions.com/SU/fcslsb1ixO2EdCt2pz2NabYqA==
4030	Nondiscrimination In Employment - https://simbli.eboardsolutions.com/SU/z8saAb1i2vjlsishyINjIXOrA==
4030	Nondiscrimination In Employment - https://simbli.eboardsolutions.com/SU/vx943OTXdnIq9P0DHilzg==
4032	Reasonable Accommodation - https://simbli.eboardsolutions.com/SU/DZueVkplusHoNslsh53DXislsbi6mLw==
4033	Lactation Accommodation - https://simbli.eboardsolutions.com/SU/mBwCbA6CkbzZwslshCYfb2JvQ==
4112.2	Certification - https://simbli.eboardsolutions.com/SU/NtHKleuKt9J8bge0adj3gg==
4112.2	Certification - https://simbli.eboardsolutions.com/SU/tUsIshewyAvQpluseaASVjOFaFlw==
4112.4	Health Examinations - https://simbli.eboardsolutions.com/SU/sllMslshxU2YOPYoMMU2U7w==
4112.42	Drug And Alcohol Testing For School Bus Drivers - https://simbli.eboardsolutions.com/SU/slshnzMWdvaZpZnpZplusef81LQ==
4112.42	Drug And Alcohol Testing For School Bus Drivers - https://simbli.eboardsolutions.com/SU/plusx1slshGxTJQKJXLOkrYP8gpluseg==
4112.9	Employee Notifications - https://simbli.eboardsolutions.com/SU/lzO16slshnwrwplusn8LplusKslshvfw==
4112.9-E PDF(1)	Employee Notifications - https://simbli.eboardsolutions.com/SU/BjEd40hv6bJfiro1KsHpOQ==
4113.4	Temporary Modified/Light-Duty Assignment - https://simbli.eboardsolutions.com/SU/slshxtjrQ1xiXlplus25crkSNIUg==
4117.3	Personnel Reduction - https://simbli.eboardsolutions.com/SU/42Hj6RreDPO0Nvlww41j4g==
4141	Collective Bargaining Agreement - https://simbli.eboardsolutions.com/SU/wSbphisNslshzmwtp8Du1J7fxoGg==
4154	Health And Welfare Benefits - https://simbli.eboardsolutions.com/SU/8w7jXCSa7Dmj2OhsA1O4mg==

- 4154 Health And Welfare Benefits - <https://simbli.eboardsolutions.com/SU/bUKajshf9NH4tnZI9utk7g==>
- 4161 Leaves - <https://simbli.eboardsolutions.com/SU/FFXMgObslsbqslsbiKqtJJUX7vSg==>
- 4161 Leaves - <https://simbli.eboardsolutions.com/SU/1j87G85jaeaw3FbkyNX3fw==>
- 4161.1 Personal Illness/Injury Leave - <https://simbli.eboardsolutions.com/SU/wmtZ2H4oDc4HcrB9slshN1zcw==>
- 4161.2 Personal Leaves - <https://simbli.eboardsolutions.com/SU/Kzco4u58yiplus7nknYGxazpw==>
- 4161.9 Catastrophic Leave Program - <https://simbli.eboardsolutions.com/SU/BTEFJvZiOBplus6SWmBBkTR6w==>
- 4161.9 Catastrophic Leave Program - <https://simbli.eboardsolutions.com/SU/wpNf7hlkepJRy32hChSplus3g==>
- 4212.4 Health Examinations - <https://simbli.eboardsolutions.com/SU/RQiwSkZICOmKqFEHCuVAIA==>
- 4212.42 Drug And Alcohol Testing For School Bus Drivers - <https://simbli.eboardsolutions.com/SU/QgjTxWzNHPacaieY2R44UQ==>
- 4212.42 Drug And Alcohol Testing For School Bus Drivers - <https://simbli.eboardsolutions.com/SU/vRslshvw9XAfld9jXuR4KOLkg==>
- 4212.9 Employee Notifications - <https://simbli.eboardsolutions.com/SU/mHaW9EbnocLSPI6rr10dMw==>
- 4212.9-E PDF(1) Employee Notifications - <https://simbli.eboardsolutions.com/SU/U68jKBBwitzUHegLtpjM0w==>
- 4213.4 Temporary Modified/Light-Duty Assignment - <https://simbli.eboardsolutions.com/SU/EJKpCtBBQ0plusCkHrhwgQkplus8w==>
- 4217.3 Layoff/Rehire - <https://simbli.eboardsolutions.com/SU/sq9gotNKCsav6ieplusWoePKA==>
- 4241 Collective Bargaining Agreement - <https://simbli.eboardsolutions.com/SU/HilDt0mq6toKw0vAGRcktA==>
- 4254 Health And Welfare Benefits - <https://simbli.eboardsolutions.com/SU/A11Tc07Dplusq5qXGSvtT8tew==>
- 4254 Health And Welfare Benefits - <https://simbli.eboardsolutions.com/SU/4MRmnj4JOiqDWVDL30krzA==>
- 4259 Employee Assistance Programs - <https://simbli.eboardsolutions.com/SU/frGxOc7Yplus8ZsrZ44lplusJCUQ==>
- 4261 Leaves - <https://simbli.eboardsolutions.com/SU/NEon3h0paWxSWoNITTqbmA==>
- 4261 Leaves - <https://simbli.eboardsolutions.com/SU/cns2ox14MXb4vglRlm84fA==>
- 4261.1 Personal Illness/Injury Leave - <https://simbli.eboardsolutions.com/SU/71GWMkFdeFkQBbHk7qxzig==>
- 4261.2 Personal Leaves - <https://simbli.eboardsolutions.com/SU/plusoUkP9SoSAHHJbMKt2vPQ==>
- 4261.9 Catastrophic Leave Program - <https://simbli.eboardsolutions.com/SU/XaDfarslsbi31XF2rlnR8Mq0Q==>
- 4261.9 Catastrophic Leave Program - <https://simbli.eboardsolutions.com/SU/qCplusa1C9mz1xTAWeVcBslshpQg==>
- 4312.4 Health Examinations - <https://simbli.eboardsolutions.com/SU/obiSk8rTaSgKJ7TuV2j8Xw==>
- 4312.42 Drug And Alcohol Testing For School Bus Drivers - <https://simbli.eboardsolutions.com/SU/CgnDx1BIZbUtFWHVgyEOgA==>

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- 4312.9-E PDF(1) Employee Notifications -
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- 4313.4 Temporary Modified/Light-Duty Assignment -
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- 4354 Health And Welfare Benefits -
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- 4361.1 Personal Illness/Injury Leave -
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- 4361.2 Personal Leaves -
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- 4361.9 Catastrophic Leave Program -
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Regulation 4261.8: Family Care And Medical Leave

Status: ADOPTED

Original Adopted Date: 06/01/2022 | Last Reviewed Date: 06/01/2022

CSBA NOTE: The following optional administrative regulation addresses mandatory subjects of bargaining. The laws referenced in this regulation provide minimum amounts of leave which the district must grant its employees if more generous benefits are not provided as part of its collective bargaining agreement. Any covered subject that is already addressed in the district's collective bargaining agreements should be deleted from this administrative regulation.

Both federal and state law provide for family care and medical leave (29 USC 2601-2654, the Family and Medical Leave Act of 1993 (FMLA), and Government Code 12945.1-12945.2, the California Family Rights Act (CFRA)). However, these laws do not always provide identical rights or operate in the same manner. For example, pregnancy as a "serious health condition" is covered under FMLA but not under CFRA. Instead, under state law, an employee who is disabled due to pregnancy, childbirth, or a related medical condition is entitled to pregnancy disability leave (PDL) pursuant to Government Code 12945. Where there is a difference between state and federal law, the law that grants the greatest benefits generally controls. In those situations, legal counsel should be consulted as needed.

The district shall not deny any eligible employee the right to family care or medical leave pursuant to the Family and Medical Leave Act (FMLA) or the California Family Rights Act (CFRA), or to Pregnancy Disability Leave (PDL), when an employee is disabled by a pregnancy, childbirth, or related medical condition. The district shall not interfere with, restrain, or deny the exercise of an employee's right to any such leave, nor shall the district discharge, discriminate against, or retaliate against an employee for taking such leave, opposing or challenging an unlawful employment practice in relation to any of these laws, or being involved in any related inquiry or proceeding. (Government Code 12945, 12945.2; 2 CCR 11094; 29 USC 2615)

Definitions

The words and phrases defined below shall have the same meaning throughout this administrative regulation except where a different meaning is otherwise specified.

Child means a biological, adopted, or foster child; a stepchild; a legal ward; or a person to whom the employee stands in loco parentis. For purposes of CFRA leave, child also includes a child of a registered domestic partner. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611)

Eligible employee, for FMLA and CFRA purposes, means an employee who has been employed with the district for at least 12 months and who has at least 1,250 hours of service with the district during the 12 months immediately preceding the leave. However, these requirements shall not apply when an employee applies for PDL. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611; 29 CFR 825.110)

CSBA NOTE: Government Code 12945.2, as amended by AB 1033 (Ch. 327, Statutes of 2021), includes a parent-in-law in the definition of "parent" for purposes of CFRA leave.

Eligible family member means an employee's child, parent, or spouse. For purposes of leave to care for a family member with a serious health condition pursuant to CFRA, eligible family member includes an employee's child, parent, parent-in-law, spouse, registered domestic partner, grandparent, grandchild, or sibling. (Government Code 12945.2; 2 CCR 11087; 29 USC 2612)

Employee disabled by pregnancy means an employee whose health care provider states that the employee is: (2 CCR 11035)

1. Unable because of pregnancy to perform any one or more of the essential functions of the job or to perform any of them without undue risk to the employee or other persons or to the pregnancy's successful completion
2. Suffering from severe "morning sickness" or needs to take time off for prenatal or postnatal care, bed rest, gestational diabetes, pregnancy-induced hypertension, preeclampsia, postpartum depression, childbirth, loss or end of pregnancy, recovery from childbirth or loss or end of pregnancy, or any other pregnancy-related condition

Parent means a biological, foster, or adoptive parent; a parent-in-law; a stepparent; a legal guardian; or another person who stood in loco parentis to the employee when the employee was a child. However, for FMLA purposes, parent does not include a spouse's parents. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611; 29 CFR 825.122)

Serious health condition means an illness, injury (including, but not limited to, on-the-job injuries), impairment, or physical or mental condition of the employee or an eligible family member of the employee that involves either inpatient care or continuing treatment, including treatment for substance abuse, as follows: (Government Code 12945.2; 2 CCR 11087, 11097; 29 USC 2611, 2612; 29 CFR 825.113-825.115)

1. Inpatient care in a hospital, hospice, or residential health care facility, any subsequent treatment in connection with such inpatient care, or any period of incapacity

A person is considered an inpatient when formally admitted to a health care facility with the expectation of remaining overnight and occupying a bed, even if it later develops that the person can be discharged or transferred to another facility and does not actually remain overnight.

Incapacity means the inability to work, attend school, or perform other regular daily activities due to a serious health condition, its treatment, or the recovery that it requires.

2. Continuing treatment or continuing supervision by a health care provider, including one or more of the following:
 - a. A period of incapacity of more than three consecutive full days
 - b. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition
 - c. Any period of incapacity due to pregnancy or for prenatal care under FMLA
 - d. Any period of incapacity which is permanent or long term due to a condition for which treatment may not be effective
 - e. Any period of absence to receive multiple treatments, including recovery, by a health care provider

Spouse means a partner in marriage as defined in Family Code 300, including same sex partners in marriage. For purposes of CFRA leave, spouse also includes a registered domestic partner within the meaning of Family Code 297-297.5. (Family Code 297, 297.5, 300; 2 CCR 11087; 29 CFR 825.122)

Eligibility/Purposes of Leave

CSBA NOTE: Government Code 12945.2 and 29 USC 2611-2612 require a district to grant family care and medical leave to an eligible employee for any of the reasons stated below. These requirements apply to all public agencies regardless of the number of employees.

The district shall grant FMLA or CFRA leave to eligible employees for any of the following reasons: (Government Code 12945.2; 29 USC 2612; 29 CFR 825.112, 825.126, 825.127)

1. The birth of a child of the employee or placement of a child with the employee in connection with the employee's adoption or foster care of the child (parental leave)
2. The care of an eligible family member with a serious health condition
3. The employee's own serious health condition that makes the employee unable to perform the job functions of the position

CSBA NOTE: Pursuant to 29 CFR 825.126, FMLA military family leave is available to any eligible employee for a qualifying exigency while the employee's spouse, child, or parent who is a military member is on covered active duty during deployment to a foreign country. Government Code 12945.2 provides exigency leave under CFRA for an employee whose registered domestic partner is on active duty. For requirements related to qualifying exigency leave, see the section "Military Family Leave Resulting from Qualifying Exigencies" below.

4. A qualifying exigency arising out of the fact that the employee's spouse, child, parent, or, for CFRA leave only, a registered domestic partner, is a military member on covered active duty or call to covered active duty (or has been notified of an impending call or order to covered active duty)

CSBA NOTE: Pursuant to 29 CFR 825.127, military caregiver leave is available to any eligible employee who

is a family member of a covered servicemember with a serious injury or illness. For requirements related to military caregiver leave, see the section on "Military Caregiver Leave" below.

5. The care of a covered servicemember with a serious injury or illness when the employee is a spouse, child, parent, or next of kin of the covered servicemember

CSBA NOTE: Under federal law, pregnancy as a "serious health condition" is covered as part of FMLA leave. However, disability due to pregnancy is explicitly excluded from coverage under CFRA (2 CCR 11093). Instead, pursuant to Government Code 12926 and 12945, any California employee who is "disabled because of pregnancy, childbirth, or related medical conditions" is entitled to unpaid POL of up to four months if the employer has five or more employees. Therefore, such an employee is entitled to up to four months of POL and an additional 12 weeks of CFRA leave following the birth of the child.

Additionally, pursuant to 2 CCR 11037, POL is not subject to eligibility requirements for other FMLA and CFRA leaves, such as minimum hours worked or length of service.

In addition, the district shall grant POL to any employee who is disabled by pregnancy, childbirth, or other related medical condition. (Government Code 12945; 2 CCR 11037)

Terms of Leave

CSBA NOTE: Pursuant to Government Code 12945.2, leaves common to CFRA and FMLA run concurrently so that total leave to which an employee is entitled would not be more than 12 work weeks.

An eligible employee shall be entitled to a total of 12 work weeks of FMLA or CFRA leave during any 12-month period, except in the case of leave to care for a covered servicemember as provided under "Military Caregiver Leave" below. To the extent allowed by law, CFRA and FMLA leaves shall run concurrently. (Government Code 12945.2; 29 USC 2612)

CSBA NOTE: To determine the 12-month period in which the leave entitlement occurs, the district may use any of the methods identified in 29 CFR 825.200 and specified in options #1-4 below. However, a district may choose not to use any of these options and may instead choose some other fixed 12-month period. Whichever option is selected, it must be applied uniformly to all employees. If the district fails to select a method for calculating the 12-month period, the method that provides the most beneficial outcome for the employee will be used. Pursuant to 2 CCR 11090, if the district decides to change the calculation method, it must provide at least 60 days' notice to all employees.

OPTION 1: The 12-month period shall coincide with the calendar year. (29 CFR 825.200)

OPTION 2: The 12-month period shall coincide with the fiscal year. (29 CFR 825.200)

OPTION 3: The 12-month period shall be measured forward from the date the employee's first family care and medical leave begins. (29 CFR 825.200)

OPTION 4: The 12-month period shall be a rolling period measured backward from the date an employee uses any family care and medical leave, as defined in 29 CFR 825.200. (29 CFR 825.200)

CSBA NOTE: 2 CCR 11042 clarifies that the four months of POL to which an employee is entitled means the number of days or hours that the employee would normally work within the four calendar months. For employees who work 40 hours per week, POL leave is defined as 17-1/3 weeks, 122 days, or 693 hours.

In addition, any employee who is disabled by pregnancy, childbirth, or other related condition shall be entitled to POL for the period of the disability not to exceed four months. For a part-time employee, the four months shall be calculated on a proportional basis. (Government Code 12945; 2 CCR 11042)

CSBA NOTE: While leaves common to CFRA and FMLA run concurrently, POL is separate and distinct from CFRA leave. Consequently, pursuant to 2 CCR 11046, an employee who is "disabled by pregnancy" may be entitled to up to four months of POL, followed by 12 work weeks of CFRA leave for the birth of the child (baby bonding). Determining which leaves run concurrently is a complex endeavor and districts should consult legal counsel as needed.

POL shall run concurrently with FMLA leave for disability caused by an employee's pregnancy. At the end of the employee's FMLA leave for disability caused by pregnancy, or at the end of four months of POL, whichever occurs first, a CFRA-eligible employee may request to take CFRA leave of up to 12 work weeks, for the reason of the birth of a child or to bond with or care for the child. (Government Code 12945, 12945.2; 2 CCR 11046, 11093)

Leave taken for the birth or placement of a child must be concluded within the 12-month period beginning on the date of the birth or placement of the child. Such leave does not need to be taken in one continuous period of time. (2 CCR 11090; 29 USC 2612)

CSBA NOTE: Although 29 USC 2612 allows the district to limit the aggregate number of work weeks of leave to which two parents may be entitled when both parents work for the district, such leave is covered under both FMLA and CFRA and state law prevails since it provides greater rights to employees.

Each eligible employee shall be granted up to 12 work weeks for family care and medical leave related to the birth or placement of a child, regardless of whether both parents of the child work for the district.

Use/Substitution of Paid Leave

CSBA NOTE: The district may require employees (Option 1) or employees may elect (Option 2) to use paid leave during an otherwise unpaid portion of CFRA or FMLA leave or POL. Pursuant to 2 CCR 11044 and 11092, the district may only require an employee to use sick leave if the leave is for the employee's own serious health condition or for POL, unless mutually agreed to by the district and the employee.

OPTION 1: During any otherwise unpaid period of FMLA or CFRA leave, except leave for an employee's own serious health condition, an employee shall use accrued paid leave, including, but not limited to, vacation leave, personal leave, or family leave. If the leave is for the employee's own serious health condition, the employee shall use accrued paid leave, including but not limited to, vacation leave, personal leave, or sick leave. During an unpaid period of POL, the employee shall use any accrued sick leave and may elect to use any vacation time or other accrued personal time off. (Government Code 12945, 12945.2; 2 CCR 11044, 11092; 29 USC 2612)

OPTION 2: During any otherwise unpaid period of POL or any FMLA or CFRA leave, the employee may elect to use accrued vacation leave, or any other paid time off negotiated with the district that the employee is eligible to use. If the leave is for the employee's own serious health condition or POL, the employee may also elect to use accrued sick leave during the period of leave. (Government Code 12945, 12945.2; 2 CCR 11044; 11092; 29 USC 2612)

CSBA NOTE: The following paragraph is for use with either option above.

The district and employee may also come to agreement regarding the use of any additional paid or unpaid time off instead of using the employee's CFRA leave. (2 CCR 11092)

Intermittent Leave/Reduced Work or Leave Schedule

POL and family care and medical leave for the serious health condition of an employee or eligible family member may be taken intermittently or on a reduced work or leave schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. However, the district shall limit leave increments to the shortest period of time that the district's payroll system uses to account for absences or use of leave provided it is not to be greater than one hour. (Government Code 12945.2; 2 CCR 11042, 11090; 29 USC 2612)

CSBA NOTE: Pursuant to 2 CCR 11090, the minimum duration of CFRA parental leave for the birth, adoption, or foster care placement of a child is generally two weeks. However, the district must grant a request for CFRA leave of less than two weeks duration on any two occasions and may grant additional requests.

The basic minimum duration of leave for the birth, adoption, or foster care placement of a child shall be two weeks. However, the district shall grant a request for such leave of less than two weeks on any two occasions. (2 CCR 11090; 29 USC 2612)

The district may require an employee to transfer temporarily to an available alternative position under any of the following circumstances: (2 CCR 11041, 11090; 29 USC 2612)

1. The employee needs intermittent leave or leave on a reduced work schedule that is foreseeable based on a planned medical treatment for the employee or family member.

CSBA NOTE: Pursuant to 2 CCR 11041, the district must accommodate the transfer request of a pregnant employee to the same extent that it accommodates transfer requests for other temporarily disabled employees.

2. A medical certification is provided by the employee's health care provider that, because of pregnancy, the employee has a medical need to take intermittent leave or leave on a reduced work schedule.

3. The district agrees to permit intermittent leave or leave on a reduced work schedule due to the birth, adoption, or foster care placement of the employee's child.

The alternative position must have equivalent pay and benefits and must better accommodate recurring periods of leave than the employee's regular job, and the employee must be qualified for the position. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced work or leave schedule. (2 CCR 11041, 11090; 29 USC 2612)

Request for Leave

CSBA NOTE: Pursuant to 2 CCR 11050 and 11091, an employee is required to notify the district of the need to take POL or family care and medical leave. The employee must provide at least verbal notice sufficient to make the district aware that the employee needs qualifying leave, and the anticipated timing and duration of the leave. However, the employee does not need to assert rights under CFRA or FMLA or even mention CFRA or FMLA to meet the notice requirement, but must state the reason the leave is needed. If there is a question about whether leave is FMLA/CFRA qualifying or if the district is considering denying CFRA leave based on an employee's refusal to provide further information, legal counsel should be consulted.

The district shall consider an employee's request for POL or family care and medical leave only if the employee provides at least verbal notice sufficient to make the district aware of the need to take the leave and the anticipated timing and duration of the leave. (2 CCR 11050, 11091)

For family care and medical leave, the employee need not expressly assert or mention FMLA/CFRA to satisfy this requirement. However, the employee must state the reason the leave is needed (e.g., birth of child, medical treatment). If more information is necessary to determine whether the employee is eligible for family care and medical leave, the Superintendent or designee shall inquire further and obtain the necessary details of the leave to be taken. (2 CCR 11091)

The district shall respond to requests for leave as soon as practicable, but no later than five business days after receiving the employee's request. (2 CCR 11091)

CSBA NOTE: Both 29 CFR 825.300 and 2 CCR 11091 require the district to provide an employee with notice of the designation of leave as either qualifying for CFRA or FMLA protection. See section entitled "Notifications" below for further requirements of this "designation notice" as well as other required notifications.

Pursuant to 2 CCR 11091, an employee has the obligation to respond to questions designed to determine whether an absence is potentially CFRA qualifying. If the district is unable to determine whether requested leave is CFRA qualifying because of an employee's refusal to respond to its inquiries, the employee may be denied CFRA protection.

Based on the information provided by the employee, the Superintendent or designee shall designate the leave, paid or unpaid, as FMLA/CFRA qualifying leave and shall give notice of such designation to the employee. Failure of an employee to respond to permissible inquiries regarding the leave request may result in denial of CFRA protection if the district is unable to determine whether the leave is CFRA qualifying. (2 CCR 11091; 29 CFR 825.300)

CSBA NOTE: Pursuant to 2 CCR 11091, the district may require an employee to provide at least 30 days advance notice of the need for family care and medical leave, if the need is foreseeable. If the district requires such advance notice from employees, then the district's notification of FMLA/CFRA rights must so specify; see section below entitled "Notifications."

Pursuant to 2 CCR 11050, an employee requesting POL is required to provide the district at least 30 days advance notice if the need for POL is foreseeable.

When an employee is able to foresee the need for POL or family care and medical leave at least 30 days in advance of the leave, the employee shall provide the district with at least 30 days advance notice before the leave. When the 30 days' notice is not practicable because of a lack of knowledge of when leave will be required to begin, a change in circumstances, a medical emergency, or other good cause, the employee shall provide the district with notice as soon as practicable. Failure of an employee to provide required notice may result in a denial of leave. (2 CCR 11050, 11091)

In all instances, the employee shall consult with the Superintendent or designee and make a reasonable effort to schedule, subject to the health care provider's approval, any planned appointment or medical treatment or supervision so as to minimize disruption to district operations. (Government Code 12945.2; 2 CCR 11050, 11091)

Certification of Health Condition

CSBA NOTE: The following optional section is for use by districts that require an employee to submit a medical certification of the need for family care and medical leave for an employee's own serious health condition or to care for the employee's eligible family member with a serious health condition. In order to help avoid claims of discrimination, the district should generally treat all such employees uniformly; thus, districts using this section should request a medical certification from all such employees.

Districts requiring written medical certification from employees may develop their own form, utilize one provided by the employee's health care provider, or use the form provided in 2 CCR 11097.

Within five business days of an employee's request for family care and medical leave for the serious health condition of the employee or an eligible family member, the Superintendent or designee shall request that the employee provide certification by a health care provider of the need for leave. Upon receiving the district's request, the employee shall provide the certification within 15 calendar days, unless either the Superintendent or designee provides additional time or it is not practicable under the particular circumstances, despite the employee's diligent, good faith efforts. (2 CCR 11087, 11091; 29 CFR 825.305)

The certification shall include the following: (Government Code 12945.2; 2 CCR 11087; 29 USC 2613)

1. The date on which the serious health condition began
2. The probable duration of the condition

CSBA NOTE: Item #3 below addresses an eligible employee's request for leave to care for an eligible family member. In such a case, 2 CCR 11087 provides that the health care provider's certification need not identify the serious health condition involved. The U.S. Department of Labor (DOL) provides a form, "Certification of Health Care Provider for Family Member's Serious Health Condition under the Family and Medical Leave Act," that districts may use for this purpose to avoid unauthorized disclosure of the serious health condition.

3. If the employee is requesting leave to care for an eligible family member with a serious health condition, both of the following:
 - a. Statement that the serious health condition warrants the participation of the employee to provide care, such as by providing psychological comfort, arranging for third party care, or directly providing or participating in the medical care of the eligible family member during a period of the treatment or supervision
 - b. Estimated amount of time the health care provider believes the employee needs to care for the eligible family member
4. If the employee is requesting leave because of the employee's own serious health condition, a statement that due to the serious health condition, the employee is unable to work at all or is unable to perform one or more essential job functions of the position
5. If the employee is requesting leave for intermittent treatment or on a reduced work or leave schedule for planned medical treatment, a statement of the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave

CSBA NOTE: Government Code 12940 and other provisions of the California Genetic Information Nondiscrimination Act of 2011 prohibit an employer from making a non-job related inquiry into an employee's genetic information. A district which believes that an employee's leave may require obtaining this information should consult with legal counsel.

The Superintendent or designee shall not request any genetic information related to an employee except as authorized by law in accordance with the California Genetic Information Nondiscrimination Act of 2011. (Government Code 12940)

When an employee has provided sufficient medical certification to enable the district to determine whether the employee's leave request is FMLA/CFRA-eligible, the Superintendent or designee shall notify the employee within five business days whether the leave is FMLA/CFRA-eligible. The Superintendent or designee may also retroactively designate leave as FMLA/CFRA leave as long as appropriate notice is given to the employee and there is no harm or injury to the employee. (2 CCR 11091; 29 CFR 825.301)

If the Superintendent or designee has a good faith objective reason to doubt the validity of a certification that accompanies a request for leave for the employee's own serious health condition, the Superintendent or designee may require the employee to obtain a second opinion from a district-approved health care provider, at district expense. If the second opinion is contrary to the first, the Superintendent or designee may require the employee to obtain a third medical opinion from a third health care provider approved by both the employee and the district, again at district expense. The opinion of the third health care provider shall be final and binding. (Government Code 12945.2; 2 CCR 11091; 29 USC 2613)

Certification for PDL

CSBA NOTE: The following optional section is for use by districts that require an employee to submit a medical certification of the need for leave along with the request for POL. Districts requiring written medical certification from employees who request reasonable accommodation, transfer, or disability leave because of pregnancy may develop their own form, utilize one provided by the employee's health care provider, or use the form provided in 2 CCR 11050.

The Superintendent or designee shall request that an employee who is requesting POL provide certification by a health care provider of the need for leave at the time the employee gives notice of the need for POL, or within two business days of giving the notice. If the need for POL is unforeseen, the Superintendent or designee shall request the medical certification within two business days after the leave commences. The Superintendent or designee may request certification at some later date if the Superintendent or designee has reason to question the appropriateness of the leave or its duration. (2 CCR 11050)

For PDL that is foreseeable and for which at least 30 days' notice has been given, the employee shall provide the medical certification before the leave begins. When this is not practicable, the employee shall provide the certification within the time frame specified by the Superintendent or designee which must be at least 15 calendar days after the request, unless it is not practicable under the particular circumstances despite the employee's diligent, good faith efforts. (2 CCR 11050)

Medical certification for POL purposes shall include a statement that the employee needs to take the leave because the employee is disabled by pregnancy, childbirth, or a related medical condition, the date on which the employee became disabled because of pregnancy, and the estimated duration of the leave. (2 CCR 11050)

If additional PDL or family care and medical leave is needed when the time estimated by the health care provider expires, the district may require the employee to provide recertification in the manner specified for the leave. (Government Code 12945.2; 2 CCR 11050; 29 USC 2613)

Release to Return to Work

CSBA NOTE: The following optional section is for use by districts that choose to require a return-to-work certification and may be modified to list the specific positions for which certification is required. Pursuant to 2 CCR 11091, the district may require an employee to submit a return-to-work certification from the employee's health provider, stating that the employee is able to return to work. However, this requirement may only be made if the district has a uniformly applied practice of requiring such releases when employees return to work after illness, injury, or disability, any fitness-for-duty examination is job related and consistent with business necessity, and the practice is not forbidden by its collective bargaining agreement. 2 CCR 11050 has similar requirements when an employee is returning to work after POL.

Pursuant to 29 CFR 825.312, when the health care provider certifies that the employee is able to resume work, the district may also require the health care provider to address the employee's ability to perform the essential functions of the job. If such a requirement is imposed, then the district must provide the employee with a list of the employee's essential job functions with the "designation notice"; see section entitled "Notifications" below.

Upon expiration of an employee's POL or family care and medical leave taken for the employee's own serious health condition, the employee shall present certification from the health care provider of the employee's ability to resume work. The certification shall address the employee's ability to perform the essential job functions of the position.

Rights to Reinstatement

CSBA NOTE: Pursuant to Government Code 12945.2, 2 CCR 11043 and 11089, and 29 USC 2614, an employee on POL or family care and medical leave has the right to be reinstated to the same or a comparable position upon return from such leave. However, such an employee has no greater right to reinstatement or other benefits than the employee would have if employment had been continuous.

Upon granting an employee's request for PDL or FMLA/CFRA leave, the Superintendent or designee shall guarantee to reinstate the employee in the same or a comparable position when the leave ends. (Government Code 12945.2; 2 CCR 11043, 11089; 29 USC 2614)

The district may refuse to reinstate an employee to the same or a comparable position if the FMLA/CFRA leave was fraudulently obtained by the employee. (2 CCR 11089; 29 CFR 825.216)

The district may refuse to reinstate an employee to the same position after taking PDL if, at the time the reinstatement is requested, the employee would not otherwise have been employed in that position for legitimate business reasons unrelated to the employee's PDL. (2 CCR 11043)

Maintenance of Benefits/Failure to Return from Leave

During the period when an employee is on PDL or family care and medical leave, the employee shall maintain employee status with the district and the leave shall not constitute a break in service for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan. (Government Code 12945.2; 2 CCR 11092; 29 USC 2614)

CSBA NOTE: Pursuant to 2 CCR 11044 and 11092, the time that the district maintains and pays for group health coverage during PDL shall not be used to meet its obligation to pay for 12 weeks of group health coverage during leave taken under CFRA, even where the district designates the PDL as FMLA or CFRA leave. The entitlements to employer-paid group health coverage during PDL and during CFRA are two separate and distinct entitlements.

For up to a maximum of four months for PDL and 12 work weeks for other family care and medical leave, the district shall continue to provide an eligible employee the group health plan coverage that was in place before the employee took the leave. The employee shall reimburse the district for premiums paid during the leave if the employee fails to return to district employment after the expiration of all available leaves and the failure is for a reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond the employee's control. (Government Code 12945.2; 2 CCR 11044, 11092; 29 USC 2614; 29 CFR 825.213)

In addition, during the period when an employee is on PDL or family care and medical leave, the employee shall be entitled to continue to participate in other employee benefit plans including life insurance, short-term or long-term disability insurance, accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as would apply to an unpaid leave taken for any other purpose.

However, for purposes of pension and retirement plans, the district shall not make plan payments for an employee during any unpaid portion of the leave period and the leave period shall not be counted for purposes of time accrued under the plan. (Government Code 12945.2; 2 CCR 11044, 11092)

Military Family Leave Resulting from Qualifying Exigencies

CSBA NOTE: The following optional section reflects 29 USC 2611 and 2612 which authorize an eligible employee to take up to 12 work weeks of unpaid FMLA leave to attend to an "exigency" arising out of the fact that the employee's spouse, child, or parent is on active duty or on call to active duty status in the National Guard or Reserves, or is a member of the regular Armed Forces on deployment to a foreign country. Pursuant to Government Code 12945.2, an employee may take unpaid leave under CFRA to attend to an exigency involving the employee's registered domestic partner.

Pursuant to 29 CFR 825.200, an employee is entitled to 12 work weeks of qualifying exigency leave during each 12-month period established by the district; see section entitled "Terms of Leave" above. According to DOL's, "Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers," an employee may take all 12 weeks of FMLA leave entitlement as a qualifying exigency leave or take a combination of the 12 weeks of leave for both qualifying exigency leave and other FMLA leave, such as leave for a serious health condition.

An eligible employee may take up to 12 work weeks of unpaid FMLA/CFRA leave, during each 12-month period established by the district in the section entitled "Terms of Leave" above, for one or more qualifying exigencies while the employee's child, parent, spouse, or, for purposes of CFRA leave, registered domestic partner, who is a military member is on covered active duty or on call to covered active duty status. (Government Code 12945.2; 29 USC 2612; 29 CFR 825.126)

Covered active duty means, for members of the Regular Armed forces, duty during the deployment of a member of the regular Armed Forces to a foreign country or, for members of the Reserve components of the Armed forces, duty during the deployment of a member of the National Guard or Reserves to a foreign country under a call or an order to active duty in support of a contingency operation pursuant to law. Deployment to a foreign country includes deployment to international waters. (29 USC 2611; 29 CFR 825.126)

CSBA NOTE: Pursuant to 29 CFR 825.126, a "qualifying exigency" may include "other events" agreed to by the district and the employee. As an example of such other event, DOL's, "Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers," and the California Department of Human Resources', "Questions and Answers - Military Family Leave - FMLA," list leave to spend time with the military member either prior to or post deployment or to attend to household emergencies that would normally have been handled by the military member.

Qualifying exigencies include time needed to: (29 CFR 825.126)

1. Address issues arising from short notice deployment of up to seven calendar days from the date of receipt of call or order of short notice deployment
2. Attend military events and related activities, such as any official ceremony or family assistance program related to the covered active duty or call to covered active duty status
3. Arrange child care or attend school activities arising from the covered active duty or call to covered active duty, such as arranging for alternative child care, enrolling or transferring a child to a new school, or attending meetings
4. Make or update financial and legal arrangements to address a military member's absence
5. Attend counseling provided by someone other than a health care provider
6. Spend time (up to 15 calendar days of leave per instance) with a military member who is on short-term, temporary, rest and recuperation leave during deployment
7. Attend to certain post-deployment activities, such as arrival ceremonies or reintegration briefings
8. Care for a military member's parent who is incapable of self-care when the care is necessitated by the military member's covered active duty
9. Address any other event that the employee and district agree is a qualifying exigency

The employee shall provide the Superintendent or designee with notice of the need for the qualifying exigency leave as soon as practicable, regardless of how far in advance such leave is foreseeable. (29 CFR 825.302)

CSBA NOTE: The district may require the employee to provide certification of the qualifying exigency containing the information specified in 29 CFR 825.309. A form has been developed by DOL for this purpose and is available on its web site.

The following paragraph is optional and should be deleted by those districts that do not require such documentation. In order to help avoid claims of discrimination, the district should generally treat all employees uniformly; thus, districts using this paragraph should request certification from all employees requesting such leave.

An employee who is requesting leave for qualifying exigencies shall provide the Superintendent or designee with a copy of the military member's active duty orders, or other documentation issued by the military, and the dates of the service. In addition, the employee shall provide the Superintendent or designee with certification of the qualifying exigency necessitating the leave. The certification shall contain the information specified in 29 CFR 825.309.

The employee's qualifying exigency leave may be taken on an intermittent or reduced work or leave schedule basis. (29 CFR 825.302)

CSBA NOTE: Pursuant to 29 USC 2612 and 29 CFR 825.207, the district has the option to require or give employees discretion to use paid leave when taking FMLA/CFRA leave; see Options 1 and 2 in the section entitled "Use/Substitution of Paid Leave" above. Whichever option is selected by the district with regards to FMLA/CFRA leave is also applicable to qualified exigency leave.

During the period of qualified exigency leave, the district's rule regarding an employee's use of accrued vacation leave and any other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

Military Caregiver Leave

CSBA NOTE: 29 USC 2612 and 29 CFR 825.127 authorize an eligible employee to take up to 26 work weeks of unpaid military caregiver leave, as defined below, during a single 12-month period. According to DOL's, "Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers," if an employee does not use the entire 26-week entitlement in a single 12-month period, unused weeks cannot be carried over into another 12-month period. However, the employee may qualify for nonmilitary FMLA leave.

The district shall grant an eligible employee up to a total of 26 work weeks of leave during a single 12-month period, measured forward from the first date the leave is taken, to care for a covered servicemember with a serious illness or injury. In order to be eligible for such military caregiver leave, the employee must be the spouse, child, parent, or next of kin of the covered servicemember. This 26-week period is inclusive of the 12 work weeks of leave that may be taken for other FMLA qualifying reasons. (29 USC 2611, 2612; 29 CFR 825.127)

Covered servicemember may be: (29 CFR 825.127)

1. A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness
2. A veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran

Child of a covered servicemember means the covered servicemember's biological, adopted, or foster child, stepchild, legal ward, or child for whom the covered servicemember stood in loco parentis, and who is of any age. (29 CFR 825.127)

Parent of a covered servicemember means the covered servicemember's biological, adopted, step, or foster parent, or any other individual who stood in loco parentis to the covered servicemember (except "parents in law"). (29 CFR 825.127)

Next of kin means the nearest blood relative to the covered servicemember, other than the spouse, parent, or child, unless designated in writing by the covered servicemember. (29 USC 2611, 2612; 29 CFR 825.127)

Outpatient status means the status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. (29 USC 2611; 29 CFR 825.127)

CSBA NOTE: 29 USC 2611 defines "serious injury or illness" for active members of the Armed Forces and for veterans, as provided below. Pursuant to 29 CFR 825.127, a veteran's injury or illness will qualify as a "serious injury or illness" for the purpose of this leave, only if one of the four conditions listed in Item #2 below is present.

Serious injury or illness means: (29 USC 2611; 29 CFR 825.127)

1. For a current member of the Armed Forces, an injury or illness incurred by the member in the line of duty on active duty, or that existed before the beginning of the member's active duty and was aggravated by the member's service in the line of duty while on active duty in the Armed Forces, and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.
2. For a veteran, an injury or illness incurred or aggravated by the member's service in the line of duty on active duty in the Armed Forces, including the National Guard or Reserves, that manifested itself before or after the member became a veteran and that is at least one of the following:
 - a. A continuation of a serious injury or illness incurred or aggravated while the veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank, or rating
 - b. A physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs (VA) Service-Related Disability Rating of 50 percent or greater, based wholly or partly on that physical or mental condition
 - c. A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of one or more disabilities related to the servicemember's military service or that would do so but for treatment received by the veteran

- d. An injury, including a psychological injury, on the basis of which the veteran has been enrolled in the VA's Program of Comprehensive Assistance for Family Caregivers

CSBA NOTE: As is the case for other types of FMLA/CFRA leave, 29 CFR 825.302 requires the employee, when the need for the leave is foreseeable, to provide 30 days advance notice to the district before the leave is to begin. The employee shall provide reasonable and practicable notice of the need for the leave in accordance with the procedures in the section entitled "Request for Leave" above.

CSBA NOTE: 29 CFR 825.310 authorizes the district to require employees to provide certification of the need for the leave, which is to be completed by an authorized health care provider of the covered servicemember.

The following paragraph is optional. In order to help avoid claims of discrimination, the district should generally treat all employees uniformly; thus, districts using this paragraph should request a medical certification from all employees requesting such leave.

An employee requesting leave to care for a covered servicemember with a serious injury or illness shall provide the Superintendent or designee with certification from an authorized health care provider of the servicemember that contains the information specified in 29 CFR 825.310.

CSBA NOTE: Pursuant to 29 CFR 825.127, an employee may take up to a total of 26 work weeks of leave for both regular FMLA and military caregiver leave during the 12-month leave entitlement period. However, the employee may not take more than 12 weeks for regular FMLA leave. For example, according to DOL's, "Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers," an employee could take 12 weeks of FMLA leave to care for a newborn child and 14 weeks of military caregiver leave but could not take 16 weeks to care for a newborn and 10 weeks of military caregiver leave. If the leave qualifies as both military caregiver leave and leave to care for a family member with a serious health condition, 29 CFR 825.127 specifies that the district must first designate the leave as military caregiver leave.

The leave may be taken intermittently or on a reduced work or leave schedule when medically necessary. An employee taking military caregiver leave in combination with other family care and medical leaves pursuant to this administrative regulation shall be entitled to a combined total of 26 work weeks of leave during a single 12-month period. When both spouses work for the district and both wish to take such leave, the spouses are limited to a maximum combined total of 26 work weeks during a single 12-month period. (29 USC 2612)

CSBA NOTE: Pursuant to 29 USC 2612 and 29 CFR 825.207, the district has the option to require or give employees discretion to substitute paid leave when taking FMLA/CFRA leave; see Options 1 and 2 in section entitled "Use/Substitution of Paid Leave" above. Whichever option is selected by the district with regard to FMLA/CFRA leave is also applicable to military caregiver leave.

During the period of military caregiver leave, the district's rule regarding an employee's use of accrued vacation leave and other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

Notifications

CSBA NOTE: Both 29 CFR 825.300 and 2 CCR 11095 require employers to provide general notification to employees of their rights under the FMLA/CFRA as well as specific notifications when an employee has requested leave, as detailed below. 2 CCR 11049 contains similar notice requirements for POL purposes. Samples of notices which describe an employee's rights are available on the web sites of the California Department of Fair Employment and Housing and the DOL.

Pursuant to 2 CCR 11095, the district must translate the notice into every language that is spoken by at least 10 percent of the district's employees at any facility.

The Superintendent or designee shall provide the following notifications regarding state and federal law related to POL or FMLA/CFRA leave:

1. General Notice: Information explaining the provisions of the Fair Employment and Housing Act/POL and FMLA/CFRA and employees' rights and obligations shall be posted in a conspicuous place on district premises, or electronically, and shall be included in employee handbooks. (2 CCR 11049, 11095; 29 USC 2619)

CSBA NOTE: Pursuant to 2 CCR 11050 and 11091, a district may require an employee, when the need for the leave is foreseeable, to provide at least 30 days advance notice before the leave is to begin; see the section entitled "Request for Leave" above. 2 CCR 11049 and 11091 specify that districts requiring such

notice from employees must give them "reasonable advance notice" of their obligation and that incorporation of the requirement into the general notice satisfies the "advance notice" requirement.

The following optional paragraph is for use by districts that require employees to provide advance notice.

2. The general notice shall also explain an employee's obligation to provide the Superintendent or designee with at least 30 days' notice of the need for the requested leave, when the need is reasonably foreseeable at least 30 days prior to the start of the leave. (2 CCR 11049, 11050, 11091)
3. Eligibility Notice: When an employee requests leave, including PDL, or when the Superintendent or designee acquires knowledge that an employee's leave may be for an FMLA/CFRA qualifying reason, the Superintendent or designee shall, within five business days, provide notification to the employee of eligibility to take such leave. (2 CCR 11049, 11091; 29 CFR 825.300)
4. Rights and Responsibilities Notice: Each time the eligibility notice is provided to an employee, the Superintendent or designee shall provide written notification explaining the specific expectations and obligations of the employee, including any consequences for a failure to meet those obligations. Such notice shall include, as applicable: (29 CFR 825.300)
 - a. A statement that the leave may be designated and counted against the employee's annual FMLA/CFRA leave entitlement and the appropriate 12-month entitlement period, if qualifying

CSBA NOTE: Item #4b below is for use by districts that require medical certification to the effect that the employee is able to resume work. See the section entitled "Release to Return to Work" above.

- b. Any requirements for the employee to furnish medical certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of active duty or call to active duty status and the consequences of failing to provide the certification
- c. The employee's right to use paid leave, whether the district will require use of paid leave, conditions related to any use of paid leave, and the employee's entitlement to take unpaid leave if the employee does not meet the conditions for paid leave
- d. Any requirements for the employee to make premium payments necessary to maintain health benefits, the arrangement for making such payments, and the possible consequences of failure to make payments on a timely basis
- e. The employee's right to maintenance of benefits during the leave and restoration to the same or an equivalent job upon return from leave
- f. The employee's potential liability for health insurance premiums paid by the district during the employee's unpaid FMLA leave should the employee not return to service after the leave

Any time the information provided in the above notice changes, the Superintendent or designee shall, within five business days of receipt of an employee's first notice of need for leave, provide the employee with a written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

5. Designation Notice: When the Superintendent or designee has information (e.g., sufficient medical certification) to determine whether the leave qualifies as FMLA/CFRA leave, the Superintendent or designee shall, within five business days, provide written notification designating the leave as FMLA/CFRA qualifying or, if the leave will not be so designated, the reason for that determination. (2 CCR 11091; 29 CFR 825.300)

If the amount of leave needed is known, the notice shall include the number of hours, days, or weeks that will be counted against the employee's FMLA/CFRA entitlement. If it is not possible to provide that number at the time of the designation notice, notification shall be provided of the amount of leave counted against the employee's entitlement upon request by the employee and at least once in every 30-day period if leave was taken in that period. (29 CFR 825.300)

CSBA NOTE: 29 CFR 825.300 requires the designation notice to specify whether the district requires paid leave to be used during an otherwise unpaid family care and medical leave, whether the district requires an employee to present release to return to work certification, and whether that certification must address the employee's ability to perform the essential functions of the job. See the sections entitled "Use/Substitution

of Paid Leave" and "Release to Return to Work" above. The following paragraph should be revised to reflect district practice.

6. If the district requires paid leave to be used during an otherwise unpaid family care and medical leave, the notice shall so specify. If the district requires an employee to present a release to return to work certification that addresses the employee's ability to perform the essential functions of the job, the notice shall also specify that requirement. (2 CCR 11091, 11097; 29 CFR 825.300)

Any time the information provided in the designation notice changes, the Superintendent or designee shall, within five business days, provide the employee with written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

Records

CSBA NOTE: Government Code 12946, 29 USC 2616, and 29 CFR 825.500 require districts to maintain records of, among other things, applications, dates, and personnel and employment action related to family care and medical leave. Pursuant to 42 USC 2000ff-1, any individually identifiable genetic information possessed by the district must be treated as a confidential medical record of the employee involved.

The Superintendent or designee shall maintain records pertaining to an individual employee's use of FMLA or CFRA leave or PDL in accordance with law. (Government Code 12946; 29 USC 2616; 42 USC 2000ff-1; 29 CFR 825.500)

Policy Reference Disclaimer. These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

2 CCR 11035-11051

2 CCR 11087-11098

Ed. Code 44965

Fam. Code 297-297.5

Fam. Code 300

Gov. Code 12926

Gov. Code 12940

Gov. Code 12945

Gov. Code 12945.1-12945.2

Gov. Code 12945.6

Gov. Code 12946

Description

Unlawful sex discrimination: pregnancy, childbirth and related medical conditions -

<https://simbli.eboardsolutions.com/SU/GpluSgYNhBpluS6hlimWMyAuhwJw==>

California Family Rights Act -

<https://simbli.eboardsolutions.com/SU/abM0slshHCKrMbGboplusCdDilag==>

Granting of leaves of absence for pregnancy and childbirth

Rights, protections, benefits under the law; registered domestic partners

Definition of marriage

Definitions

Unlawful discriminatory employment practices

Unlawful discrimination based on pregnancy, childbirth, or related medical conditions

California Family Rights Act

Parental leave

Fair employment and Housing Act: discrimination prohibited

Federal References

1 USC 7

29 CFR 825.100-825.702

29 USC 2601-2654

42 USC 2000ff-2000ff-11

Description

Definition of marriage and spouse -

<https://simbli.eboardsolutions.com/SU/zna14bZkEoCQSILKxeKqGw==>

Family and Medical Leave Act of 1993

Family Care and Medical Leave Act

Genetic Information Nondiscrimination Act of 2008

Management Resources References

Court Decision

Faust v. California Portland Cement Company, (2007) 150 Cal.App.4th 864

Court Decision

Tellis v. Alaska Airlines, (9th Cir., 2005) 414 F.3d 1045

Court Decision	United States v. Windsor, (2013) 699 F.3d 169
U.S. Department of Labor Publication	Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers
Website	U.S. Department of Labor, FMLA - https://simbli.eboardsolutions.com/SU/gTctHyc7Ra9nNTUgNmxAhw==
Website	California Department of Fair Employment and Housing - https://simbli.eboardsolutions.com/SU/RRvNseNogmlMLy18K40jw==

Cross References

Description

0410	Nondiscrimination In District Programs And Activities - https://simbli.eboardsolutions.com/SU/rpluplusaBOeAF4bUpZiBFBO9dQ==
0470	COVID-19 Mitigation Plan - https://simbli.eboardsolutions.com/SU/UonRXG6LPiZi7EgyplusqAd8g==
1113	District And School Web Sites - https://simbli.eboardsolutions.com/SU/tuHLSjVCOJcBx3R13Hfw==
1113	District And School Web Sites - https://simbli.eboardsolutions.com/SU/ZFoW4ZKHcT3nfqLxRIR1fw==
1113-E(1)	District And School Web Sites - https://simbli.eboardsolutions.com/SU/iSTLslsh83D1npluseoyHTIsM6ew==
2121	Superintendent's Contract - https://simbli.eboardsolutions.com/SU/fcslsb1ixO2EdCt2pz2NabYqA==
4030	Nondiscrimination In Employment - https://simbli.eboardsolutions.com/SU/z8saAb1i2vjlsishyINjIXOrA==
4030	Nondiscrimination In Employment - https://simbli.eboardsolutions.com/SU/vx943OTXdnIq9P0DHiilzg==
4032	Reasonable Accommodation - https://simbli.eboardsolutions.com/SU/DZueVkplusHoNslsh53DXislsbi6mLw==
4033	Lactation Accommodation - https://simbli.eboardsolutions.com/SU/mBwCbA6CkbzZwslshCYfb2JvQ==
4112.2	Certification - https://simbli.eboardsolutions.com/SU/NtHKleuKt9J8bge0adj3gg==
4112.2	Certification - https://simbli.eboardsolutions.com/SU/tUsIshewyAvQpluseaASVjOFaFlw==
4112.4	Health Examinations - https://simbli.eboardsolutions.com/SU/sILMslshxU2YOPYoMMU2U7w==
4112.42	Drug And Alcohol Testing For School Bus Drivers - https://simbli.eboardsolutions.com/SU/slshnzMWdvaZpZnpZplusef81LQ==
4112.42	Drug And Alcohol Testing For School Bus Drivers - https://simbli.eboardsolutions.com/SU/plusx1slshGxTJQKJXLOkrYP8gpluseg==
4112.9	Employee Notifications - https://simbli.eboardsolutions.com/SU/lzO16slshnwrwplusn8LplusKslshvfw==
4112.9-E PDF(1)	Employee Notifications - https://simbli.eboardsolutions.com/SU/BjEd40hv6bJlro1KsHpOQ==
4113.4	Temporary Modified/Light-Duty Assignment - https://simbli.eboardsolutions.com/SU/slshxtjrQ1xiXlplus25crkSNIUg==
4117.3	Personnel Reduction - https://simbli.eboardsolutions.com/SU/42Hj6RreDPO0Nvlww41j4g==
4141	Collective Bargaining Agreement - https://simbli.eboardsolutions.com/SU/wSbphisNslshzmwtp8Du1J7fxoGg==
4154	Health And Welfare Benefits - https://simbli.eboardsolutions.com/SU/8w7jXCSa7Dmj2OhsA1O4mg==

- 4154 Health And Welfare Benefits - <https://simbli.eboardsolutions.com/SU/bUKajshf9NH4tnZI9utk7g==>
- 4161 Leaves - <https://simbli.eboardsolutions.com/SU/FFXMgObslsbqslsbiKqtJJUX7vSg==>
- 4161 Leaves - <https://simbli.eboardsolutions.com/SU/1j87G85jaeaw3FbkyNX3fw==>
- 4161.1 Personal Illness/Injury Leave - <https://simbli.eboardsolutions.com/SU/wmtZ2H4oDc4HcrB9slshN1zcw==>
- 4161.2 Personal Leaves - <https://simbli.eboardsolutions.com/SU/Kzco4u58yiplus7nknYGxazpw==>
- 4161.9 Catastrophic Leave Program - <https://simbli.eboardsolutions.com/SU/BTEFJvZiOBplus6SWmBBkTR6w==>
- 4161.9 Catastrophic Leave Program - <https://simbli.eboardsolutions.com/SU/wpNf7hlkepJRy32hChSplus3g==>
- 4212.4 Health Examinations - <https://simbli.eboardsolutions.com/SU/RQiwSkZICOmKqFEHCuVAIA==>
- 4212.42 Drug And Alcohol Testing For School Bus Drivers - <https://simbli.eboardsolutions.com/SU/QgjTxWzNHPacaieY2R44UQ==>
- 4212.42 Drug And Alcohol Testing For School Bus Drivers - <https://simbli.eboardsolutions.com/SU/vRslshvw9XAfld9jXuR4KOLkg==>
- 4212.9 Employee Notifications - <https://simbli.eboardsolutions.com/SU/mHaW9EbnocLSPI6rr10dMw==>
- 4212.9-E PDF(1) Employee Notifications - <https://simbli.eboardsolutions.com/SU/U68jKBBwitzUHegLtpjM0w==>
- 4213.4 Temporary Modified/Light-Duty Assignment - <https://simbli.eboardsolutions.com/SU/EJKpCtBBQ0plusCkHrhwgQkplus8w==>
- 4217.3 Layoff/Rehire - <https://simbli.eboardsolutions.com/SU/sq9gotNKCsav6ieplusWoePKA==>
- 4241 Collective Bargaining Agreement - <https://simbli.eboardsolutions.com/SU/HilDt0mq6toKw0vAGRcktA==>
- 4254 Health And Welfare Benefits - <https://simbli.eboardsolutions.com/SU/A11Tc07Dplusq5qXGSvtT8tew==>
- 4254 Health And Welfare Benefits - <https://simbli.eboardsolutions.com/SU/4MRmnj4JOiqDWVDL30krzA==>
- 4259 Employee Assistance Programs - <https://simbli.eboardsolutions.com/SU/frGxOc7Yplus8ZsrZ44lplusJCUQ==>
- 4261 Leaves - <https://simbli.eboardsolutions.com/SU/NEon3h0paWxSWoNITTqbmA==>
- 4261 Leaves - <https://simbli.eboardsolutions.com/SU/cns2ox14MXb4vglRlm84fA==>
- 4261.1 Personal Illness/Injury Leave - <https://simbli.eboardsolutions.com/SU/71GWMkFdeFkQBbHk7qxzig==>
- 4261.2 Personal Leaves - <https://simbli.eboardsolutions.com/SU/plusoUkP9SoSAHHJbMKt2vPQ==>
- 4261.9 Catastrophic Leave Program - <https://simbli.eboardsolutions.com/SU/XaDfarslsbi31XF2rlnR8Mq0Q==>
- 4261.9 Catastrophic Leave Program - <https://simbli.eboardsolutions.com/SU/qCplusa1C9mz1xTAWeVcBslshpQg==>
- 4312.4 Health Examinations - <https://simbli.eboardsolutions.com/SU/obiSk8rTaSgKJ7TuV2j8Xw==>
- 4312.42 Drug And Alcohol Testing For School Bus Drivers - <https://simbli.eboardsolutions.com/SU/CgnDx1BIZbUtFWHVgyEOgA==>

- 4312.42 Drug And Alcohol Testing For School Bus Drivers -
https://simbli_eboardsolutions.com/SU/GVplusn4gQA31_Kplus4knVTn0OUw ==
- 4312.9 Employee Notifications -
https://simbli_eboardsolutions.com/SU/CqOQlb4XnDnSONdYu7jm2Q ==
- 4312.9-E PDF(1) Employee Notifications -
https://simbli_eboardsolutions.com/SU/LslshgslsbO22fRVoPUpuUergz7w ==
- 4313.4 Temporary Modified/Light-Duty Assignment -
https://simbli_eboardsolutions.com/SU/h5utOK43t9JhsHtXAGV7Gg ==
- 4354 Health And Welfare Benefits -
https://simbli_eboardsolutions.com/SU/6BM2yIUYAw67FplusFDpsplusINA ==
- 4354 Health And Welfare Benefits -
https://simbli_eboardsolutions.com/SU/rplummwksFJslufmMFbAX0vQ ==
- 4359 Employee Assistance Programs -
https://simbli_eboardsolutions.com/SU/TKcq760n9RZaplnRYWW1VUQ ==
- 4361 Leaves -
https://simbli_eboardsolutions.com/SU/37Bp9HjmWAwCtBvKglwUOQ ==
- 4361 Leaves -
https://simbli_eboardsolutions.com/SU/m93RQnCPlyUeeeBo4hULBQ ==
- 4361.1 Personal Illness/Injury Leave -
https://simbli_eboardsolutions.com/SU/VCSQ7zJplus5y1nFHLGslshr5oA ==
- 4361.2 Personal Leaves -
https://simbli_eboardsolutions.com/SU/TDKNlItBccHR4plusREe5i0rA ==
- 4361.9 Catastrophic Leave Program -
https://simbli_eboardsolutions.com/SU/cX8w9EvJ4J_HXiwxYWYQ4qA ==
- 4361.9 Catastrophic Leave Program -
https://simbli_eboardsolutions.com/SU/la3YVHiplusFMTKplus4EgUYZ3ow ==

Regulation 4361.8: Family Care And Medical Leave

Status: ADOPTED

Original Adopted Date: 06/01/2022 | Last Reviewed Date: 06/01/2022

CSBA NOTE: The following optional administrative regulation addresses mandatory subjects of bargaining. The laws referenced in this regulation provide minimum amounts of leave which the district must grant its employees if more generous benefits are not provided as part of its collective bargaining agreement. Any covered subject that is already addressed in the district's collective bargaining agreements should be deleted from this administrative regulation.

Both federal and state law provide for family care and medical leave (29 USC 2601-2654, the Family and Medical Leave Act of 1993 (FMLA), and Government Code 12945.1-12945.2, the California Family Rights Act (CFRA)). However, these laws do not always provide identical rights or operate in the same manner. For example, pregnancy as a "serious health condition" is covered under FMLA but not under CFRA. Instead, under state law, an employee who is disabled due to pregnancy, childbirth, or a related medical condition is entitled to pregnancy disability leave (PDL) pursuant to Government Code 12945. Where there is a difference between state and federal law, the law that grants the greatest benefits generally controls. In those situations, legal counsel should be consulted as needed. The district shall not deny any eligible employee the right to family care or medical leave pursuant to the Family and Medical Leave Act (FMLA) or the California Family Rights Act (CFRA), or to Pregnancy Disability Leave (PDL), when an employee is disabled by a pregnancy, childbirth, or related medical condition. The district shall not interfere with, restrain, or deny the exercise of an employee's right to any such leave, nor shall the district discharge, discriminate against, or retaliate against an employee for taking such leave, opposing or challenging an unlawful employment practice in relation to any of these laws, or being involved in any related inquiry or proceeding. (Government Code 12945, 12945.2; 2 CCR 11094; 29 USC 2615)

Definitions

The words and phrases defined below shall have the same meaning throughout this administrative regulation except where a different meaning is otherwise specified.

Child means a biological, adopted, or foster child; a stepchild; a legal ward; or a person to whom the employee stands in loco parentis. For purposes of CFRA leave, child also includes a child of a registered domestic partner. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611)

Eligible employee, for FMLA and CFRA purposes, means an employee who has been employed with the district for at least 12 months and who has at least 1,250 hours of service with the district during the 12 months immediately preceding the leave. However, these requirements shall not apply when an employee applies for PDL. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611; 29 CFR 825.110)

CSBA NOTE: Government Code 12945.2, as amended by AB 1033 (Ch. 327, Statutes of 2021), includes a parent-in-law in the definition of "parent" for purposes of CFRA leave.

Eligible family member means an employee's child, parent, or spouse. For purposes of leave to care for a family member with a serious health condition pursuant to CFRA, eligible family member includes an employee's child, parent, parent-in-law, spouse, registered domestic partner, grandparent, grandchild, or sibling. (Government Code 12945.2; 2 CCR 11087; 29 USC 2612)

Employee disabled by pregnancy means an employee whose health care provider states that the employee is: (2 CCR 11035)

1. Unable because of pregnancy to perform any one or more of the essential functions of the job or to perform any of them without undue risk to the employee or other persons or to the pregnancy's successful completion
2. Suffering from severe "morning sickness" or needs to take time off for prenatal or postnatal care, bed rest, gestational diabetes, pregnancy-induced hypertension, preeclampsia, postpartum depression, childbirth, loss or end of pregnancy, recovery from childbirth or loss or end of pregnancy, or any other pregnancy-related condition

Parent means a biological, foster, or adoptive parent; a parent-in-law; a stepparent; a legal guardian; or another person who stood in loco parentis to the employee when the employee was a child. However, for FMLA purposes, parent does not include a spouse's parents. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611; 29 CFR 825.122)

Serious health condition means an illness, injury (including, but not limited to, on-the-job injuries), impairment, or physical or mental condition of the employee or an eligible family member of the employee that involves either inpatient care or continuing treatment, including treatment for substance abuse, as follows: (Government Code 12945.2; 2 CCR 11087, 11097; 29 USC 2611, 2612; 29 CFR 825.113-825.115)

1. Inpatient care in a hospital, hospice, or residential health care facility, any subsequent treatment in connection with such inpatient care, or any period of incapacity

A person is considered an inpatient when formally admitted to a health care facility with the expectation of remaining overnight and occupying a bed, even if it later develops that the person can be discharged or transferred to another facility and does not actually remain overnight.

Incapacity means the inability to work, attend school, or perform other regular daily activities due to a serious health condition, its treatment, or the recovery that it requires.

2. Continuing treatment or continuing supervision by a health care provider, including one or more of the following:
 - a. A period of incapacity of more than three consecutive full days
 - b. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition
 - c. Any period of incapacity due to pregnancy or for prenatal care under FMLA
 - d. Any period of incapacity which is permanent or long term due to a condition for which treatment may not be effective
 - e. Any period of absence to receive multiple treatments, including recovery, by a health care provider

Spouse means a partner in marriage as defined in Family Code 300, including same sex partners in marriage. For purposes of CFRA leave, spouse also includes a registered domestic partner within the meaning of Family Code 297-297.5. (Family Code 297, 297.5, 300; 2 CCR 11087; 29 CFR 825.122)

Eligibility/Purposes of Leave

CSBA NOTE: Government Code 12945.2 and 29 USC 2611-2612 require a district to grant family care and medical leave to an eligible employee for any of the reasons stated below. These requirements apply to all public agencies regardless of the number of employees.

The district shall grant FMLA or CFRA leave to eligible employees for any of the following reasons: (Government Code 12945.2; 29 USC 2612; 29 CFR 825.112, 825.126, 825.127)

1. The birth of a child of the employee or placement of a child with the employee in connection with the employee's adoption or foster care of the child (parental leave)
2. The care of an eligible family member with a serious health condition
3. The employee's own serious health condition that makes the employee unable to perform the job functions of the position

CSBA NOTE: Pursuant to 29 CFR 825.126, FMLA military family leave is available to any eligible employee for a qualifying exigency while the employee's spouse, child, or parent who is a military member is on covered active duty during deployment to a foreign country. Government Code 12945.2 provides exigency leave under CFRA for an employee whose registered domestic partner is on active duty. For requirements related to qualifying exigency leave, see the section "Military Family Leave Resulting from Qualifying Exigencies" below.

4. A qualifying exigency arising out of the fact that the employee's spouse, child, parent, or, for CFRA leave only, a registered domestic partner, is a military member on covered active duty or call to covered active duty (or has been notified of an impending call or order to covered active duty)

CSBA NOTE: Pursuant to 29 CFR 825.127, military caregiver leave is available to any eligible employee who

is a family member of a covered servicemember with a serious injury or illness. For requirements related to military caregiver leave, see the section on "Military Caregiver Leave" below.

5. The care of a covered servicemember with a serious injury or illness when the employee is a spouse, child, parent, or next of kin of the covered servicemember

CSBA NOTE: Under federal law, pregnancy as a "serious health condition" is covered as part of FMLA leave. However, disability due to pregnancy is explicitly excluded from coverage under CFRA (2 CCR 11093). Instead, pursuant to Government Code 12926 and 12945, any California employee who is "disabled because of pregnancy, childbirth, or related medical conditions" is entitled to unpaid POL of up to four months if the employer has five or more employees. Therefore, such an employee is entitled to up to four months of POL and an additional 12 weeks of CFRA leave following the birth of the child.

Additionally, pursuant to 2 CCR 11037, POL is not subject to eligibility requirements for other FMLA and CFRA leaves, such as minimum hours worked or length of service.

In addition, the district shall grant POL to any employee who is disabled by pregnancy, childbirth, or other related medical condition. (Government Code 12945; 2 CCR 11037)

Terms of Leave

CSBA NOTE: Pursuant to Government Code 12945.2, leaves common to CFRA and FMLA run concurrently so that total leave to which an employee is entitled would not be more than 12 work weeks.

An eligible employee shall be entitled to a total of 12 work weeks of FMLA or CFRA leave during any 12-month period, except in the case of leave to care for a covered servicemember as provided under "Military Caregiver Leave" below. To the extent allowed by law, CFRA and FMLA leaves shall run concurrently. (Government Code 12945.2; 29 USC 2612)

CSBA NOTE: To determine the 12-month period in which the leave entitlement occurs, the district may use any of the methods identified in 29 CFR 825.200 and specified in options #1-4 below. However, a district may choose not to use any of these options and may instead choose some other fixed 12-month period. Whichever option is selected, it must be applied uniformly to all employees. If the district fails to select a method for calculating the 12-month period, the method that provides the most beneficial outcome for the employee will be used. Pursuant to 2 CCR 11090, if the district decides to change the calculation method, it must provide at least 60 days' notice to all employees.

OPTION 1: The 12-month period shall coincide with the calendar year. (29 CFR 825.200)

OPTION 2: The 12-month period shall coincide with the fiscal year. (29 CFR 825.200)

OPTION 3: The 12-month period shall be measured forward from the date the employee's first family care and medical leave begins. (29 CFR 825.200)

OPTION 4: The 12-month period shall be a rolling period measured backward from the date an employee uses any family care and medical leave, as defined in 29 CFR 825.200. (29 CFR 825.200)

CSBA NOTE: 2 CCR 11042 clarifies that the four months of POL to which an employee is entitled means the number of days or hours that the employee would normally work within the four calendar months. For employees who work 40 hours per week, POL leave is defined as 17-1/3 weeks, 122 days, or 693 hours.

In addition, any employee who is disabled by pregnancy, childbirth, or other related condition shall be entitled to POL for the period of the disability not to exceed four months. For a part-time employee, the four months shall be calculated on a proportional basis. (Government Code 12945; 2 CCR 11042)

CSBA NOTE: While leaves common to CFRA and FMLA run concurrently, POL is separate and distinct from CFRA leave. Consequently, pursuant to 2 CCR 11046, an employee who is "disabled by pregnancy" may be entitled to up to four months of POL, followed by 12 work weeks of CFRA leave for the birth of the child (baby bonding). Determining which leaves run concurrently is a complex endeavor and districts should consult legal counsel as needed.

POL shall run concurrently with FMLA leave for disability caused by an employee's pregnancy. At the end of the employee's FMLA leave for disability caused by pregnancy, or at the end of four months of POL, whichever occurs first, a CFRA-eligible employee may request to take CFRA leave of up to 12 work weeks, for the reason of the birth of a child or to bond with or care for the child. (Government Code 12945, 12945.2; 2 CCR 11046, 11093)

Leave taken for the birth or placement of a child must be concluded within the 12-month period beginning on the date of the birth or placement of the child. Such leave does not need to be taken in one continuous period of time. (2 CCR 11090; 29 USC 2612)

CSBA NOTE: Although 29 USC 2612 allows the district to limit the aggregate number of work weeks of leave to which two parents may be entitled when both parents work for the district, such leave is covered under both FMLA and CFRA and state law prevails since it provides greater rights to employees.

Each eligible employee shall be granted up to 12 work weeks for family care and medical leave related to the birth or placement of a child, regardless of whether both parents of the child work for the district.

Use/Substitution of Paid Leave

CSBA NOTE: The district may require employees (Option 1) or employees may elect (Option 2) to use paid leave during an otherwise unpaid portion of CFRA or FMLA leave or POL. Pursuant to 2 CCR 11044 and 11092, the district may only require an employee to use sick leave if the leave is for the employee's own serious health condition or for POL, unless mutually agreed to by the district and the employee.

OPTION 1: During any otherwise unpaid period of FMLA or CFRA leave, except leave for an employee's own serious health condition, an employee shall use accrued paid leave, including, but not limited to, vacation leave, personal leave, or family leave. If the leave is for the employee's own serious health condition, the employee shall use accrued paid leave, including but not limited to, vacation leave, personal leave, or sick leave. During an unpaid period of POL, the employee shall use any accrued sick leave and may elect to use any vacation time or other accrued personal time off. (Government Code 12945, 12945.2; 2 CCR 11044, 11092; 29 USC 2612)

OPTION 2: During any otherwise unpaid period of POL or any FMLA or CFRA leave, the employee may elect to use accrued vacation leave, or any other paid time off negotiated with the district that the employee is eligible to use. If the leave is for the employee's own serious health condition or POL, the employee may also elect to use accrued sick leave during the period of leave. (Government Code 12945, 12945.2; 2 CCR 11044; 11092; 29 USC 2612)

CSBA NOTE: The following paragraph is for use with either option above.

The district and employee may also come to agreement regarding the use of any additional paid or unpaid time off instead of using the employee's CFRA leave. (2 CCR 11092)

Intermittent Leave/Reduced Work or Leave Schedule

POL and family care and medical leave for the serious health condition of an employee or eligible family member may be taken intermittently or on a reduced work or leave schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. However, the district shall limit leave increments to the shortest period of time that the district's payroll system uses to account for absences or use of leave provided it is not to be greater than one hour. (Government Code 12945.2; 2 CCR 11042, 11090; 29 USC 2612)

CSBA NOTE: Pursuant to 2 CCR 11090, the minimum duration of CFRA parental leave for the birth, adoption, or foster care placement of a child is generally two weeks. However, the district must grant a request for CFRA leave of less than two weeks duration on any two occasions and may grant additional requests.

The basic minimum duration of leave for the birth, adoption, or foster care placement of a child shall be two weeks. However, the district shall grant a request for such leave of less than two weeks on any two occasions. (2 CCR 11090; 29 USC 2612)

The district may require an employee to transfer temporarily to an available alternative position under any of the following circumstances: (2 CCR 11041, 11090; 29 USC 2612)

1. The employee needs intermittent leave or leave on a reduced work schedule that is foreseeable based on a planned medical treatment for the employee or family member.

CSBA NOTE: Pursuant to 2 CCR 11041, the district must accommodate the transfer request of a pregnant employee to the same extent that it accommodates transfer requests for other temporarily disabled employees.

2. A medical certification is provided by the employee's health care provider that, because of pregnancy, the employee has a medical need to take intermittent leave or leave on a reduced work schedule.

3. The district agrees to permit intermittent leave or leave on a reduced work schedule due to the birth, adoption, or foster care placement of the employee's child.

The alternative position must have equivalent pay and benefits and must better accommodate recurring periods of leave than the employee's regular job, and the employee must be qualified for the position. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced work or leave schedule. (2 CCR 11041, 11090; 29 USC 2612)

Request for Leave

CSBA NOTE: Pursuant to 2 CCR 11050 and 11091, an employee is required to notify the district of the need to take POL or family care and medical leave. The employee must provide at least verbal notice sufficient to make the district aware that the employee needs qualifying leave, and the anticipated timing and duration of the leave. However, the employee does not need to assert rights under CFRA or FMLA or even mention CFRA or FMLA to meet the notice requirement, but must state the reason the leave is needed. If there is a question about whether leave is FMLA/CFRA qualifying or if the district is considering denying CFRA leave based on an employee's refusal to provide further information, legal counsel should be consulted.

The district shall consider an employee's request for POL or family care and medical leave only if the employee provides at least verbal notice sufficient to make the district aware of the need to take the leave and the anticipated timing and duration of the leave. (2 CCR 11050, 11091)

For family care and medical leave, the employee need not expressly assert or mention FMLA/CFRA to satisfy this requirement. However, the employee must state the reason the leave is needed (e.g., birth of child, medical treatment). If more information is necessary to determine whether the employee is eligible for family care and medical leave, the Superintendent or designee shall inquire further and obtain the necessary details of the leave to be taken. (2 CCR 11091)

The district shall respond to requests for leave as soon as practicable, but no later than five business days after receiving the employee's request. (2 CCR 11091)

CSBA NOTE: Both 29 CFR 825.300 and 2 CCR 11091 require the district to provide an employee with notice of the designation of leave as either qualifying for CFRA or FMLA protection. See section entitled "Notifications" below for further requirements of this "designation notice" as well as other required notifications.

Pursuant to 2 CCR 11091, an employee has the obligation to respond to questions designed to determine whether an absence is potentially CFRA qualifying. If the district is unable to determine whether requested leave is CFRA qualifying because of an employee's refusal to respond to its inquiries, the employee may be denied CFRA protection.

Based on the information provided by the employee, the Superintendent or designee shall designate the leave, paid or unpaid, as FMLA/CFRA qualifying leave and shall give notice of such designation to the employee. Failure of an employee to respond to permissible inquiries regarding the leave request may result in denial of CFRA protection if the district is unable to determine whether the leave is CFRA qualifying. (2 CCR 11091; 29 CFR 825.300)

CSBA NOTE: Pursuant to 2 CCR 11091, the district may require an employee to provide at least 30 days advance notice of the need for family care and medical leave, if the need is foreseeable. If the district requires such advance notice from employees, then the district's notification of FMLA/CFRA rights must so specify; see section below entitled "Notifications."

Pursuant to 2 CCR 11050, an employee requesting POL is required to provide the district at least 30 days advance notice if the need for POL is foreseeable.

When an employee is able to foresee the need for POL or family care and medical leave at least 30 days in advance of the leave, the employee shall provide the district with at least 30 days advance notice before the leave. When the 30 days' notice is not practicable because of a lack of knowledge of when leave will be required to begin, a change in circumstances, a medical emergency, or other good cause, the employee shall provide the district with notice as soon as practicable. Failure of an employee to provide required notice may result in a denial of leave. (2 CCR 11050, 11091)

In all instances, the employee shall consult with the Superintendent or designee and make a reasonable effort to schedule, subject to the health care provider's approval, any planned appointment or medical treatment or supervision so as to minimize disruption to district operations. (Government Code 12945.2; 2 CCR 11050, 11091)

Certification of Health Condition

CSBA NOTE: The following optional section is for use by districts that require an employee to submit a medical certification of the need for family care and medical leave for an employee's own serious health condition or to care for the employee's eligible family member with a serious health condition. In order to help avoid claims of discrimination, the district should generally treat all such employees uniformly; thus, districts using this section should request a medical certification from all such employees.

Districts requiring written medical certification from employees may develop their own form, utilize one provided by the employee's health care provider, or use the form provided in 2 CCR 11097.

Within five business days of an employee's request for family care and medical leave for the serious health condition of the employee or an eligible family member, the Superintendent or designee shall request that the employee provide certification by a health care provider of the need for leave. Upon receiving the district's request, the employee shall provide the certification within 15 calendar days, unless either the Superintendent or designee provides additional time or it is not practicable under the particular circumstances, despite the employee's diligent, good faith efforts. (2 CCR 11087, 11091; 29 CFR 825.305)

The certification shall include the following: (Government Code 12945.2; 2 CCR 11087; 29 USC 2613)

1. The date on which the serious health condition began
2. The probable duration of the condition

CSBA NOTE: Item #3 below addresses an eligible employee's request for leave to care for an eligible family member. In such a case, 2 CCR 11087 provides that the health care provider's certification need not identify the serious health condition involved. The U.S. Department of Labor (DOL) provides a form, "Certification of Health Care Provider for Family Member's Serious Health Condition under the Family and Medical Leave Act," that districts may use for this purpose to avoid unauthorized disclosure of the serious health condition.

3. If the employee is requesting leave to care for an eligible family member with a serious health condition, both of the following:
 - a. Statement that the serious health condition warrants the participation of the employee to provide care, such as by providing psychological comfort, arranging for third party care, or directly providing or participating in the medical care of the eligible family member during a period of the treatment or supervision
 - b. Estimated amount of time the health care provider believes the employee needs to care for the eligible family member
4. If the employee is requesting leave because of the employee's own serious health condition, a statement that due to the serious health condition, the employee is unable to work at all or is unable to perform one or more essential job functions of the position
5. If the employee is requesting leave for intermittent treatment or on a reduced work or leave schedule for planned medical treatment, a statement of the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave

CSBA NOTE: Government Code 12940 and other provisions of the California Genetic Information Nondiscrimination Act of 2011 prohibit an employer from making a non-job related inquiry into an employee's genetic information. A district which believes that an employee's leave may require obtaining this information should consult with legal counsel.

The Superintendent or designee shall not request any genetic information related to an employee except as authorized by law in accordance with the California Genetic Information Nondiscrimination Act of 2011. (Government Code 12940)

When an employee has provided sufficient medical certification to enable the district to determine whether the employee's leave request is FMLA/CFRA-eligible, the Superintendent or designee shall notify the employee within five business days whether the leave is FMLA/CFRA-eligible. The Superintendent or designee may also retroactively designate leave as FMLA/CFRA leave as long as appropriate notice is given to the employee and there is no harm or injury to the employee. (2 CCR 11091; 29 CFR 825.301)

If the Superintendent or designee has a good faith objective reason to doubt the validity of a certification that accompanies a request for leave for the employee's own serious health condition, the Superintendent or designee may require the employee to obtain a second opinion from a district-approved health care provider, at district expense. If the second opinion is contrary to the first, the Superintendent or designee may require the employee to obtain a third medical opinion from a third health care provider approved by both the employee and the district, again at district expense. The opinion of the third health care provider shall be final and binding. (Government Code 12945.2; 2 CCR 11091; 29 USC 2613)

Certification for PDL

CSBA NOTE: The following optional section is for use by districts that require an employee to submit a medical certification of the need for leave along with the request for POL. Districts requiring written medical certification from employees who request reasonable accommodation, transfer, or disability leave because of pregnancy may develop their own form, utilize one provided by the employee's health care provider, or use the form provided in 2 CCR 11050.

The Superintendent or designee shall request that an employee who is requesting POL provide certification by a health care provider of the need for leave at the time the employee gives notice of the need for POL, or within two business days of giving the notice. If the need for POL is unforeseen, the Superintendent or designee shall request the medical certification within two business days after the leave commences. The Superintendent or designee may request certification at some later date if the Superintendent or designee has reason to question the appropriateness of the leave or its duration. (2 CCR 11050)

For PDL that is foreseeable and for which at least 30 days' notice has been given, the employee shall provide the medical certification before the leave begins. When this is not practicable, the employee shall provide the certification within the time frame specified by the Superintendent or designee which must be at least 15 calendar days after the request, unless it is not practicable under the particular circumstances despite the employee's diligent, good faith efforts. (2 CCR 11050)

Medical certification for POL purposes shall include a statement that the employee needs to take the leave because the employee is disabled by pregnancy, childbirth, or a related medical condition, the date on which the employee became disabled because of pregnancy, and the estimated duration of the leave. (2 CCR 11050)

If additional POL or family care and medical leave is needed when the time estimated by the health care provider expires, the district may require the employee to provide recertification in the manner specified for the leave. (Government Code 12945.2; 2 CCR 11050; 29 USC 2613)

Release to Return to Work

CSBA NOTE: The following optional section is for use by districts that choose to require a return-to-work certification and may be modified to list the specific positions for which certification is required. Pursuant to 2 CCR 11091, the district may require an employee to submit a return-to-work certification from the employee's health provider, stating that the employee is able to return to work. However, this requirement may only be made if the district has a uniformly applied practice of requiring such releases when employees return to work after illness, injury, or disability, any fitness-for-duty examination is job related and consistent with business necessity, and the practice is not forbidden by its collective bargaining agreement. 2 CCR 11050 has similar requirements when an employee is returning to work after POL.

Pursuant to 29 CFR 825.312, when the health care provider certifies that the employee is able to resume work, the district may also require the health care provider to address the employee's ability to perform the essential functions of the job. If such a requirement is imposed, then the district must provide the employee with a list of the employee's essential job functions with the "designation notice"; see section entitled "Notifications" below.

Upon expiration of an employee's POL or family care and medical leave taken for the employee's own serious health condition, the employee shall present certification from the health care provider of the employee's ability to resume work. The certification shall address the employee's ability to perform the essential job functions of the position.

Rights to Reinstatement

CSBA NOTE: Pursuant to Government Code 12945.2, 2 CCR 11043 and 11089, and 29 USC 2614, an employee on POL or family care and medical leave has the right to be reinstated to the same or a comparable position upon return from such leave. However, such an employee has no greater right to reinstatement or other benefits than the employee would have if employment had been continuous.

Upon granting an employee's request for PDL or FMLA/CFRA leave, the Superintendent or designee shall guarantee to reinstate the employee in the same or a comparable position when the leave ends. (Government Code 12945.2; 2 CCR 11043, 11089; 29 USC 2614)

The district may refuse to reinstate an employee to the same or a comparable position if the FMLA/CFRA leave was fraudulently obtained by the employee. (2 CCR 11089; 29 CFR 825.216)

The district may refuse to reinstate an employee to the same position after taking PDL if, at the time the reinstatement is requested, the employee would not otherwise have been employed in that position for legitimate business reasons unrelated to the employee's PDL. (2 CCR 11043)

Maintenance of Benefits/Failure to Return from Leave

During the period when an employee is on PDL or family care and medical leave, the employee shall maintain employee status with the district and the leave shall not constitute a break in service for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan. (Government Code 12945.2; 2 CCR 11092; 29 USC 2614)

CSBA NOTE: Pursuant to 2 CCR 11044 and 11092, the time that the district maintains and pays for group health coverage during PDL shall not be used to meet its obligation to pay for 12 weeks of group health coverage during leave taken under CFRA, even where the district designates the PDL as FMLA or CFRA leave. The entitlements to employer-paid group health coverage during PDL and during CFRA are two separate and distinct entitlements.

For up to a maximum of four months for PDL and 12 work weeks for other family care and medical leave, the district shall continue to provide an eligible employee the group health plan coverage that was in place before the employee took the leave. The employee shall reimburse the district for premiums paid during the leave if the employee fails to return to district employment after the expiration of all available leaves and the failure is for a reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond the employee's control. (Government Code 12945.2; 2 CCR 11044, 11092; 29 USC 2614; 29 CFR 825.213)

In addition, during the period when an employee is on PDL or family care and medical leave, the employee shall be entitled to continue to participate in other employee benefit plans including life insurance, short-term or long-term disability insurance, accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as would apply to an unpaid leave taken for any other purpose.

However, for purposes of pension and retirement plans, the district shall not make plan payments for an employee during any unpaid portion of the leave period and the leave period shall not be counted for purposes of time accrued under the plan. (Government Code 12945.2; 2 CCR 11044, 11092)

Military Family Leave Resulting from Qualifying Exigencies

CSBA NOTE: The following optional section reflects 29 USC 2611 and 2612 which authorize an eligible employee to take up to 12 work weeks of unpaid FMLA leave to attend to an "exigency" arising out of the fact that the employee's spouse, child, or parent is on active duty or on call to active duty status in the National Guard or Reserves, or is a member of the regular Armed Forces on deployment to a foreign country. Pursuant to Government Code 12945.2, an employee may take unpaid leave under CFRA to attend to an exigency involving the employee's registered domestic partner.

Pursuant to 29 CFR 825.200, an employee is entitled to 12 work weeks of qualifying exigency leave during each 12-month period established by the district; see section entitled "Terms of Leave" above. According to DOL's, "Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers," an employee may take all 12 weeks of FMLA leave entitlement as a qualifying exigency leave or take a combination of the 12 weeks of leave for both qualifying exigency leave and other FMLA leave, such as leave for a serious health condition.

An eligible employee may take up to 12 work weeks of unpaid FMLA/CFRA leave, during each 12-month period established by the district in the section entitled "Terms of Leave" above, for one or more qualifying exigencies while the employee's child, parent, spouse, or, for purposes of CFRA leave, registered domestic partner, who is a military member is on covered active duty or on call to covered active duty status. (Government Code 12945.2; 29 USC 2612; 29 CFR 825.126)

Covered active duty means, for members of the Regular Armed forces, duty during the deployment of a member of the regular Armed Forces to a foreign country or, for members of the Reserve components of the Armed forces, duty during the deployment of a member of the National Guard or Reserves to a foreign country under a call or an order to active duty in support of a contingency operation pursuant to law. Deployment to a foreign country includes deployment to international waters. (29 USC 2611; 29 CFR 825.126)

CSBA NOTE: Pursuant to 29 CFR 825.126, a "qualifying exigency" may include "other events" agreed to by the district and the employee. As an example of such other event, DOL's, "Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers," and the California Department of Human Resources', "Questions and Answers - Military Family Leave - FMLA," list leave to spend time with the military member either prior to or post deployment or to attend to household emergencies that would normally have been handled by the military member.

Qualifying exigencies include time needed to: (29 CFR 825.126)

1. Address issues arising from short notice deployment of up to seven calendar days from the date of receipt of call or order of short notice deployment
2. Attend military events and related activities, such as any official ceremony or family assistance program related to the covered active duty or call to covered active duty status
3. Arrange child care or attend school activities arising from the covered active duty or call to covered active duty, such as arranging for alternative child care, enrolling or transferring a child to a new school, or attending meetings
4. Make or update financial and legal arrangements to address a military member's absence
5. Attend counseling provided by someone other than a health care provider
6. Spend time (up to 15 calendar days of leave per instance) with a military member who is on short-term, temporary, rest and recuperation leave during deployment
7. Attend to certain post-deployment activities, such as arrival ceremonies or reintegration briefings
8. Care for a military member's parent who is incapable of self-care when the care is necessitated by the military member's covered active duty
9. Address any other event that the employee and district agree is a qualifying exigency

The employee shall provide the Superintendent or designee with notice of the need for the qualifying exigency leave as soon as practicable, regardless of how far in advance such leave is foreseeable. (29 CFR 825.302)

CSBA NOTE: The district may require the employee to provide certification of the qualifying exigency containing the information specified in 29 CFR 825.309. A form has been developed by DOL for this purpose and is available on its web site.

The following paragraph is optional and should be deleted by those districts that do not require such documentation. In order to help avoid claims of discrimination, the district should generally treat all employees uniformly; thus, districts using this paragraph should request certification from all employees requesting such leave.

An employee who is requesting leave for qualifying exigencies shall provide the Superintendent or designee with a copy of the military member's active duty orders, or other documentation issued by the military, and the dates of the service. In addition, the employee shall provide the Superintendent or designee with certification of the qualifying exigency necessitating the leave. The certification shall contain the information specified in 29 CFR 825.309.

The employee's qualifying exigency leave may be taken on an intermittent or reduced work or leave schedule basis. (29 CFR 825.302)

CSBA NOTE: Pursuant to 29 USC 2612 and 29 CFR 825.207, the district has the option to require or give employees discretion to use paid leave when taking FMLA/CFRA leave; see Options 1 and 2 in the section entitled "Use/Substitution of Paid Leave" above. Whichever option is selected by the district with regards to FMLA/CFRA leave is also applicable to qualified exigency leave.

During the period of qualified exigency leave, the district's rule regarding an employee's use of accrued vacation leave and any other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

Military Caregiver Leave

CSBA NOTE: 29 USC 2612 and 29 CFR 825.127 authorize an eligible employee to take up to 26 work weeks of unpaid military caregiver leave, as defined below, during a single 12-month period. According to DOL's, "Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers," if an employee does not use the entire 26-week entitlement in a single 12-month period, unused weeks cannot be carried over into another 12-month period. However, the employee may qualify for nonmilitary FMLA leave.

The district shall grant an eligible employee up to a total of 26 work weeks of leave during a single 12-month period, measured forward from the first date the leave is taken, to care for a covered servicemember with a serious illness or injury. In order to be eligible for such military caregiver leave, the employee must be the spouse, child, parent, or next of kin of the covered servicemember. This 26-week period is inclusive of the 12 work weeks of leave that may be taken for other FMLA qualifying reasons. (29 USC 2611, 2612; 29 CFR 825.127)

Covered servicemember may be: (29 CFR 825.127)

1. A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness
2. A veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran

Child of a covered servicemember means the covered servicemember's biological, adopted, or foster child, stepchild, legal ward, or child for whom the covered servicemember stood in loco parentis, and who is of any age. (29 CFR 825.127)

Parent of a covered servicemember means the covered servicemember's biological, adopted, step, or foster parent, or any other individual who stood in loco parentis to the covered servicemember (except "parents in law"). (29 CFR 825.127)

Next of kin means the nearest blood relative to the covered servicemember, other than the spouse, parent, or child, unless designated in writing by the covered servicemember. (29 USC 2611, 2612; 29 CFR 825.127)

Outpatient status means the status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. (29 USC 2611; 29 CFR 825.127)

CSBA NOTE: 29 USC 2611 defines "serious injury or illness" for active members of the Armed Forces and for veterans, as provided below. Pursuant to 29 CFR 825.127, a veteran's injury or illness will qualify as a "serious injury or illness" for the purpose of this leave, only if one of the four conditions listed in Item #2 below is present.

Serious injury or illness means: (29 USC 2611; 29 CFR 825.127)

1. For a current member of the Armed Forces, an injury or illness incurred by the member in the line of duty on active duty, or that existed before the beginning of the member's active duty and was aggravated by the member's service in the line of duty while on active duty in the Armed Forces, and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.
2. For a veteran, an injury or illness incurred or aggravated by the member's service in the line of duty on active duty in the Armed Forces, including the National Guard or Reserves, that manifested itself before or after the member became a veteran and that is at least one of the following:
 - a. A continuation of a serious injury or illness incurred or aggravated while the veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank, or rating
 - b. A physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs (VA) Service-Related Disability Rating of 50 percent or greater, based wholly or partly on that physical or mental condition
 - c. A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of one or more disabilities related to the servicemember's military service or that would do so but for treatment received by the veteran

- d. An injury, including a psychological injury, on the basis of which the veteran has been enrolled in the VA's Program of Comprehensive Assistance for Family Caregivers

CSBA NOTE: As is the case for other types of FMLA/CFRA leave, 29 CFR 825.302 requires the employee, when the need for the leave is foreseeable, to provide 30 days advance notice to the district before the leave is to begin. The employee shall provide reasonable and practicable notice of the need for the leave in accordance with the procedures in the section entitled "Request for Leave" above.

CSBA NOTE: 29 CFR 825.310 authorizes the district to require employees to provide certification of the need for the leave, which is to be completed by an authorized health care provider of the covered servicemember.

The following paragraph is optional. In order to help avoid claims of discrimination, the district should generally treat all employees uniformly; thus, districts using this paragraph should request a medical certification from all employees requesting such leave.

An employee requesting leave to care for a covered servicemember with a serious injury or illness shall provide the Superintendent or designee with certification from an authorized health care provider of the servicemember that contains the information specified in 29 CFR 825.310.

CSBA NOTE: Pursuant to 29 CFR 825.127, an employee may take up to a total of 26 work weeks of leave for both regular FMLA and military caregiver leave during the 12-month leave entitlement period. However, the employee may not take more than 12 weeks for regular FMLA leave. For example, according to DOL's, "Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers," an employee could take 12 weeks of FMLA leave to care for a newborn child and 14 weeks of military caregiver leave but could not take 16 weeks to care for a newborn and 10 weeks of military caregiver leave. If the leave qualifies as both military caregiver leave and leave to care for a family member with a serious health condition, 29 CFR 825.127 specifies that the district must first designate the leave as military caregiver leave.

The leave may be taken intermittently or on a reduced work or leave schedule when medically necessary. An employee taking military caregiver leave in combination with other family care and medical leaves pursuant to this administrative regulation shall be entitled to a combined total of 26 work weeks of leave during a single 12-month period. When both spouses work for the district and both wish to take such leave, the spouses are limited to a maximum combined total of 26 work weeks during a single 12-month period. (29 USC 2612)

CSBA NOTE: Pursuant to 29 USC 2612 and 29 CFR 825.207, the district has the option to require or give employees discretion to substitute paid leave when taking FMLA/CFRA leave; see Options 1 and 2 in section entitled "Use/Substitution of Paid Leave" above. Whichever option is selected by the district with regard to FMLA/CFRA leave is also applicable to military caregiver leave.

During the period of military caregiver leave, the district's rule regarding an employee's use of accrued vacation leave and other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

Notifications

CSBA NOTE: Both 29 CFR 825.300 and 2 CCR 11095 require employers to provide general notification to employees of their rights under the FMLA/CFRA as well as specific notifications when an employee has requested leave, as detailed below. 2 CCR 11049 contains similar notice requirements for POL purposes. Samples of notices which describe an employee's rights are available on the web sites of the California Department of Fair Employment and Housing and the DOL.

Pursuant to 2 CCR 11095, the district must translate the notice into every language that is spoken by at least 10 percent of the district's employees at any facility.

The Superintendent or designee shall provide the following notifications regarding state and federal law related to POL or FMLA/CFRA leave:

1. General Notice: Information explaining the provisions of the Fair Employment and Housing Act/POL and FMLA/CFRA and employees' rights and obligations shall be posted in a conspicuous place on district premises, or electronically, and shall be included in employee handbooks. (2 CCR 11049, 11095; 29 USC 2619)

CSBA NOTE: Pursuant to 2 CCR 11050 and 11091, a district may require an employee, when the need for the leave is foreseeable, to provide at least 30 days advance notice before the leave is to begin; see the section entitled "Request for Leave" above. 2 CCR 11049 and 11091 specify that districts requiring such

notice from employees must give them "reasonable advance notice" of their obligation and that incorporation of the requirement into the general notice satisfies the "advance notice" requirement.

The following optional paragraph is for use by districts that require employees to provide advance notice.

2. The general notice shall also explain an employee's obligation to provide the Superintendent or designee with at least 30 days' notice of the need for the requested leave, when the need is reasonably foreseeable at least 30 days prior to the start of the leave. (2 CCR 11049, 11050, 11091)
3. Eligibility Notice: When an employee requests leave, including PDL, or when the Superintendent or designee acquires knowledge that an employee's leave may be for an FMLA/CFRA qualifying reason, the Superintendent or designee shall, within five business days, provide notification to the employee of eligibility to take such leave. (2 CCR 11049, 11091; 29 CFR 825.300)
4. Rights and Responsibilities Notice: Each time the eligibility notice is provided to an employee, the Superintendent or designee shall provide written notification explaining the specific expectations and obligations of the employee, including any consequences for a failure to meet those obligations. Such notice shall include, as applicable: (29 CFR 825.300)
 - a. A statement that the leave may be designated and counted against the employee's annual FMLA/CFRA leave entitlement and the appropriate 12-month entitlement period, if qualifying

CSBA NOTE: Item #4b below is for use by districts that require medical certification to the effect that the employee is able to resume work. See the section entitled "Release to Return to Work" above.

- b. Any requirements for the employee to furnish medical certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of active duty or call to active duty status and the consequences of failing to provide the certification
- c. The employee's right to use paid leave, whether the district will require use of paid leave, conditions related to any use of paid leave, and the employee's entitlement to take unpaid leave if the employee does not meet the conditions for paid leave
- d. Any requirements for the employee to make premium payments necessary to maintain health benefits, the arrangement for making such payments, and the possible consequences of failure to make payments on a timely basis
- e. The employee's right to maintenance of benefits during the leave and restoration to the same or an equivalent job upon return from leave
- f. The employee's potential liability for health insurance premiums paid by the district during the employee's unpaid FMLA leave should the employee not return to service after the leave

Any time the information provided in the above notice changes, the Superintendent or designee shall, within five business days of receipt of an employee's first notice of need for leave, provide the employee with a written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

5. Designation Notice: When the Superintendent or designee has information (e.g., sufficient medical certification) to determine whether the leave qualifies as FMLA/CFRA leave, the Superintendent or designee shall, within five business days, provide written notification designating the leave as FMLA/CFRA qualifying or, if the leave will not be so designated, the reason for that determination. (2 CCR 11091; 29 CFR 825.300)

If the amount of leave needed is known, the notice shall include the number of hours, days, or weeks that will be counted against the employee's FMLA/CFRA entitlement. If it is not possible to provide that number at the time of the designation notice, notification shall be provided of the amount of leave counted against the employee's entitlement upon request by the employee and at least once in every 30-day period if leave was taken in that period. (29 CFR 825.300)

CSBA NOTE: 29 CFR 825.300 requires the designation notice to specify whether the district requires paid leave to be used during an otherwise unpaid family care and medical leave, whether the district requires an employee to present release to return to work certification, and whether that certification must address the employee's ability to perform the essential functions of the job. See the sections entitled "Use/Substitution

of Paid Leave" and "Release to Return to Work" above. The following paragraph should be revised to reflect district practice.

6. If the district requires paid leave to be used during an otherwise unpaid family care and medical leave, the notice shall so specify. If the district requires an employee to present a release to return to work certification that addresses the employee's ability to perform the essential functions of the job, the notice shall also specify that requirement. (2 CCR 11091, 11097; 29 CFR 825.300)

Any time the information provided in the designation notice changes, the Superintendent or designee shall, within five business days, provide the employee with written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

Records

CSBA NOTE: Government Code 12946, 29 USC 2616, and 29 CFR 825.500 require districts to maintain records of, among other things, applications, dates, and personnel and employment action related to family care and medical leave. Pursuant to 42 USC 2000ff-1, any individually identifiable genetic information possessed by the district must be treated as a confidential medical record of the employee involved.

The Superintendent or designee shall maintain records pertaining to an individual employee's use of FMLA or CFRA leave or PDL in accordance with law. (Government Code 12946; 29 USC 2616; 42 USC 2000ff-1; 29 CFR 825.500)

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

2 CCR 11035-11051

Description

Unlawful sex discrimination: pregnancy, childbirth and related medical conditions -

<https://simbli.eboardsolutions.com/SU/GplusgYNhBplus6blimWMyAuhwJw=>

2 CCR 11087-11098

California Family Rights Act -

<https://simbli.eboardsolutions.com/SU/abM0slshHCKrMbGboplusCdDilag=>

Ed. Code 44965

Granting of leaves of absence for pregnancy and childbirth

Fam. Code 297-297.5

Rights, protections, benefits under the law; registered domestic partners

Fam. Code 300

Definition of marriage

Gov. Code 12926

Definitions

Gov. Code 12940

Unlawful discriminatory employment practices

Gov. Code 12945

Unlawful discrimination based on pregnancy, childbirth, or related medical conditions

Gov. Code 12945.1-12945.2

California Family Rights Act

Gov. Code 12945.6

Parental leave

Gov. Code 12946

Fair employment and Housing Act: discrimination prohibited

Federal References

1 USC 7

Description

Definition of marriage and spouse -

<https://simbli.eboardsolutions.com/SU/zna14b7kFoCQSILKxeKqGw=>

29 CFR 825.100-825.702

Family and Medical Leave Act of 1993

29 USC 2601-2654

Family Care and Medical Leave Act

42 USC 2000ff-2000ff-11

Genetic Information Nondiscrimination Act of 2008

Management Resources References

Court Decision

Description

Faust v. California Portland Cement Company, (2007) 150 Cal.App.4th 864

Court Decision

Tellis v. Alaska Airlines, (9th Cir., 2005) 414 F.3d 1045

Court Decision	United States v. Windsor, (2013) 699 F.3d 169
U.S. Department of Labor Publication	Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers
Website	U.S. Department of Labor, FMLA - https://simbli.eboardsolutions.com/SU/gTctHyc7Ra9nNTUgNmxAhw==
Website	California Department of Fair Employment and Housing - https://simbli.eboardsolutions.com/SU/RRvNseNogmlMLy18K40jw==

Cross References

Description

0410	Nondiscrimination In District Programs And Activities - https://simbli.eboardsolutions.com/SU/rpluplusaBOeAF4bUpZiBFBO9dQ==
0470	COVID-19 Mitigation Plan - https://simbli.eboardsolutions.com/SU/UonRXG6LPiZi7EgyplusqAd8g==
1113	District And School Web Sites - https://simbli.eboardsolutions.com/SU/tuHLSjVCOJcBx3R13Hfw==
1113	District And School Web Sites - https://simbli.eboardsolutions.com/SU/ZFoW4ZKHcT3nfqLxRIR1fw==
1113-E(1)	District And School Web Sites - https://simbli.eboardsolutions.com/SU/iSTLslsh83D1npluseoyHTIsM6ew==
2121	Superintendent's Contract - https://simbli.eboardsolutions.com/SU/fcslsb1ixO2EdCt2pz2NabYqA==
4030	Nondiscrimination In Employment - https://simbli.eboardsolutions.com/SU/z8saAb1i2vjlsishyINjXOrA==
4030	Nondiscrimination In Employment - https://simbli.eboardsolutions.com/SU/vx943OTXdnIq9P0DHilzg==
4032	Reasonable Accommodation - https://simbli.eboardsolutions.com/SU/DZueVkplusHoNslsh53DXislsbi6mLw==
4033	Lactation Accommodation - https://simbli.eboardsolutions.com/SU/mBwCbA6CkbzZwslshCYfb2JvQ==
4112.2	Certification - https://simbli.eboardsolutions.com/SU/NtHKleuKt9J8bge0adj3gg==
4112.2	Certification - https://simbli.eboardsolutions.com/SU/tUsIshewyAvQpluseaASVjOFaFlw==
4112.4	Health Examinations - https://simbli.eboardsolutions.com/SU/sllMslshxU2YOPYoMMU2U7w==
4112.42	Drug And Alcohol Testing For School Bus Drivers - https://simbli.eboardsolutions.com/SU/slshnzMWdvaZpZnpZplusef81LQ==
4112.42	Drug And Alcohol Testing For School Bus Drivers - https://simbli.eboardsolutions.com/SU/plusx1slshGxTJQKJXLOkrYP8gpluseg==
4112.9	Employee Notifications - https://simbli.eboardsolutions.com/SU/lzO16slshnwrwplusn8LplusKslsbvsvfw==
4112.9-E PDF(1)	Employee Notifications - https://simbli.eboardsolutions.com/SU/BjEd40hv6bJlfr01KsHpOQ==
4113.4	Temporary Modified/Light-Duty Assignment - https://simbli.eboardsolutions.com/SU/slshxtjrQ1xiXlplus25crkSNIUg==
4117.3	Personnel Reduction - https://simbli.eboardsolutions.com/SU/42Hj6RreDPO0Nvlww41j4g==
4141	Collective Bargaining Agreement - https://simbli.eboardsolutions.com/SU/wSbphisNslshzmwtp8Du1J7fxoGg==
4154	Health And Welfare Benefits - https://simbli.eboardsolutions.com/SU/8w7jXCSa7Dmj2OhsA1O4mg==

- 4154 Health And Welfare Benefits - <https://simbli.eboardsolutions.com/SU/bUKajshf9NH4tnZI9utk7g==>
- 4161 Leaves - <https://simbli.eboardsolutions.com/SU/FFXMgObslsbqslsbiKqtJJUX7vSg==>
- 4161 Leaves - <https://simbli.eboardsolutions.com/SU/1j87G85jaeaw3FbkyNX3fw==>
- 4161.1 Personal Illness/Injury Leave - <https://simbli.eboardsolutions.com/SU/wmtZ2H4oDc4HcrB9slshN1zcw==>
- 4161.2 Personal Leaves - <https://simbli.eboardsolutions.com/SU/Kzco4u58yiplus7nknYGxazpw==>
- 4161.9 Catastrophic Leave Program - <https://simbli.eboardsolutions.com/SU/BTEFJvZiOBplus6SWmBBkTR6w==>
- 4161.9 Catastrophic Leave Program - <https://simbli.eboardsolutions.com/SU/wpNf7hlkepJRy32hChSplus3g==>
- 4212.4 Health Examinations - <https://simbli.eboardsolutions.com/SU/RQiwSkZICOmKqFEHCuVAIA==>
- 4212.42 Drug And Alcohol Testing For School Bus Drivers - <https://simbli.eboardsolutions.com/SU/QgjTxWzNHPacaieY2R44UQ==>
- 4212.42 Drug And Alcohol Testing For School Bus Drivers - <https://simbli.eboardsolutions.com/SU/vRslshvw9XAfld9jXuR4KOLkg==>
- 4212.9 Employee Notifications - <https://simbli.eboardsolutions.com/SU/mHaW9EbnocLSPI6rr10dMw==>
- 4212.9-E PDF(1) Employee Notifications - <https://simbli.eboardsolutions.com/SU/U68jKBBwitzUHegLtpjM0w==>
- 4213.4 Temporary Modified/Light-Duty Assignment - <https://simbli.eboardsolutions.com/SU/EJKpCtBBQ0plusCkHrwgQkplus8w==>
- 4217.3 Layoff/Rehire - <https://simbli.eboardsolutions.com/SU/sq9gotNKCsav6ieplusWoePKA==>
- 4241 Collective Bargaining Agreement - <https://simbli.eboardsolutions.com/SU/HiIDt0mq6toKw0vAGRcktA==>
- 4254 Health And Welfare Benefits - <https://simbli.eboardsolutions.com/SU/A11Tc07Dplusq5qXGSVtT8tew==>
- 4254 Health And Welfare Benefits - <https://simbli.eboardsolutions.com/SU/4MRmnj4JOiqDWVDL3Okrza==>
- 4259 Employee Assistance Programs - <https://simbli.eboardsolutions.com/SU/frGxOc7Yplus8ZsrZ44lplusJCUQ==>
- 4261 Leaves - <https://simbli.eboardsolutions.com/SU/NEon3h0paWxSWoNITTqbmA==>
- 4261 Leaves - <https://simbli.eboardsolutions.com/SU/cns2ox14MXb4vglRlm84fA==>
- 4261.1 Personal Illness/Injury Leave - <https://simbli.eboardsolutions.com/SU/71GWMkFdeFkQBbHk7qxzig==>
- 4261.2 Personal Leaves - <https://simbli.eboardsolutions.com/SU/plusoUkP9SoSAHHJbMKt2vPQ==>
- 4261.9 Catastrophic Leave Program - <https://simbli.eboardsolutions.com/SU/XaDfarslsbi31XF2rlnR8Mq0Q==>
- 4261.9 Catastrophic Leave Program - <https://simbli.eboardsolutions.com/SU/qCplusa1C9mz1xTAWeVcBslshpQg==>
- 4312.4 Health Examinations - <https://simbli.eboardsolutions.com/SU/obiSk8rTaSgKJ7TuV2j8Xw==>
- 4312.42 Drug And Alcohol Testing For School Bus Drivers - <https://simbli.eboardsolutions.com/SU/CgnDx1B1ZbUtFWHVgyEOgA==>

- 4312.42 Drug And Alcohol Testing For School Bus Drivers -
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- 4312.9 Employee Notifications -
https://simbli_eboardsolutions.com/SU/CqOQlb4XnDnSONdYu7jm2Q ==
- 4312.9-E PDF(1) Employee Notifications -
https://simbli_eboardsolutions.com/SU/LslshgslsbO22fRVoPUpuUergz7w ==
- 4313.4 Temporary Modified/Light-Duty Assignment -
https://simbli_eboardsolutions.com/SU/h5utOK43t9JhsHtXAGV7Gg ==
- 4354 Health And Welfare Benefits -
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- 4354 Health And Welfare Benefits -
https://simbli_eboardsolutions.com/SU/rplummwksFJslufmMFbAX0vQ ==
- 4359 Employee Assistance Programs -
https://simbli_eboardsolutions.com/SU/TKcq760n9RZaplnRYWW1VUQ ==
- 4361 Leaves -
https://simbli_eboardsolutions.com/SU/37Bp9HjmWAwCtBvKglwUOQ ==
- 4361 Leaves -
https://simbli_eboardsolutions.com/SU/m93RQnCPlyUeeeBo4hULBQ ==
- 4361.1 Personal Illness/Injury Leave -
https://simbli_eboardsolutions.com/SU/VCSQ7zJplus5y1nFHLGslshr5oA ==
- 4361.2 Personal Leaves -
https://simbli_eboardsolutions.com/SU/TDKNlItBccHR4plusREe5i0rA ==
- 4361.9 Catastrophic Leave Program -
https://simbli_eboardsolutions.com/SU/cX8w9EvJ4JHXiwxYWyQ4qA ==
- 4361.9 Catastrophic Leave Program -
https://simbli_eboardsolutions.com/SU/la3YVHiplusFMTKplus4EgUYZ3ow ==

Regulation 6173.1: Education For Foster Youth

Status: ADOPTED

Original Adopted Date: 06/01/2022 | Last Reviewed Date: 06/01/2022

Definitions

CSBA NOTE: Pursuant to Education Code 48853.5, as amended by AB 1055 (Ch. 287, Statutes of 2021), "foster youth" has the same meaning as the term is defined in Education Code 42238.01, as amended by AB 167 (Ch. 252, Statutes of 2021). See Items #4 and 5 below.

Foster youth, foster child, or student in foster care means any of the following: (Education Code 42238.01, 48853.5)

1. A child who is the subject of a petition filed pursuant to Welfare and Institutions Code 300, whether or not the child has been removed from the child's home by the juvenile court pursuant to Welfare and Institutions Code 319 or 361.
2. A child who is the subject of a petition filed pursuant to Welfare and Institutions Code 602, has been removed from the child's home by the juvenile court pursuant to Welfare and Institutions Code 727, and is in foster care as defined by Welfare and Institutions Code 727.4(d).
3. A nonminor who is under the transition jurisdiction of a juvenile court, as described in Welfare and Institutions Code 450, and satisfies the criteria specified in Education Code 42238.01.
4. A dependent child of the court of an Indian tribe, consortium of tribes, or tribal organization who is the subject of a petition filed in the tribal court pursuant to the court's jurisdiction in accordance with the tribe's law
5. A child who is the subject of a voluntary placement agreement, as defined in Welfare and Institutions Code 11400

CSBA NOTE: In instances where the rights of the parent/guardian have been limited, the court may appoint an educational representative on a temporary or long-term basis to make educational decisions for the student.

Person holding the right to make educational decisions means a responsible adult appointed by a court pursuant to Welfare and Institutions Code 361 or 726.

School of origin means the school that the foster youth attended when permanently housed or the school in which the foster youth was last enrolled. If the school the foster youth attended when permanently housed is different from the school in which the foster youth was last enrolled, or if there is another school that the foster youth attended within the preceding 15 months and with which the foster youth is connected, the district liaison for foster youth shall determine, in the best interests of the foster youth, which school shall be deemed the school of origin. This determination shall be made in consultation with and with the agreement of the foster youth and the person holding the right to make educational decisions for the foster youth. (Education Code 48853.5)

CSBA NOTE: Education Code 48850 expresses the legislative intent that the "best interests" of a foster youth include educational stability as well as placement in the least restrictive educational program, as provided below.

In addition, pursuant to 20 USC 6311, determination of a student's "best interest" requires consideration of all factors relating to the student's best interest, including the appropriateness of the current educational setting and the proximity to the school in which the student is enrolled at the time of placement.

Best interests of a foster youth means that, in making educational and school placement decisions for a foster youth, consideration is given to, among other factors, the proximity to the school at the time of placement, appropriateness of the educational setting, educational stability, the opportunity to be educated in the least restrictive educational setting necessary to achieve academic progress, and the foster youth's access to academic resources, services, and extracurricular and enrichment activities that are available to all district students. (Education Code 48850, 48853; 20 USC 6311)

District Liaison

CSBA NOTE: Pursuant to Education Code 48853.5, districts are required to designate a staff person as the educational liaison for foster youth. The person may be the same individual designated as the liaison for homeless students as required by 42 USC 11432; see AR 6173 - Education for Homeless Children. In addition, Education Code 48853.5 requires that, for districts operating a foster youth services program, the liaison be affiliated with

Jthat program. The duties of the liaison are as specified below.

The Superintendent designates the following position as the district's liaison for foster youth: (Education Code 48853.5)

(position or title)

(address)

(phone number)

(email)

The liaison for foster youth shall:

1. Ensure and facilitate the proper educational placement, enrollment in school, and checkout from school of students in foster care (Education Code 48853.5)

CSBA NOTE: Education Code 48645.5 requires districts to accept for credit full or partial coursework completed in a public school or nonpublic nonsectarian school or agency in addition to a juvenile court school; see the section below entitled "Transfer of Coursework and Credits."

2. Ensure proper transfer of credits, records, and grades when students in foster care transfer from one school to another or from one district to another (Education Code 48645.5, 48853.5)

When a student in foster care is enrolling in a district school, the liaison shall contact the school last attended by the student to obtain, within two business days, all academic and other records. When a foster youth is transferring to a new school, the liaison shall provide the student's records to the new school within two business days of receiving the new school's request. (Education Code 48853.5)

CSBA NOTE: Pursuant to Education Code 48853.5, 48911, 48915.5, and 48918.1, the district liaison is required to invite or notify a foster youth's attorney and the appropriate official of the county child welfare agency in certain circumstances when expulsion-related proceedings are pending against the foster youth. For specific situations requiring such invitation or notice, see AR 5144.1 - Suspension and Expulsion/Due Process.

3. Notify a foster youth's attorney and the representative of the appropriate county child welfare agency, when required by law for a foster youth who is undergoing any expulsion or other disciplinary proceeding including a manifestation determination for a foster youth who is a student with a disability, prior to a change in the foster youth's placement. (Education Code 48853.5, 48911, 48915.5, 48918.1)

CSBA NOTE: Items #4-8 below are optional and should be modified to reflect district practice.

4. As needed, make appropriate referrals to ensure that students in foster care receive necessary special education services and services under Section 504 of the federal Rehabilitation Act of 1973
5. As needed, ensure that students in foster care receive appropriate school-based services, such as counseling and health services, supplemental instruction, and after-school services
6. Develop protocols and procedures for creating awareness for district staff, including principals, school registrars, and attendance clerks, of the requirements for the proper enrollment, placement, and transfer of foster youth

CSBA NOTE: Optional item #7 establishes the responsibility of the district liaison to collaborate with other local agencies to coordinate services for foster youth.

Education Code 42920.5-42921 establish the Foster Youth Services Coordinating Program and provide funding for a county office of education or consortium of county offices of education to coordinate educational support for foster youth among the districts within their jurisdiction. As part of the program, such county offices must develop and implement a coordinating plan for purposes of establishing guiding principles and protocols to provide supports for foster care students. To the extent possible, such a plan must include, but is not limited to, a description of how the program will establish ongoing collaboration among local educational agencies, county child welfare agencies, and county probation departments to determine the

proper educational placement of foster youth. In addition, pursuant to Education Code 42921, if a district annually certifies in writing that it is unable, using any other state, federal, local, or private funds, to provide tutoring, mentoring, and counseling for foster youth, it may enter into a temporary agreement with the foster youth services coordinating program to provide those services, if the program has established such services.

7. Collaborate with the county office of education, county placing agency, county child welfare agency, county probation department, juvenile court, and other appropriate agencies to help coordinate instruction, counseling, tutoring, mentoring vocational training, and other related services for the district's foster youth

CSBA NOTE: The following optional item facilitates the annual update of the local control and accountability plan required pursuant to Education Code 52060; see BP/AR 0460 - Local Control and Accountability Plan.

8. Monitor the educational progress of foster youth and provide reports to the Superintendent or designee and the Governing Board based on indicators identified in the district's local control and accountability plan

CSBA NOTE: The following paragraph is optional and may be revised to reflect district practice.

The Superintendent or designee shall regularly monitor the liaison's caseload, as well as additional duties outside of the foster youth program, to ensure that adequate time and resources are provided to meet the needs of foster youth in the district.

Enrollment

A student placed in a licensed children's institution or foster family home within the district shall attend programs operated by the district unless one of the following circumstances applies: {Education Code 48853, 48853.5}

1. The student has an individualized education program requiring placement in a nonpublic, nonsectarian school or agency or in another local educational agency.

CSBA NOTE: Pursuant to Education Code 48853, a district is required to educate foster youth in the least restrictive environment necessary for their educational achievement. However, a district may be discharged from this obligation when the parent/guardian or other person holding the right to make educational decisions for the foster youth unilaterally decides to place the foster youth in another educational program and provides the district a written statement as specified in item #2 below.

2. The parent/guardian or other person holding the right to make educational decisions for the student determines that it is in the best interests of the student to be placed in another education program and submits a written statement to the district indicating that determination and an awareness of the following:
 - a. The student has a right to attend a regular public school in the least restrictive environment.
 - b. The alternate education program is a special education program, if applicable.
 - c. The decision to unilaterally remove the student from the district school and to place the student in an alternate education program may not be financed by the district.
 - d. Any attempt to seek reimbursement for the alternate education program may be at the expense of the parent/guardian or other person holding the right to make educational decisions for the student.

CSBA NOTE: Pursuant to Education Code 48853.5, the education of a foster youth may continue in the school of origin under the circumstances stated below. Elementary and high school districts should delete any item (#3b or c) that is not applicable to the grade levels served by the district.

3. At the initial placement or any subsequent change in placement, the student exercises the right to continue in the school of origin, as defined above. In any such circumstance, the following shall apply:
 - a. The student may continue in the school of origin for the duration of the court's jurisdiction.
 - b. If the court's jurisdiction over a grade K-8 student is terminated prior to the end of a school year, the student may continue in the school of origin for the remainder of the school year.
 - c. If the court's jurisdiction is terminated while the student is in high school, the student may continue in the school of origin through graduation.
 - d. If the student is transitioning between school grade levels, the student shall be allowed to continue in

the district in the same attendance area to provide the student the benefit of matriculating with the student's peers in accordance with the established feeder patterns of school in the district. A student who is transitioning to a middle school or high school shall be allowed to enroll in the school designated for matriculation in another school district.

The role of the liaison shall be advisory with respect to placement decisions and determination of the school of origin. (Education Code 48853.5)

The district liaison may, in consultation with and with the agreement of the foster youth and the person holding the right to make educational decisions for the foster youth, recommend that the foster youth's right to attend the school of origin be waived and the foster youth be enrolled in any school that students living in the attendance area in which the foster youth resides are eligible to attend. All decisions shall be made in accordance with the foster youth's best interests. (Education Code 48853.5)

Prior to making any recommendation to move a foster youth from the school of origin, the liaison shall provide the foster youth and the person holding the right to make educational decisions for the youth with a written explanation of the basis for the recommendation and how the recommendation serves the youth's best interests. (Education Code 48853.5)

CSBA NOTE: Pursuant to Education Code 48853.5, a district is required to immediately enroll any foster youth transferring into the district even when the foster youth has outstanding fees or fines due to the last school attended or the district has not received the foster youth's academic and medical records, as listed in Items #1-3 below. However, pursuant to Health and Safety Code 120341, if a district does not receive a foster youth's immunization records prior to enrollment, the district must take steps, after the foster youth is enrolled, to obtain the immunization records or ensure that the foster youth is properly immunized. See BP/AR 5141.31 - Immunizations.

If the liaison, in consultation with the foster youth and the person holding the right to make educational decisions for the foster youth, agrees that the best interests of the foster youth would be served by a transfer to a school other than the school of origin, the principal or designee of the new school shall immediately enroll the foster youth, regardless of whether the foster youth:

1. Has outstanding fees, fines, textbooks, or other items or monies due to the school last attended
2. Does not have clothing normally required by the school, such as school uniforms
3. Is unable to produce records normally required for enrollment, such as previous academic records, proof of residency, and medical records, including, but not limited to, immunization records or other documentation

CSBA NOTE: Education Code 48853 and 48853.5 specify that, if a dispute arises regarding school placement, then the district shall use an existing dispute resolution process available to any district student. The following paragraph should be modified to reflect district practice.

If the foster youth or a person holding the right to make educational decisions for the foster youth disagrees with the liaison's enrollment recommendation, an appeal may be filed with the Superintendent. The Superintendent shall make a determination within 30 calendar days of receipt of the appeal. Within 30 calendar days of receipt of the Superintendent's decision, the foster youth or the person holding the right to make educational decisions for the foster youth may appeal that decision to the Board. The Board shall consider the issue at its next regularly scheduled meeting. The Board's decision shall be final.

If any dispute arises regarding the request of a foster youth to remain in the school of origin, the foster youth has the right to remain in the school of origin pending resolution of the dispute. (Education Code 48853.5)

Transportation

CSBA NOTE: Pursuant to Education Code 48853.5, a district may, but is not required to, provide transportation to enable a foster youth to attend a school or school district of origin, except when it is otherwise required by federal law or pursuant to the individualized education program of a student with a disability. In accordance with 20 USC 6312, districts are mandated to collaborate with the local child welfare agency to develop clear written procedures governing how transportation will be provided, arranged, and funded to enable foster youth to attend their school of origin, when it is in their best interest to do so. The local child welfare agency may reimburse the district for any additional costs of such transportation, or the district may agree to pay for or share the costs with the child welfare agency. The following section may be revised to reflect the procedures established in collaboration with the child

welfare agency, or such procedures may be incorporated into a memorandum of understanding or other document. The Superintendent or designee shall collaborate with the local child welfare agency to determine how transportation will be provided, arranged, and funded in a cost-effective manner to enable a foster youth to remain in the school of origin, for the duration of the time spent in foster care, when it is in the foster youth's best interest to do so. Such transportation costs may be paid by either the child welfare agency or the district, or shared by both. (20 USC 6312)

Effect of Absences on Grades

The grades of a student in foster care shall not be lowered for any absence from school that is due to either of the following circumstances: (Education Code 49069.5)

1. A decision by a court or placement agency to change the student's placement, in which case the grades shall be calculated as of the date the student left school
2. A verified court appearance or related court-ordered activity

Transfer of Coursework and Credits

CSBA NOTE: The following section is for use by districts maintaining high schools. Education Code 51225.2 addresses the transferability of coursework and credits completed by foster youth, as provided below.

When a foster youth transfers into a district school, the district shall accept and issue full credit for any coursework that the foster youth has satisfactorily completed while attending another public school, a juvenile court school, or a nonpublic, nonsectarian school or agency and shall not require the foster youth to retake the course. (Education Code 51225.2)

If the entire course was not completed at the previous school, the foster youth shall be issued partial credit for the coursework completed and shall be required to take the uncompleted portion of the course. However, the district may require the foster youth to retake the portion of the course completed if, in consultation with the holder of educational rights for the foster youth, the district finds that the foster youth is reasonably able to complete the requirements in time to graduate from high school. Whenever partial credit is issued to a foster youth in any particular course, the foster youth shall be enrolled in the same or equivalent course, if applicable, to enable the completion of the entire course. (Education Code 51225.2)

CSBA NOTE: Although Education Code 51225.2 requires districts to award partial credits to foster youth who transfer from school to school, there is no uniform system for calculating and awarding partial credits. To ensure consistency in the treatment of foster youth, the California Child Welfare Council (CCWC), in its, "Partial Credit Model Policy and Practice Recommendations," available on its web site, recommends the approach specified in the following optional paragraph, which may be revised to reflect district practice.

Partial credits shall be awarded on the basis of 0.5 credits for every seven class periods attended per subject. If the school is on a block schedule, each block schedule class period attended shall be equal to two regular class periods per subject. Partial credits and grades earned by a student shall be included on the student's official transcript within two business days of the district's notification of the student's transfer, as required under Education Code 49069.5.

In no event shall the district prevent a foster youth from taking or retaking a course to meet the eligibility requirements for admission to the California State University or the University of California. (Education Code 51225.2)

Applicability of Graduation Requirements

CSBA NOTE: The following section is for use by districts maintaining high schools. Also see BP 6146.1 - High School Graduation Requirements.

To obtain a high school diploma, a foster youth shall complete all courses required by Education Code 51225.3 and fulfill any additional graduation requirements prescribed by the Board.

However, when a foster youth who has completed the second year of high school transfers into the district from another school district or transfers between high schools within the district, the foster youth shall be exempted from all district-adopted coursework and other district-established graduation requirements, unless the district makes a finding that the student is reasonably able to complete the additional requirements in time to graduate from high school by the end of the fourth year of high school. Within 30 calendar days of the foster youth's transfer, the Superintendent or designee shall notify the foster youth, the person holding the right to make educational decisions

for the foster youth, and the foster youth's social worker of the availability of the exemption and whether the foster youth qualifies for it. If the Superintendent or designee fails to provide this notification, the student shall be eligible for the exemption once notified, even if the notification occurs after the student is no longer a foster youth. (Education Code 51225.1)

To determine whether a foster youth is in the third or fourth year of high school, the district shall use either the number of credits the foster youth has earned as of the date of the transfer or the length of school enrollment, whichever qualifies the foster youth for the exemption. (Education Code 51225.1)

The Superintendent or designee shall notify any foster youth who is granted an exemption and the person holding the right to make educational decisions for the foster youth how any requirements that are waived will affect the foster youth's ability to gain admission to a postsecondary educational institution and shall provide information about transfer opportunities available through the California Community Colleges. (Education Code 51225.1)

The district shall not require or request a foster youth to transfer schools in order to qualify for an exemption and shall not grant any request made by a foster youth or any person acting on behalf of a foster youth for a transfer solely to qualify the foster youth for an exemption. (Education Code 51225.1)

If a foster youth is exempted from local graduation requirements, the exemption shall continue to apply after the termination of the court's jurisdiction over the student while still enrolled in school or if the foster youth transfers to another school or school district. (Education Code 51225.1)

Upon making a finding that a foster youth is reasonably able to complete district graduation requirements within the fifth year of high school, the Superintendent or designee shall: (Education Code 51225.1)

1. Inform the foster youth and the person holding the right to make educational decisions for the foster youth of the option to remain in school for a fifth year to complete the district's graduation requirements and how that will affect the foster youth's ability to gain admission to a postsecondary educational institution
2. Provide information to the foster youth about transfer opportunities available through the California Community Colleges
3. Upon agreement with the foster youth or, if under 18 years of age, the person holding the right to make educational decisions for the foster youth, permit the foster youth to stay in school for a fifth year to complete the district's graduation requirements

Eligibility for Extracurricular Activities

CSBA NOTE: Education Code 48850 provides that, when a foster youth's residence changes pursuant to a court order or decision of a child welfare worker, the student shall be immediately deemed to meet all residency requirements for participation in extracurricular activities and interscholastic sports. For additional information about eligibility requirements, see BP 6145 - Extracurricular and Cocurricular Activities.

A foster youth whose residence changes pursuant to a court order or decision of a child welfare worker shall be immediately deemed to meet all residency requirements for participation in interscholastic sports or other extracurricular activities. (Education Code 48850)

Notification and Complaints

CSBA NOTE: Education Code 48853, 49069.5, 51225.1, and 51225.2 require that the district's annual uniform complaint procedures notification include specified information regarding the educational rights of foster youth. See AR 1312.3 - Uniform Complaint Procedures for further information regarding this notification. Education Code 48853.5 requires the California Department of Education (CDE), in consultation with the California Foster Youth Education Task Force, to develop a standardized notice of the educational rights of foster youth and to post that notice on its web site.

Information regarding the educational rights of foster youth shall be included in the annual uniform complaint procedures notification distributed to students, parents/guardians, employees, and other interested parties pursuant to 5 CCR 4622. (Education Code 48853, 48853.5, 49069.5, 51225.1, 51225.2)

CSBA NOTE: Education Code 48853, 48853.5, 49069.5, 51225.1, and 51225.2 provide that complaints of noncompliance with specified requirements related to the education of foster youth may be filed in accordance with the uniform complaint procedures specified in 5 CCR 4600-4670. As with other complaints covered under the

uniform complaint procedures, a complainant may appeal the district's decision to CDE and, if the district or CDE finds any merit in the complaint, the district must provide a remedy to the affected student. See BP/AR 1312.3 - Uniform Complaint Procedures.

Any complaint alleging that the district has not complied with requirements regarding the education of foster youth may be filed in accordance with the district's procedures in AR 1312.3 - Uniform Complaint Procedures. If the district finds merit in a complaint, the district shall provide a remedy to the affected student. A complainant not satisfied with the district's decision may appeal the decision to the California Department of Education (CDE) and shall receive a written decision regarding the appeal within 60 days of CDE's receipt of the appeal. If CDE finds merit in an appeal, the district shall provide a remedy to the affected student. (Education Code 48853, 48853.5, 49069.5, 51225.1, 51225.2)

Policy Reference Disclaimer. These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

	Description
5 CCR 4600-4670	Uniform complaint procedures
Ed. Code 32228-32228.5	Student safety and violence prevention
Ed. Code 42238.01-42238.07	Local control funding formula
Ed. Code 42920-42925	Foster children educational services
Ed. Code 48645-48646	Juvenile court schools
Ed. Code 48850-48859	Education of foster youth and homeless students
Ed. Code 48915.5	Recommended expulsion; homeless student with disabilities
Ed. Code 48918.1	Notice of recommended expulsion
Ed. Code 49061	Definitions, directory information
Ed. Code 49069.5	Students in foster care; grades and credits
Ed. Code 49076	Access to student records
Ed. Code 51225.1	Exemption from district graduation requirements
Ed. Code 51225.2	Course credits
Ed. Code 51225.3	High school graduation
Ed. Code 52060-52077	Local control and accountability plan
Ed. Code 56055	Rights of foster parents pertaining to foster child's education
H&S Code 120341	Foster youth; school placement and immunization records
H&S Code 1522.41	Training and certification of group home administrators
H&S Code 1529.2	Training of licensed foster parents
W&I Code 16000-16014	Foster care placement
W&I Code 300	Minors subject to jurisdiction
W&I Code 309	Investigation and release of child
W&I Code 317	Appointment of legal counsel
W&I Code 361	Limitations on parental control
W&I Code 366.27	Educational decision by relative providing living arrangements
W&I Code 602	Minors violating law; ward of court
W&I Code 726	Limitations on parental control
W&I Code 727	Order of care; ward of court

Federal References

	Description
20 USC 1415	Procedural safeguards

20 USC 6311	State plan
29 USC 794	Rehabilitation Act of 1973; Section 504
42 USC 11431-11435	McKinney-Vento Homeless Assistance Act
42 USC 670-679b	Federal assistance for foster care programs

Management Resources References

Alliance for Children's Rights Publication	Description Foster Youth Education Toolkit, December 2016
California Child Welfare Council Publication	Partial Credit Model Policy and Practice Recommendations
Cities, Counties and Schools Partnership Pub.	Our Children: Emancipating Foster Youth, A Community Action Guide
CSBA Publication	Our Foster Youth: What School Boards Can Do, May 2016
CSBA Publication	Foster Youth: Supports for Success, Governance Brief, May 2016
U.S. Department of Education Publication	Ensuring Educational Stability for Children in Foster Care, Non-Regulatory Guidance, June 2016
Website	Alliance for Children's Rights - https://simbli.eboardsolutions.com/SU/AslshID5EbeFAQXuxyslshDHYftg==
Website	Foster Ed - https://simbli.eboardsolutions.com/SU/361CSWMizFGQ20OYRkL2Lw==
Website	National Center for Youth Law - https://simbli.eboardsolutions.com/SU/rWqbVi1x2WCuGlcphMslsh2yQ==
Website	California Department of Education, Foster Youth Services - https://simbli.eboardsolutions.com/SU/R0UWcbkrRcgV9asNslshPZxnQ==
Website	California Department of Social Services, Foster Youth Ombudsman Office - https://simbli.eboardsolutions.com/SU/L9RgoIMbh4Z3K9vdKFUJ0A==
Website	California Foster Youth Education Task Force - https://simbli.eboardsolutions.com/SU/XrG7Kxmibs5cwWnsme2Pcg==
Website	California Youth Connection - https://simbli.eboardsolutions.com/SU/a11cPCjxh5QKjXBbA1VSplusQ--
Website	Cities Counties and Schools Partnership - https://simbli.eboardsolutions.com/SU/vkMU6AgLdg2x1CfasX4n3w--
Website	CSBA - https://simbli.eboardsolutions.com/SU/W3QxkK2FPsDsQBnMIENxGg--
Website	California Child Welfare Council - https://simbli.eboardsolutions.com/SU/8BOINMN9mtFkcAjmEbYOGa==

Cross References

0200	Description Goals For The School District - https://simbli.eboardsolutions.com/SU/9j90oJApXGvO2isl11yD8g==
0410	Nondiscrimination In District Programs And Activities - https://simbli.eboardsolutions.com/SU/rplusplusaBQeAE4bUpZiBFBO9dQ==
0415	Equity - https://simbli.eboardsolutions.com/SU/ZG7hz17ATfHJBPQ13Jplus7cw==
0450	Comprehensive Safety Plan - https://simbli.eboardsolutions.com/SU/FQOZDcYoBERqzRucs3xsMA--
0450	Comprehensive Safety Plan - https://simbli.eboardsolutions.com/SU/BxazplusxgNXNREplusOnkNIFqtQ--
0460	Local Control And Accountability Plan - https://simbli.eboardsolutions.com/SU/fwFbmazSQUQOAdl7DbzBBg==
0460	Local Control And Accountability Plan - https://simbli.eboardsolutions.com/SU/N8bGSx8fXallgcLPJYKR9w==

0470	COVID-19 Mitigation Plan - https://simbli.eboardsolutions.com/SU/UonRXG6LPiZi7EgvplusqAd8g==
0500	Accountability - https://simbli.eboardsolutions.com/SU/PDWiti8tEaGKnqJbgZ4Q3g==
1312.3	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/yvGJj2X8PyrSmBYInybbQA==
1312.3	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/qu1ox8qD0SpMJPXqVt6gag==
1312.3-E PDF(1)	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/BsIsbPMK886oDyrBoOyAftUdg==
1312.3-E PDF(2)	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/HDsIsbuPXC0G3Oslsbr71TMVplus4Jw==
1400	Relations Between Other Governmental Agencies And The Schools - https://simbli.eboardsolutions.com/SU/vJHizKCtUNwjEFgnHx4CA==
3100	Budget- https://simbli.eboardsolutions.com/SU/jyvplusBDTDZP2PfaNjtUb1FQ==
3100	Budget- https://simbli.eboardsolutions.com/SU/msAckulxvwNnuplus45O6T7slsbw==
3260	Fees And Charges - https://simbli.eboardsolutions.com/SU/46smJEFyHQTgoxbzQIEJJA==
3260	Fees And Charges - https://simbli.eboardsolutions.com/SU/FeWbTzBdYgA9xdZd3xUEXA==
3515.4	Recovery For Property Loss Or Damage - https://simbli.eboardsolutions.com/SU/HJyfnTrq3yI0UnDK53CpBA==
3515.4	Recovery For Property Loss Or Damage - https://simbli.eboardsolutions.com/SU/ViR6wNSwOiTu0tZplus7Ly9Jw==
3540	Transportation - https://simbli.eboardsolutions.com/SU/i4mopT2oTbCBYGluK4cvZA==
3541	Transportation Routes And Services - https://simbli.eboardsolutions.com/SU/x9xslshKxLvYXXvWxrplus6eUJEMg==
3553	Free And Reduced Price Meals - https://simbli.eboardsolutions.com/SU/Y07PIISplus2xHEiLURmRHYzQ==
3553	Free And Reduced Price Meals - https://simbli.eboardsolutions.com/SU/0QSCO4sXK4An7L2TouWocg==
4131	Staff Development - https://simbli.eboardsolutions.com/SU/700vA0ysAxSYXC8kTtgs9Q==
4231	Staff Development - https://simbli.eboardsolutions.com/SU/FAuFrJnlbcVy3kgsTslshNU6g==
4331	Staff Development - https://simbli.eboardsolutions.com/SU/3B11BFE9slsbf2AlnllsFw7ag==
5111	Admission - https://simbli.eboardsolutions.com/SU/anOITqnoRUahtomBfk0HKg==
5111	Admission - https://simbli.eboardsolutions.com/SU/kL6uH8pluspCplusjBFB1jSXpw==
5111.1	District Residency - https://simbli.eboardsolutions.com/SU/IAL6e5elvtWslKJB0r51Yg==
5111.1	District Residency - https://simbli.eboardsolutions.com/SU/VlddiUvh6orgSjaY4wvt7Q==
5113.1	Chronic Absence And Truancy - https://simbli.eboardsolutions.com/SU/HwSC1aEnixhuUFV0E9Vntg==

5113.1	Chronic Absence And Truancy - https://simbli.eboardsolutions.com/SU/D2Ug7JcgumhuWnRLo2bAw==
5113.11	Attendance Supervision - https://simbli.eboardsolutions.com/SU/Lz97LnzWjMXSu91JfHK6HA==
5116.1	Intradistrict Open Enrollment - https://simbli.eboardsolutions.com/SU/d1Mc4bRdkltSpluszH3UyCw==
5116.1	Intradistrict Open Enrollment - https://simbli.eboardsolutions.com/SU/rvdq3uaJjEsMqYOIfftOcq==
5117	Interdistrict Attendance - https://simbli.eboardsolutions.com/SU/be8UrO5tYpPbjYfPslshJOSlshgg==
5117	Interdistrict Attendance - https://simbli.eboardsolutions.com/SU/YpwmrmK3MFpslsbPeaNfGkpoQ==
5121	Grades/Evaluation Of Student Achievement - https://simbli.eboardsolutions.com/SU/nENSIPbgmplusPXbUNTnXJeuw==
5121	Grades/Evaluation Of Student Achievement - https://simbli.eboardsolutions.com/SU/lKtdZAf0mXslsh9Lp2JINpFAA=-
5123	Promotion/Acceleration/Retention - https://simbli.eboardsolutions.com/SU/XslsbULwDF51O6snseMXV7plus0g==
5123	Promotion/Acceleration/Retention - https://simbli.eboardsolutions.com/SU/i6Ui8m0wR1VPGjslsbfbUglA==
5125	Student Records - https://simbli.eboardsolutions.com/SU/Jw4xw3nB7slshn7ptplustrREa5A==
5125	Student Records - https://simbli.eboardsolutions.com/SU/9slshJjOjwllKjNef0pjUBtbg==
5125.2	Withholding Grades, Diploma Or Transcripts - https://simbli.eboardsolutions.com/SU/NJ9Z2gAgJ2ETo56oMd091g==
5131	Conduct - https://simbli.eboardsolutions.com/SU/pBUFdJ0Eye0pz1R21VtIYQ==
5131.2	Bullying - https://simbH.eboardsolutions.com/SU/SwOjuMy0rrGlgPDYiJ2Rvw==
5131.2	Bullying - https://simbli.eboardsolutions.com/SU/MwcrPaiVN3oQlSPFbAoQPA==
5131.6	Alcohol And Other Drugs - https://simbli.eboardsolutions.com/SU/WDkn56oiRIRHg1DNsZyxA==
5131.6	Alcohol And Other Drugs - https://simbli.eboardsolutions.com/SU/7eplus9F20al43StxVcQXvoig==
5132	Dress And Grooming - https://simbli.eboardsolutions.com/SU/B9HD448oI91HLEE38JkOvA==
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5137	Positive School Climate - https://simbli.eboardsolutions.com/SU/Ufqvo2274QHBI.OiceWSBplusA==
5138	Conflict Resolution/Peer Mediation - https://simbli.eboardsolutions.com/SU/vYnT58jV6Sc5PaNDJcoXJg==
5141.22	Infectious Diseases - https://simbli.eboardsolutions.com/SU/slsbSHDzymYLN8DwMplltWdsg==
5141.22	Infectious Diseases - https://simbli.eboardsolutions.com/SU/DdkxP61o0oUT7dmBE1ek0g==
5141.26	Tuberculosis Testing - https://simbli.eboardsolutions.com/SU/i1UlqKL4dMNcvJfWIsQslsb3A==
5141.31	Immunizations - https://simbli.eboardsolutions.com/SU/Whsish3slsbDAkvapt4AefESXBvQ==

5141.31	Immunizations - https://simbli.eboardsolutions.com/SU/xlYl1kQJSpulf7slshAnBIYIJPA==
5141.32	Health Screening For School Entry - https://simbli.eboardsolutions.com/SU/bFaw6ayxlna5XjXFnMSV5w==
5141.6	School Health Services - https://simbli.eboardsolutions.com/SU/KxDBTjSkEdlUR2Gj3BFRPw==
5141.6	School Health Services - https://simbli.eboardsolutions.com/SU/0vHj1CrosCLePopplusArHjplusg==
5144.1	Suspension And Expulsion/Due Process - https://simbli.eboardsolutions.com/SU/blwduf15hDWiR2tslshXyakiQ==
5144.1	Suspension And Expulsion/Due Process - https://simbli.eboardsolutions.com/SU/sj4cx1G3eeeECICNif6t2w==
5144.2	Suspension And Expulsion/Due Process (Students With Disabilities) - https://simbli.eboardsolutions.com/SU/VfqT4dag9OryfRHQPXk58A==
5145.3	Nondiscrimination/Harassment - https://simbli.eboardsolutions.com/SU/m3D8kgCbYf75xXSrW6Y27Q==
5145.3	Nondiscrimination/Harassment - https://simbli.eboardsolutions.com/SU/2yjABQdVf4fFrislsho9qlzfg==
5145.6	Parental Notifications - https://simbli.eboardsolutions.com/SU/SuvNxitlUJ0XfallLuiSAA==
5145.6-E PDF(1)	Parental Notifications - https://simbli.eboardsolutions.com/SU/3aQzL6ew2Hslsblwslsb02DIEyMg==
5145.9	Hate-Motivated Behavior - https://simbli.eboardsolutions.com/SU/zXaTq9y3Bf8fOrt8zzpcyw==
5147	Dropout Prevention - https://simbli.eboardsolutions.com/SU/nRgafK7e25QslshoATTaX0j5w==
5148.2	Before/After School Programs - https://simbli.eboardsolutions.com/SU/ZCXkdpn0NOWtDDYWmvGMPw==
5148.2	Before/After School Programs - https://simbli.eboardsolutions.com/SU/6TCzxiJ5d2Sh1ygXCj1JXQ==
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6000	Concepts And Roles - https://simbli.eboardsolutions.com/SU/qvPcqbSrShZR2J5Nk8zHSg==
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6020	Parent Involvement - https://simbli.eboardsolutions.com/SU/8BBILRHEPN4Ze31Dgijtlg==
6020	Parent Involvement - https://simbli.eboardsolutions.com/SU/QOib1gK3KHGsHNlpTjq18A==
6145	Extracurricular And Cocurricular Activities - https://simbli.eboardsolutions.com/SU/TkiGKzMnAo9vQwZU56wqVw==
6145	Extracurricular And Cocurricular Activities - https://simbli.eboardsolutions.com/SU/Fr5qETtTn48ak11TDSX9jg==
6145.2	Athletic Competition - https://simbli.eboardsolutions.com/SU/WjFHslsbd0qO8WHJq9f7Kfb5Q==
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6146.1	High School Graduation Requirements - https://simbli.eboardsolutions.com/SU/plus2yglNOrozRrjEUY1zO9qQ==
6146.1	High School Graduation Requirements - https://simbli.eboardsolutions.com/SU/S5uBuYQ9RoSFW1PcOZAtxg==
6146.3	Reciprocity Of Academic Credit - https://simbli.eboardsolutions.com/SU/rdkgdyDZ2KnybslsbislshopFLBQ==
6146.3	Reciprocity Of Academic Credit - https://simbli.eboardsolutions.com/SU/xXvuy2muzpaSVMrtWFWj3A==
6159	Individualized Education Program - https://simbli.eboardsolutions.com/SU/nRtcKBP3haQcPuiLWOYqgA==
6159	Individualized Education Program - https://simbli.eboardsolutions.com/SU/TBIWJmfAP00e3xnVhUQNYg==
6159.2	Nonpublic, Nonsectarian School And Agency Services For Special Education - https://simbli.eboardsolutions.com/SU/ueu2nVzHClqsIsb5Oplus8osvjg==
6159.2	Nonpublic, Nonsectarian School And Agency Services For Special Education - https://simbli.eboardsolutions.com/SU/Btj64Eb0rA04NXwDCLkGbQ==
6159.3	Appointment Of Surrogate Parent For Special Education Students - https://simbli.eboardsolutions.com/SU/kwKWaBkBWZGBdRWcmfUQoA==
6159.3	Appointment Of Surrogate Parent For Special Education Students - https://simbli.eboardsolutions.com/SU/WsbHcd1QtVwHGqMal6QN9g==
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6162.51	State Academic Achievement Tests - https://simbli.eboardsolutions.com/SU/oZbkKwYtcu0mkplusF9H7PNfQ==
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6164.4	Identification And Evaluation Of Individuals For Special Education - https://simbli.eboardsolutions.com/SU/lrd2NaiBBMolUAYcGFTZtA==
6164.6	Identification And Education Under Section 504 - https://simbli.eboardsolutions.com/SU/6plusOTTGd6ABIAeBaW0zV0xg==
6164.6	Identification And Education Under Section 504 - https://simbli.eboardsolutions.com/SU/CGPb7slsbjqJY111isv4bclqQ==
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- 6174 Education For English Learners -
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- 6179 Supplemental Instruction -
<https://simbli.eboardsolutions.com/SU/zi8aQRQAs4kCAuX1Bu2Mslsbg==>
- 6190 Evaluation Of The Instructional Program -
<https://simbli.eboardsolutions.com/SU/okRYD9py3tHKzr20XkWFZg==>
- 9320 Meetings And Notices -
<https://simbli.eboardsolutions.com/SU/V0cKfotkMiw5r0OyNix2A==>

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