

CSBA Sample Administrative Regulation

Community Relations

AR 1312.3(a)

UNIFORM COMPLAINT PROCEDURES

Note: 5 CCR 4621 **mandates** that the district's uniform complaint procedures (UCP) be consistent with the procedures of 5 CCR 4600-4670. Additionally, Education Code 52075 **mandates** districts to adopt policies and procedures implementing the use of UCP to investigate and resolve complaints alleging noncompliance with requirements related to the local control and accountability plan (LCAP), and Education Code 8235.5 **mandates** districts to adopt policies and procedures for resolving complaints regarding specified health and safety issues in license-exempt California State Preschool Programs (CSPP). Furthermore, a number of federal civil rights statutes and their implementing regulations mandate districts to adopt policies and procedures for the prompt and equitable resolution of complaints of unlawful discrimination, ~~(such as discriminatory harassment, intimidation, or bullying)~~. For example, all districts are **mandated** pursuant to 28 CFR 35.107 to adopt policy and procedures to address discrimination on the basis of disability, while districts that receive federal financial assistance are **mandated** pursuant to 34 CFR 106.8 and 34 CFR 110.25 to adopt policies and procedures to address discrimination on the basis of sex and age. Some of the factors considered by the U.S. Department of Education's Office for Civil Rights (OCR) when determining whether a district's procedures are "prompt and equitable" are addressed throughout the following administrative regulation.

Apart from these mandates, state law authorizes the use of UCP to resolve complaints of noncompliance with laws related to the development of a school plan for student achievement and the establishment of school site councils; accommodations for pregnant and parenting students; prohibition against the charging of student fees; educational rights of foster youth, homeless students, former juvenile court school students, children of military families, migrant students, and students participating in a newcomer program for newly arrived immigrants; assignment of students to courses without educational content; and physical education instructional minutes. See the section "Complaints Subject to UCP" in the accompanying Board policy.

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

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 1312.2 - Complaints Concerning Instructional Materials)
(cf. 1312.4 - Williams Uniform Complaint Procedures)
(cf. 4030 - Nondiscrimination in Employment)

Compliance Officers

Note: 5 CCR 4621 **mandates** the district to identify in its policies and procedures the person(s), position(s), or unit(s) responsible for ensuring compliance with applicable state and federal laws and regulations governing educational programs, including the receiving and investigating of complaints alleging unlawful discrimination, ~~(such as discriminatory harassment, intimidation, or bullying)~~ and retaliation. During its Federal Program Monitoring (FPM) process, California Department of Education (CDE) staff will check to ensure that the district's procedures list the specific title(s) of the employee(s) responsible for receiving and investigating complaints. Districts should identify the specific title(s) of the compliance officer(s) in the space provided below. If a district identifies multiple compliance officers, it is recommended that one be designated the lead compliance officer.

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UNIFORM COMPLAINT PROCEDURES (continued)

The following paragraph specifies that the compliance officer will be the same person designated to serve as the Title IX Coordinator for addressing complaints of sexual harassment pursuant to AR 5145.7 - Sexual Harassment and AR 5145.71 - Title IX Sexual Harassment Complaint Procedures. Districts may modify this regulation to designate different district employees to serve these functions.

The district designates the individual(s), position(s), or unit(s) identified below as responsible for coordinating the district's response to complaints and for complying with state and federal civil rights laws. The individual(s), position(s), or unit(s) also serve as the compliance officer(s) specified in AR 5145.3 - Nondiscrimination/Harassment responsible for handling complaints regarding unlawful discrimination, ~~(such as discriminatory harassment, intimidation, or bullying)~~ and in AR 5145.7 - Sexual Harassment for handling complaints regarding sexual harassment. The compliance officer(s) shall receive and coordinate the investigation of complaints and shall ensure district compliance with law.

(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 5145.7 - Sexual Harassment)
(cf. 5145.71 - Title IX Sexual Harassment Complaints Procedures)

No changes

(title or position)

(unit or office)

(address)

(telephone number)

(email)

Note: The following paragraph is for use by districts that have designated more than one compliance officer.

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

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

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UNIFORM COMPLAINT PROCEDURES (continued)

Note: 5 CCR 4621 **mandates** that the district's policy require employees responsible for compliance and/or for investigating and resolving complaints to be knowledgeable about the laws and programs at issue in the complaints they are assigned. OCR requires that the compliance officer(s) involved in implementing discrimination complaint procedures be knowledgeable about the procedures and be able to explain them to parents/guardians and students. **They Compliance officers** must also have training or experience in handling discrimination complaints, including appropriate investigative techniques and understanding of the applicable legal standards.

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

(cf. 4331 - Staff Development)
(cf. 9124 - Attorney)

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

Notifications

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

Note: During the FPM process, CDE staff will check to ensure that the district's policy contains a statement ensuring annual dissemination of notice of the district's UCP to the persons specified below.

In addition, the Superintendent or designee shall annually provide written notification of the district's UCP to students, employees, parents/guardians of district students, district advisory committee members, school advisory committee members, appropriate private school officials or representatives, and other interested parties. (5 CCR 4622)

UNIFORM COMPLAINT PROCEDURES (continued)

(cf. 0420 - School Plans/Site Councils)
(cf. 1220 - Citizen Advisory Committees)
(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

(cf. 5145.6 - Parental Notifications)

Note: 5 CCR 4622 requires the district to include specified information in its annual UCP notice to students, parents/guardians, employees, and others. The following list reflects those required components and additional content of the notice listed in CDE's FPM instrument.

A sample of the annual notice is available through CDE's web site. It is the district's responsibility to update the notice as necessary to reflect new law.

The notice shall include:

1. A statement that the district is primarily responsible for compliance with federal and state laws and regulations, including those related to prohibition of unlawful discrimination, harassment, intimidation, or bullying against any protected group, and a list of all programs and activities that are subject to UCP as identified in the section "Complaints Subject to UCP" in the accompanying Board policy
2. The title of the position responsible for processing complaints, the identity of the person(s) currently occupying that position if known, and a statement that such persons will be knowledgeable about the laws and programs that they are assigned to investigate
3. A statement that a UCP complaint, **except a complaint alleging unlawful discrimination, harassment, intimidation, or bullying**, must be filed no later than one year from the date the alleged violation occurred
4. A statement that, ~~in the case of a UCP complaint~~ **UCP** complaint alleging unlawful discrimination, harassment, intimidation, or bullying, ~~a UCP complaint~~ must be filed no later than six months from the date of the alleged conduct or the date the complainant first obtained knowledge of the facts of the alleged conduct
5. A statement that a student enrolled in a public school shall not be required to pay a fee for participation in an educational activity that constitutes an integral fundamental part of the district's educational program, including curricular and extracurricular activities
6. A statement that a complaint regarding student fees or the local control and accountability plan (LCAP) may be filed anonymously if the complainant provides evidence or information leading to evidence to support the complaint

UNIFORM COMPLAINT PROCEDURES (continued)

(cf. 0460 - Local Control and Accountability Plan)
(cf. 3260 - Fees and Charges)

7. A statement that the district will post a standardized notice of the educational rights of foster youth, homeless students, former juvenile court school students now enrolled in the district, children of military families, migrant students, and immigrant students enrolled in a newcomer program, as specified in Education Code 48853, 48853.5, 49069.5, 51225.1, and 51225.2, and the complaint process

(cf. 6173 - Education for Homeless Children)
(cf. 6173.1 - Education for Foster Youth)
(cf. 6173.2 - Education of Children of Military Families)
(cf. 6173.3 - Education for Juvenile Court School Students)
(cf. 6175 - Migrant Education Program)

8. A statement that complaints will be investigated in accordance with the district's UCP and a written decision will be sent to the complainant within 60 days from the receipt of the complaint, unless this time period is extended by written agreement of the complainant
9. A statement that, for programs within the scope of the UCP as specified in the accompanying Board policy, the complainant has a right to appeal the district's investigation report to the California Department of Education (CDE) for programs within the scope of the UCP by filing a written appeal, including a copy of the original complaint and the district's decision, within 30 calendar days of receiving the district's decision
10. A statement advising the complainant of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal laws prohibiting anti-discrimination, harassment, intimidation, or bullying laws, if applicable
11. A statement that copies of the district's UCP are available free of charge

Note: The following paragraph may be modified to reflect district practice. Pursuant to Education Code 221.61, districts are required to post information related to Title IX on their web sites, including specified information about complaint procedures under Title IX. See AR 5145.3 - Nondiscrimination/Harassment. A district that does not maintain a web site may comply by posting the information on the web site of its county office of education. A comprehensive list of rights based on the provisions of the federal regulations implementing Title IX can be found in Education Code 221.8. In addition, in its April 2015 Dear Colleague Letter: Title IX Coordinators, OCR recommends that districts use web posting and social media to disseminate their nondiscrimination notices, policies, and procedures and communicate current compliance officer(s)' contact information to students, parents/guardians, and employees.

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UNIFORM COMPLAINT PROCEDURES (continued)

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

(cf. 1113 - District and School Web Sites)

(cf. 1114 - District-Sponsored Social Media)

Note: Both federal and state laws contain requirements for translation of certain information and documents. Title VI of the Civil Rights Act of 1964 requires districts to ensure meaningful access to their programs and activities by persons with limited English proficiency. OCR has interpreted this to require that, whenever information is provided to parents/guardians, districts must notify limited-English-proficient (LEP) parents/guardians in a language other than English in order to be adequate. OCR enforces this requirement consistent with the Department of Justice's 2002 Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons. Under the Guidance, a recipient of federal funds has an obligation to provide language assistance to LEP individuals based on the balancing of four factors: (1) the number or proportion of LEP individuals likely to encounter the program, (2) the frequency with which LEP individuals come in contact with the program, (3) the nature and importance of the services provided by the program, and (4) the resources available to the recipient. State law is more specific than federal law: Education Code 48985 requires translation of certain information and documents if 15 percent or more of students enrolled in the school speak a single primary language other than English.

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

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

Filing of Complaints

Note: Complaints filed under UCP may be filed directly with a compliance officer or with any site administrator not designated as a compliance officer. For example, acts of unlawful discrimination, ~~(such as discriminatory harassment, intimidation, or bullying)~~ may initially be reported to a principal. See AR 5145.3 - Nondiscrimination/Harassment and AR 5145.7 - Sexual Harassment. If a site administrator not designated as a compliance officer receives a UCP complaint, the site administrator must notify a compliance officer. A district may also establish a site-level process for receiving informal reports about incidents for which a UCP complaint may be filed and notifying students and parents/guardians of their right to file a UCP complaint. Any site-level process established by a district should be in writing and distributed in the same manner as the grievance procedures listed herein with an explanation of how it interacts with the UCP complaint process.

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UNIFORM COMPLAINT PROCEDURES (continued)

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

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

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

1. A complaint alleging district violation of applicable state or federal law or regulations governing the programs specified in the accompanying Board policy may be filed by any individual, public agency, or organization. (5 CCR 4630)

Note: Education Code 49013 and 52075 **mandate** districts to adopt procedures that allow for anonymous complaints to be filed when a district allegedly violates the prohibition against the charging of student fees or violates any requirement related to the LCAP.

2. Any complaint alleging noncompliance with law regarding the prohibition against student fees, deposits, and charges or any requirement related to the LCAP may be filed anonymously if the complaint provides evidence, or information leading to evidence, to support an allegation of noncompliance. A complaint about a violation of the prohibition against the charging of unlawful student fees may be filed with the principal of the school or with the Superintendent or designee.

Note: Pursuant to 5 CCR 4630, ~~as amended by Register 2020, No. 21,~~ complaints related to the LCAP must be filed within a year of the date that the reviewing authority approves the district's LCAP. Pursuant to Education Code 52070, the County Superintendent of Schools is the reviewing authority for district LCAPs.

3. A UCP complaint, **except for a UCP complaint alleging unlawful discrimination, harassment, intimidation, or bullying**, shall be filed no later than one year from the date the alleged violation occurred. For complaints related to the LCAP, the date of the alleged violation is the date when the County Superintendent of Schools approves the LCAP that was adopted by the Board. (5 CCR 4630)
4. A complaint alleging unlawful discrimination, ~~(such as discriminatory harassment, intimidation, or bullying)~~ may be filed only by a person who alleges having personally suffered unlawful discrimination, a person who believes that any specific class of individuals has been subjected to unlawful discrimination, or a duly authorized representative who alleges that an individual student has been subjected to discrimination, harassment, intimidation, or bullying. **(5 CCR 4630)**
5. **The A** complaint **alleging unlawful discrimination, harassment, intimidation, or bullying** shall be initiated no later than six months from the date that the alleged

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unlawful discrimination occurred, or six months from the date that the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension. (5 CCR 4630)

- 5-6.** When a complaint alleging unlawful discrimination, ~~(such as discriminatory harassment, intimidation, or bullying)~~ is filed anonymously, the compliance officer shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation.

Note: OCR's Revised Sexual Harassment Guidance indicates that if a complainant in a sexual harassment case requests that the complainant's name or that of the victim not be revealed to the alleged perpetrator or asks that the complaint not be pursued, the district should first inform the complainant that honoring the request may limit its ability to respond and pursue disciplinary action against the alleged perpetrator. The OCR publication acknowledges that situations may exist in which a district cannot honor a student's request for confidentiality, but cautions that, in all instances, the district must still continue to ensure that it provides a safe and nondiscriminatory environment for all students. Districts should consult legal counsel before honoring a confidentiality request to withhold the victim's name from the alleged perpetrator, especially in the case of alleged sexual assault. These guiding principles would also apply to harassment on the basis of race, gender, disability, or other protected characteristic.

- 6-7.** When ~~the~~ **a** complainant of unlawful discrimination, ~~(such as discriminatory harassment, intimidation, or bullying)~~ or the alleged victim, when not the complainant, requests confidentiality, the compliance officer shall inform the complainant or victim that the request may limit the district's ability to investigate the conduct or take other necessary action. When honoring a request for confidentiality, the district shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.

Mediation

Note: The following section should be used only by those districts that have decided to establish procedures for attempting to resolve complaints through alternative dispute resolution procedures such as mediation; see the accompanying Board policy. **The following section may be modified to specify the alternative dispute resolution method and timelines used within the district.**

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

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UNIFORM COMPLAINT PROCEDURES (continued)

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

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

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

Investigation of Complaint

Note: 5 CCR 4631, which requires the district to provide the complainant with the opportunity to present relevant information, does not provide any timeline. Thus, **the timeline specified below may be modified to reflect district practice.**

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

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

Note: In the investigation, the compliance officer should consider all relevant circumstances, such as how the **alleged** misconduct affected one or more students' education; the type, frequency, and duration of the misconduct; the identity, age, and sex of the individuals involved in and impacted by the conduct and the relationship between them; the number of persons engaged in the conduct and at whom the conduct was directed; the size of the school, location of the incidents, and context in which they occurred; and other incidents at the school involving different individuals.

In conducting the investigation, the compliance officer shall collect all available documents and review all available records, notes, or statements related to the complaint, including any additional evidence or information received from the parties during the course of the investigation. The compliance officer shall individually interview all available witnesses

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with information pertinent to the complaint, and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. At appropriate intervals, the compliance officer shall inform **both the** parties of the status of the investigation.

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

Note: 5 CCR 4631 allows the district to dismiss a complaint when the complainant refuses to provide the investigator with relevant documents or otherwise obstructs the investigation. 5 CCR 4631 also provides that, if the district refuses to provide the investigator with access to records or other documents, the investigator may issue a finding in favor of the complainant. During the FPM process, CDE staff will check to ensure that both of these statements regarding the provision of access to information are included in the district's policy or procedures, as specified below.

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or ~~engagement in~~ any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegation. ~~Similarly, a respondent's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or engagement in any other obstruction of the investigation may result in a finding, based on evidence collected, that a violation has occurred and in the imposition of a remedy in favor of the complainant. (5 CCR 4631) In accordance with law, the district shall provide the investigator with access to records and other information related to the allegation in the complaint and shall not in any way obstruct the investigation. Refusal by the district to provide the investigator with access to records and/or information related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or any other obstruction of the investigation~~ Failure or refusal of the district to cooperate in the investigation may result in a finding based on evidence collected that a violation has occurred and in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

Timeline for Investigation Report

Note: Pursuant to 5 CCR 4631, the district's investigation report must be sent to the complainant within 60 calendar days of receiving the complaint. Option 1 below is for districts that do not allow complainants to appeal the compliance officer's decision to the Governing Board. Option 2 is for districts that allow appeals to the Board, and it requires the compliance officer's decision within 30 calendar days so that the Board's decision can still be given within the 60-day time limit.

Pursuant to 5 CCR 4631, only a complainant has the right to receive the investigation report and to file a complaint with the Board if dissatisfied with the compliance officer's decision. However, OCR has

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recommended that the same rights be extended to a respondent to a complaint alleging unlawful discrimination to ensure the process is equitable for all involved. Furthermore, OCR recommends notifying the respondent in such a complaint whenever the complainant approves an extension of the timeline. Options 1 and 2 reflect these recommendations and may be modified to reflect district practice.

Pursuant to 5 CCR 4640, when a UCP complaint is erroneously sent to CDE without first being filed with the district, the 60-day period specified in 5 CCR 4631 begins when the district receives the complaint.

OPTION 1:

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant a written investigation report, as described in the section "Investigation Report" below, within 60 calendar days of the district's receipt of the complaint. (5 CCR 4631)

Yes

For any complaint alleging unlawful discrimination, ~~(such as discriminatory~~ harassment, intimidation, and bullying), the respondent shall be informed of any extension of the timeline agreed to by the complainant. The respondent also shall be sent the investigation report at the same time it is provided to the complainant.

OPTION 2:

Note: The remainder of this section is for use by districts that select Option 2.

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

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

(cf. 9321 - Closed Session)

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 calendar days of the district's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant. (5 CCR 4631)

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For any complaint alleging unlawful discrimination, ~~(such as discriminatory~~ harassment, intimidation, and bullying), the respondent shall be informed of any extension of the timeline agreed to by the complainant, shall be sent the district's investigation report, and, in the same manner as the complainant, may file a complaint with the Board if dissatisfied with the decision.

Investigation Report

Note: 5 CCR 4631, as amended by Register 2020, No. 21, specifies components that **should be required to** be part of the district's investigation report. Inclusion of these items will help protect the district's position in case of an appeal to CDE, a complaint submitted to OCR, or if litigation is filed.

For all complaints, the district's investigation report shall include: (5 CCR 4631)

1. The findings of fact based on the evidence gathered
2. A conclusion providing a clear determination for each allegation as to whether the district is in compliance with the relevant law
3. Corrective action(s) whenever the district finds merit in the complaint, including, when required by law, a remedy to all affected students and parents/guardians and, for a student fees complaint, a remedy that complies with Education Code 49013 and 5 CCR 4600
4. Notice of the complainant's right to appeal the district's investigation report to CDE, except when the district has used the UCP to address a complaint not specified in 5 CCR 4610
5. Procedures to be followed for initiating an appeal to CDE

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

Note: The Family Educational Rights and Privacy Act (FERPA) (20 USC 1232g; 34 CFR 99.1-99.67) protects student privacy, including student records containing details of the actions taken in response to a UCP complaint. However, pursuant to 20 USC 1221, FERPA may not "be construed to affect the applicability of Title VI of the Civil Rights Act of 1964, Title IX of Education Amendments of 1972, Title V of the Rehabilitation Act of 1973, the Age Discrimination Act, or other statutes prohibiting discrimination, to any applicable program." In February 2015, the Family Policy Compliance Office (FPCO), now the Student Privacy Protection Office, released a letter concluding that FERPA permits a district to disclose to a student who was subjected to unlawful discrimination certain information about the sanctions imposed upon the ~~offender~~ **respondent** when the sanctions directly relate to that student. Thus, if properly remedying the impact of discrimination would require disclosing to the alleged victim certain information on how the district disciplined the ~~alleged student-offender~~ **respondent** (e.g., an order that the

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~~alleged-offender respondent~~ stay away from the alleged victim), FPCO interprets FERPA as allowing the district to disclose that information.

Given the potential liability from improperly disclosing such information, districts are advised to consult with legal counsel when presented with a situation where a victim of unlawful discrimination requests information about sanctions imposed upon the ~~offender-respondent~~.

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

Note: Education Code 48985 requires that reports sent to parents/guardians be written in their primary language when 15 percent or more of a school's enrolled students speak a single primary language other than English. ~~During the FPM process, CDE staff will check to ensure compliance with this requirement.~~ **During the FPM process, CDE staff will check to ensure that UCP complaint procedures pertaining to CSPP health and safety issues include a statement that the district response and the investigation report must, whenever Education Code 48985 is applicable, be written in English and the primary language in which the complaint was filed; see the section "Health and Safety Complaints in License-Exempt Preschool Programs" below. The following paragraph extends this provision to all types of complaints to ensure compliance with Education Code 48985. In addition, bBased on Title VI of the Civil Rights Act of 1964, OCR requires districts to ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.**

If the complaint involves a limited-English-proficient student or parent/guardian ~~and the student involved is enrolled in a school at which 15 percent or more of the students speak a single primary language other than English,~~ then the **district's response, if requested by the complainant, and the investigation report shall also be translated into that language, pursuant to Education Code 48985. In all other instances, the district shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency be written in English and the primary language in which the complaint was filed.**

Note: During the FPM process, CDE staff will expect to see a statement detailing a complainant's right to pursue civil law remedies (i.e., action in a court of law) in addition to or in conjunction with the right to pursue administrative remedies from CDE.

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

1. The complainant may pursue available civil law remedies outside of the district's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with CDE. (Education Code 262.3)

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2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law. (Education Code 262.3)
3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at www.ed.gov/ocr within 180 days of the alleged discrimination.

Corrective Actions

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

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

(cf. 5137 - Positive School Climate)

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

1. Counseling
(cf. 6164.2 - Guidance/Counseling Services)
2. Academic support
3. Health services
4. Assignment of an escort to allow the victim to move safely about campus
5. Information regarding available resources and how to report similar incidents or retaliation
6. Separation of the victim from any other individuals involved, provided the separation does not penalize the victim
7. Restorative justice

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UNIFORM COMPLAINT PROCEDURES (continued)

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

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

1. Transfer from a class or school as permitted by law
2. Parent/guardian conference
3. Education regarding the impact of the conduct on others
4. Positive behavior support
5. Referral to a student success team

(cf. 6164.5 - Student Success Teams)

6. Denial of participation in extracurricular or cocurricular activities or other privileges as permitted by law

(cf. 6145 - Extracurricular and Cocurricular Activities)

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

(cf. 5144 - Discipline)

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

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

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

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

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

UNIFORM COMPLAINT PROCEDURES (continued)

Note: Generally, when a complaint is found to have merit, an appropriate remedy is provided to the complainant or other affected person. However, in certain instances, the law may require a remedy to be provided to all affected persons, not just the complainant or subject of the complaint. For example, pursuant to Education Code 49013 and 5 CCR 4600, if the district, or CDE on appeal, finds merit in the complaint alleging noncompliance with the law regarding student fees and charges, the district is required to provide a remedy to all affected students and parents/guardians, as specified below. The same requirement applies to allegations of noncompliance with the LCAP requirements pursuant to Education Code 52075, ~~noncompliance with~~ required instructional minutes for physical education pursuant to Education Code 51222 and 51223, **and course periods without educational content pursuant to Education Code 51228.3**. Districts that do not maintain elementary schools should delete the reference to physical education below.

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

However, if a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges, physical education instructional minutes, courses without educational content, or any requirement related to the LCAP is found to have merit, the district shall provide a remedy to all affected students and parents/guardians subject to procedures established by regulation of the State Board of Education. (Education Code 49013, 51222, 51223, **51228.3**, 52075)

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

Appeals to the California Department of Education

Note: ~~5 CCR 4632-4633 provide that complainants may appeal to CDE if they disagree with the district's decision on any matter within the scope of the UCP, as provided below. As amended by Register 2020, No. 21, 5 CCR 4632 changes the timeline for filing an appeal to CDE from 15 calendar days to 30 calendar days.~~

Any complainant who is dissatisfied with the district's investigation report on a complaint regarding any specified federal or state educational program subject to UCP may file an appeal in writing with CDE within 30 calendar days of receiving the district's investigation report. (5 CCR 4632)

Note: ~~5 CCR 4632, as amended by Register 2020, No. 21, expands the bases upon which an appeal may be filed with CDE.~~

The appeal shall be sent to CDE with a copy of the original locally filed complaint and a copy of the district's investigation report for that complaint. The complainant shall specify and explain the basis for the appeal, including **as at** least one of the following: (5 CCR 4632)

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UNIFORM COMPLAINT PROCEDURES (continued)

1. The district failed to follow its complaint procedures.
2. Relative to the allegations of the complaint, the district's investigation report lacks material findings of fact necessary to reach a conclusion of law.
3. The material findings of fact in the district's investigation report are not supported by substantial evidence.
4. The legal conclusion in the district's investigation report is inconsistent with the law.
5. In a case in which the district found noncompliance, the corrective actions fail to provide a proper remedy.

Note: 5 CCR 4633, as amended by Register 2020, No. 21, requires the district to submit the following documents to CDE within 10 days after the district has been notified that an appeal has been filed. The district's failure to provide a timely and complete response may result in CDE ruling on the appeal without considering information from the district.

Upon notification by CDE that the district's investigation report has been appealed, the Superintendent or designee shall forward the following documents to CDE within 10 days of the date of notification: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the district's investigation report
3. A copy of the investigation file including, but not limited to, all notes, interviews, and documents submitted by the parties and gathered by the investigator
4. A report of any action taken to resolve the complaint
5. A copy of the district's UCP
6. Other relevant information requested by CDE

Note: Pursuant to 5 CCR 4632, as amended by Register 2020, No. 21, if CDE determines that the district's investigation report failed to address an allegation raised by the complaint and subject to the UCP process, CDE will notify the district and direct the district to investigate and address such allegation(s) as follows.

If notified by CDE that the district's investigation report failed to address allegation(s) raised by the complaint, the district shall, within 20 days of the notification, provide CDE and the appellant with an amended investigation report that addresses the allegation(s) that were not

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UNIFORM COMPLAINT PROCEDURES (continued)

addressed in the original investigation report. The amended report shall also inform the appellant of the right to separately appeal the amended report with respect to the allegation(s) that were not addressed in the original report. (5 CCR 4632)

Note: Pursuant to 5 CCR 4633, CDE is required to issue a written decision regarding the appeal within 60 days of CDE's receipt of the appeal, unless extended by written agreement with the appellant or documentation by CDE of exceptional circumstances. Within 30 days of the appeal decision, either party may request reconsideration by the Superintendent of Public Instruction or designee.

Pursuant to 5 CCR 4650, CDE may directly intervene in a complaint without waiting for action by the district when certain conditions exist, including the following: (1) the complaint alleges failure to comply with the UCP, including failure to follow the required timelines and failure to implement the final investigation report; (2) the complainant requires anonymity due to the possibility of retaliation and would suffer immediate and irreparable harm if a complaint was filed and the complainant was named; or (3) the complainant would suffer immediate and irreparable harm as a result of an application of a districtwide policy that is in conflict with state or federal law and that filing a complaint would be futile.

Health and Safety Complaints in License-Exempt Preschool Programs

Note: The following section is for use by districts that operate any license-exempt CSPP program. Education Code 8235.5 **mandates** districts to adopt policies and procedures for resolving complaints regarding specified health and safety issues in a license-exempt CSPP program. Pursuant to Education Code 8235.5, the district must use the UCP, with modifications as necessary, to resolve such complaints. Pursuant to 5 CCR 4610, ~~as amended by Register 2020, No. 21,~~ such complaints must be addressed through the procedures described in 5 CCR 4690-4694.

See the accompanying exhibits for a sample classroom notice and complaint form.

Any complaint regarding health or safety issues in a license-exempt CSPP program shall be addressed through the procedures described in 5 CCR 4690-4694.

In each license-exempt CSPP classroom, In order to identify appropriate subjects of CSPP health and safety issues pursuant to Health and Safety Code 1596.7925, a notice shall be posted in each license-exempt CSPP classroom in the district notifying parents/guardians, students, and teachers of the health and safety requirements of Title 5 regulations that apply to CSPP programs pursuant to Health and Safety Code 1596.7925 and the location at which to obtain a form to file any complaint alleging noncompliance with those requirements. For this purpose, the Superintendent or designee may download and post a notice available from the CDE web site. (Education Code 8235.5; 5 CCR 4690 4691)

The district's annual UCP notification distributed pursuant to 5 CCR 4622 shall clearly indicate which of its CSPP programs are operating as exempt from licensing and which CSPP programs are operating pursuant to requirements under Title 22 of the Code of Regulations. (5 CCR 4691)

UNIFORM COMPLAINT PROCEDURES (continued)

Any complaint regarding specified health or safety issues in a license-exempt CSPP program shall be filed with the preschool program administrator or designee, and may be filed anonymously. The complaint form shall specify the location for filing the complaint, ~~and shall~~ contain a space to indicate whether the complainant desires a response to the complaint, **and allow a complainant to add as much text as desired to explain the complaint.** (Education Code 8235.5; 5 CCR 4690)

If it is determined that the complaint is beyond the authority of the preschool program administrator, the matter shall be forwarded to the Superintendent or designee in a timely manner, not to exceed 10 working days, for resolution. **The preschool administrator or the Superintendent or designee shall make all reasonable efforts to investigate any complaint within their authority.** (Education Code 8235.5; 5 CCR 4692)

Investigation of a complaint regarding health or safety issues in a license-exempt CSPP program shall begin within 10 days of receipt of the complaint. (Education Code 8235.5; 5 CCR 4692)

The preschool administrator or designee shall remedy a valid complaint within a reasonable time period not to exceed 30 working days from the date the complaint was received. If the complainant has indicated on the complaint form a desire to receive a response to the complaint, the preschool administrator or Superintendent's designee shall, within 45 working days of the initial filing of the complaint, report the resolution of the complaint to the complainant and CDE's assigned field consultant. If the preschool administrator makes this report, the information shall be reported at the same time to the Superintendent or designee. (Education Code 8235.5; 5 CCR 4692)

Note: Education Code 48985 requires that reports sent to parents/guardians be written in their primary language when 15 percent or more of a school's enrolled students speak a single primary language other than English. During the FPM process, CDE staff will check to ensure compliance with this requirement. Based on Title VI of the Civil Rights Act of 1964, OCR requires districts to ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

If a complaint regarding health or safety issues in a license-exempt CSPP program involves a limited-English-proficient student or parent/guardian, then the district's response, if requested by the complainant, and the investigation report shall be written in English and-the primary language in which the complaint was filed.

If a complainant is not satisfied with the resolution of a complaint, the complainant has the right to describe the complaint to the Board at a regularly scheduled meeting and, within 30 days of the date of the written report, may file a written appeal of the district's decision to the Superintendent of Public Instruction in accordance with 5 CCR 4632. (Education Code 8235.5; 5 CCR 4693, 4694)

UNIFORM COMPLAINT PROCEDURES (continued)

All complaints and responses are public records. (5 CCR 4690)

(cf. 1340 - Access to District Records)

On a quarterly basis, the Superintendent or designee shall report summarized data on the nature and resolution of all CSPP health and safety complaints, including the number of complaints by general subject area with the number of resolved and unresolved complaints, to the Board at a regularly scheduled Board meeting and to the County Superintendent of Schools. (5 CCR 4693)

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CSBA Sample Board Policy

Community Relations

BP 1313(a)

CIVILITY

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

The Governing Board recognizes the impact that civility has on the effective operation of the district, including its role in creating a safe and positive school climate and enabling a focus on student well-being, learning, and achievement. The Board believes that each person should be treated with dignity and respect in their interactions within the school community.

(cf. 0415 - Equity)

(cf. 5137 - Positive School Climate)

Note: The First Amendment of the U.S. Constitution and Article 1, Section 2 of the California Constitution provide strong protection as to speech related to district business.

In addition, pursuant to Government Code 54954.3 and the court's decision in Baca v. Moreno Valley Unified School District, the Governing Board must not prohibit public criticism of district policies, procedures, programs, services, acts, omissions, or employees, even if the speech is clearly defamatory. See BB 9323 - Meeting Conduct. Pursuant to Government Code 54957.9 and the court's decisions in Norse v. City of Santa Cruz and City of San Jose v. Garbett, the Board is authorized to remove persons who willfully disrupt or disturb a meeting, provided that the action actually interferes with the proceedings of the meeting or poses a credible threat of violence that would place reasonable persons in fear for their safety or the safety of others.

Compared to community members, districts have greater authority to regulate the speech of district employees when they are acting in the scope of their employment with the district. Furthermore, court decisions have found that the First Amendment rights of public school students in the school setting are not necessarily the same as the rights of adults in other settings and must be applied in light of the special circumstances of the school environment. In Hazelwood School District v. Kuhlmeier, the U.S. Supreme Court ruled that when a school has not, by policy or practice, opened up a school-sponsored activity for unrestricted use by students, the school may limit student expression as long as its decision is reasonably related to "legitimate pedagogical concerns." See BP/AR 5145.2 - Freedom of Speech/Expression.

Districts should consult legal counsel before placing restrictions on employee, student, or community member speech/expression in an effort to maintain civility.

The Board understands that the First Amendment provides strong protection for speech. However, the Board expects that all speech and expression will comport with norms of civil behavior on district grounds, in district facilities, during district activities or events, and in the use of district electronic/digital systems and platforms.

(cf. 5145.2 - Freedom of Speech/Expression)

(cf. 9323 - Meeting Conduct)

CIVILITY (continued)

Note: The following optional paragraph reflects traits included in the definition of civil behavior provided by the National Council for the Social Studies Connected.

Civil behavior is polite, courteous, and reasonable behavior which is respectful to others and includes integrity, honesty, acceptance, timeliness, dependability, observance of laws and rules, and effective communication.

The Board and district staff shall model civil behavior as an example of behavior that is expected throughout the district. Practices that promote civil behavior include actively listening, giving full attention to the speaker, and refraining from interruptions; welcoming and encouraging participation, input, and feedback through stakeholder engagement; promptly responding to concerns; and embracing varying and diverse viewpoints. Such practices may be incorporated into governance standards adopted by the Board or Superintendent and/or professional standards or codes of conduct for employees as specified in district policies and regulations.

(cf. 2111 - Superintendent Governance Standards)
(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 6164.2 - Guidance/Counseling Services)
(cf. 9005 - Governance Standards)

Students, staff, parents/guardians, and community members should be educated in the recognition, development, and demonstration of civil behavior. The Superintendent or designee may incorporate related concepts in the curriculum, provide staff development activities, and/or communicate this policy to the school community.

(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

Students, staff, parents/guardians, and community members shall not communicate or behave in a manner that causes disruption; hinders the orderly conduct of district operations, the educational program, or any other district program or activity; or creates an unsafe learning or working environment. The Superintendent or designee may respond to disruptive, violent, or threatening behavior in accordance with law and as specified in BP/AR 3515.2 - Disruptions.

(cf. 0450 - Comprehensive Safety Plan)
(cf. 1250 - Visitors/Outsiders)
(cf. 3515.2 - Disruptions)
(cf. 3515.4 - Recovery for Property Loss or Damage)
(cf. 3515.7 - Firearms on School Grounds)
(cf. 3516 - Emergencies and Disaster Preparedness Plan)
(cf. 3516.2 - Bomb Threats)
(cf. 4156.3/4256.3/4356.3 - Employee Property Reimbursement)
(cf. 4158/4258/4358 - Employee Security)

CIVILITY (continued)

- (cf. 5131.4 - Student Disturbances)*
- (cf. 5131.5 - Vandalism and Graffiti)*
- (cf. 5131.7 - Weapons and Dangerous Instruments)*
- (cf. 5138 - Conflict Resolution/Peer Mediation)*

Behavior by students or staff that is discriminatory, harassing, or intimidating, including sexual harassment, bullying, and/or hate violence, or behavior that is in any other way unlawful, is prohibited and is subject to discipline in accordance with law and as specified in district policy and regulations.

- (cf. 1312.1 - Complaints Concerning District Employees)*
- (cf. 1312.3 - Uniform Complaint Procedures)*
- (cf. 4030 - Nondiscrimination in Employment)*
- (cf. 4119.11/4219.11/4319.11 - Sexual Harassment)*
- (cf. 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures)*
- (cf. 5131 - Conduct)*
- (cf. 5131.2 - Bullying)*
- (cf. 5144 - Discipline)*
- (cf. 5144.1 - Suspension and Expulsion/Due Process)*
- (cf. 5145.3 - Nondiscrimination/Harassment)*
- (cf. 5145.7 - Sexual Harassment)*
- (cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)*
- (cf. 5145.9 - Hate-Motivated Behavior)*

Legal Reference:

EDUCATION CODE

- 200-262.4 Educational equity*
- 32210 Willful disturbance of public school or meeting*
- 32211 Threatened disruption or interference with classes*
- 32212 Classroom interruptions*
- 32280-32289.5 School safety plans*
- 35181 Governing board authority to set policy on responsibilities of students*
- 35291-35291.5 Rules*
- 44050 Employee code of conduct; interaction with students*
- 44807 Teachers' duty concerning conduct of students*
- 44810 Willful interference with classroom conduct*
- 44811 Disruption of classwork or extracurricular activities*
- 48900-48926 Suspension and expulsion, especially:*
- 48907 Exercise of free expression; rules and regulations*
- 48950 Speech and other communication*
- 49330-49335 Injurious objects*

CIVIL CODE

- 51.7 Freedom from violence or intimidation*

GOVERNMENT CODE

- 54954.3 Opportunity for public to address legislative body; regulations*
- 54957.9 Disorderly conduct of general public during meeting; clearing of room*

Legal Reference continued: (see next page)

CIVILITY (continued)

Legal Reference: (continued)

PENAL CODE

243.5 Assault or battery on school property
415.5 Disturbance of peace of school
422.55 Definition of hate crime
422.6 Civil rights; crimes
626-626.11 School crimes
627-627.10 Access to school premises
653b Loitering about schools or public places
653.2 Electronic communication devices; threats to safety

CALIFORNIA CONSTITUTION

Article 1, Section 2 Freedom of speech and expression
Article 1, Section 28 Right to safe schools

U.S. CONSTITUTION

Amendment 1, Freedom of speech and expression

COURT DECISIONS

City of San Jose v. Garbett (2010) 190 Cal.App.4th 526
Norse v. City of Santa Cruz (9th Cir. 2010) 629 F.3d 966
Baca v. Moreno Valley Unified School District (1996) 936 F.Supp. 719
Hazelwood School District v. Kuhlmeier (1988) 484 U.S. 260

Management Resources:

CSBA PUBLICATIONS

Superintendent Governance Standards
Professional Governance Standards for School Boards, June 2019
CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS
California's Social and Emotional Learning: Guiding Principles, 2018
Social and Emotional Learning in California: A Guide to Resources, October 2018
COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS
California Professional Standards for Education Leaders (CPSEL), February 2014

NATIONAL POLICY BOARD FOR EDUCATIONAL ADMINISTRATION

Professional Standards for Educational Leaders, October 2015

WEB SITES

CSBA: <https://www.csba.org>
California Department of Education: <https://www.cde.ca.gov>
California Office of the Attorney General: <https://oag.ca.gov>
Center for Safe and Responsible Internet Use: <https://www.ewa.org/organization/center-safe-and-responsible-internet-use>
Commission on Teacher Credentialing: <https://www.ctc.ca.gov>
National Council for the Social Studies Connected: <https://connected.socialstudies.org>
National Policy Board for Educational Administration: <https://www.npbea.org>
National School Safety Center: <http://www.schoolsafety.us>
U.S. Department of Education: <https://www.ed.gov>
U.S Equal Employment Opportunity Commission: <https://www.eeoc.gov>

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CSBA Sample Board Policy

Business and Noninstructional Operations

BP 3511.1(a)

INTEGRATED WASTE MANAGEMENT

Note: The following policy may be revised to reflect district practice. Pursuant to Public Resources Code 42630, **districts and** schools are encouraged to assist cities and counties in meeting the solid waste diversion goals set by Public Resources Code 41780. ~~In addition, pursuant to Public Resources Code 42649.2, as added by AB 341 (Ch. 476, Statutes of 2011), businesses, including schools, that generate more than four cubic yards of solid waste per week are required to arrange for recycling services in accordance with law.~~ Pursuant to Public Resources Code 42649.2 and 42649.81, **businesses, including schools, are required to arrange for recycling services if the amount of solid or organic waste they produce meets the thresholds specified in law and the accompanying administrative regulation.** The California Department of Resources Recycling and Recovery (CalRecycle) offers **Useful resources such as specific identifying** waste management strategies, available funding sources, and ~~other publications, including resources for developing and implementing integrated education and school waste reduction programs that provide curriculum to link instruction on integrated waste management and environmental concepts with student action projects at school sites, may be obtained from the California Department of Resources Recycling and Recovery (CalRecycle).~~

The Governing Board believes that the conservation of **water, energy, and other** natural resources, **and the protection of the environment, and the implementation of an effective waste diversion program** are connected to the district's educational mission and are essential to the health and well-being of the community. The Superintendent or designee shall develop and ~~or~~ implement a cost-effective, integrated waste management program that incorporates the principles of green school operations.

(cf. 0100 - Philosophy)
(cf. 3510 - Green School Operations)
(cf. 3511 - Energy and Water Management)
(cf. 3514 - Environmental Safety)
(cf. 3514.2 - Integrated Pest Management)

The district's **integrated waste management** program shall include strategies designed to **promote waste management practices of source reduction, recycling, and composting** to help the district reduce **and recycle** solid and ~~hazardous~~ **organic** waste ~~generation, properly dispose of potentially hazardous materials,~~ improve efficiency in ~~its the~~ use of natural resources, and minimize the impact of such use on the environment. The program shall address all areas of the district's operations, including, but not limited to, procurement, resource utilization, and facilities management practices.

(cf. 3300 - Expenditures and Purchases)
(cf. 3517 - Facilities Inspection)

The Superintendent or designee may collaborate with city, county, and state agencies and other public or private agencies in developing and implementing the district's integrated waste management program.

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INTEGRATED WASTE MANAGEMENT (continued)

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)
(cf. 7131 - Relations with Local Agencies)

Note: CalRecycle provides grants and related information to eligible schools for developing and implementing integrated waste management programs. For more information, see CalRecycle's web site.

The Superintendent or designee shall make every effort to identify funding opportunities for the district's integrated waste management program, including applying for available grants or other cost-reduction incentives.

~~To the extent that funding permits, the Superintendent or designee shall~~ **may** provide appropriate educational and training opportunities to students and staff regarding the benefits and methods of conserving natural resources and ~~protecting the environment~~ **the manner in which integrated waste management strategies impact such efforts.**

(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)
(cf. 6142.5 - Environmental Education)
(cf. 6142.93 - Science Instruction)

The Superintendent or designee shall regularly monitor all aspects of the district's integrated waste management program and shall provide an update to the Board on its effectiveness as necessary.

Legal Reference: (continued)

MB

INTEGRATED WASTE MANAGEMENT (continued)

Legal Reference:

EDUCATION CODE

~~8700-8707~~ Environmental education

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

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

32370-32376 *Recycling paper*

33541 *Environmental education*

PUBLIC RESOURCES CODE

25410-~~25421~~ 25422 *Energy conservation assistance*

40050-40063 ~~Waste management; integrated waste management~~

41780-~~41786~~ Waste diversion

42620-42622 *Source reduction and recycling programs*

42630-42647 *School site source reduction and recycling*

42649-42649.7 *Recycling of commercial solid waste*

42649.8-42649.87 *Recycling of organic waste*

CODE OF REGULATIONS, TITLE 14

~~17225.12~~ Commercial solid waste

Management Resources:

CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

PUBLICATIONS

Frequently Asked Questions

Recycling and Organics Recycling Guide for Schools Poster

Where to Put It: Recycling, Composting, and Trash Bin Signage

WEB SITES

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

California Department of Resources Recycling and Recovery:

~~<http://www.calrecycle.ca.gov/ReduceWaste/Schools>~~ <https://www.calrecycle.ca.gov/Recycle/Schools>

California Division of State Architect: <http://www.dgs.ca.gov/dsa>

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

California Environmental Protection Agency: <http://www.calepa.ca.gov>

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

(11/01 7/12) 6/21

Policy Reference UPDATE Service

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CSBA Sample Administrative Regulation

Business and Noninstructional Operations

AR 3511.1(a)

INTEGRATED WASTE MANAGEMENT

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

For all applicable areas of district operations, the Superintendent or designee shall design an integrated waste management program that minimizes the generation of waste, encourages the recovery and diversion of reusable materials from the waste stream, improves efficiency in the utilization of natural and material resources, and protects the environment. The program shall implement measures and/or practices to:

1. Reduce the consumption of disposable materials, increase the composting of organic materials, and fully utilize all materials prior to disposal

(cf. 3510 - Green School Operations)

2. Recycle materials such as paper, glass, plastic, and aluminum

Note: Pursuant to Public Resources Code 42649.2, as added by AB 341 (Ch. 476, Statutes of 2011), any business, including a school, which generates more than four cubic yards of commercial solid waste per week (approximately the size of a 72 inch length, 51 inch width, and 56 inch rear height dumpster) is required to arrange for recycling services, to the extent that such services are available from a local provider, as stated in items a and b below. Commercial solid waste, as defined in 14 CCR 17225.12, means any type of solid waste generated by stores, offices, or other commercial sources.

Any school site or district facility which generates more than four cubic yards of commercial solid waste per week shall take at least one of the following actions: (Public Resources Code 42649.2; 14 CCR 17225.12)

- a. Source separate recyclable materials from solid waste and subscribe to a basic level of recycling service that may include collection, self hauling, or other arrangements for the pickup of the recyclable materials
- b. Subscribe to a recycling service that may include mixed waste processing that yields diversion results comparable to source separation

Note: Pursuant to Public Resources Code 42642, the California Department of Resources Recycling and Recovery maintains on its web site a list of recycled and environmentally preferable products that may be used in the construction and modernization of school facilities.

3. Prefer recycled, **biodegradable**, and other environmentally preferable products when procuring materials for use in district schools and buildings or contracting for the construction or modernization of any district building

INTEGRATED WASTE MANAGEMENT (continued)

(cf. 3300 - Expenditures and Purchases)
(cf. 3311 - Bids)
(cf. 3312 - Contracts)
(cf. 7110 - Facilities Master Plan)

4. Work with city, county, or other government agencies to locate markets for the district's reusable and recyclable materials

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)
(cf. 7131 - Relations with Local Agencies)

5. Minimize the use of nonbiodegradable materials and work with vendors and contractors to use packaging and delivery materials that generate less waste

Recycling

Note: Pursuant to Public Resources Code 42649.2, as added by AB 341 (Ch. 476, Statutes of 2011), any business or public entity, including a school or other district facility, which generates more than four or more cubic yards of commercial solid waste per week (approximately the size of a 72-inch length, 51-inch width, and 56-inch rear height dumpster) is required to arrange for recycling services in accordance with law, to the extent that such services are available from a local provider, as stated in items a and b below. Commercial solid waste, as defined in 14 CCR 17225.12 Public Resources Code 42649.1, means any type of solid waste generated by stores, offices, or other commercial or public entity source.

Any school site or district facility which generates more than four or more cubic yards of commercial solid waste per week shall take at least one of the following actions: (Public Resources Code 42649.1, 42649.2; 14 CCR 17225.12)

1. Source separate recyclable materials from solid waste and subscribe to a basic level of recycling service that may include collection, self-hauling, or other arrangements for the pickup of the recyclable materials
2. Subscribe to a recycling service that which may include mixed waste processing that yields diversion results comparable to source separation

Note: In September 2020, the California Department of Resources Recycling and Recovery (CalRecycle) determined, pursuant to Public Resources Code 42649.81, that the statewide disposal of organic waste has not been reduced to 50 percent of the 2014 level of disposal. Thus, any school facility that generates two or more cubic yards per week of solid waste is required to meet requirements pertaining to the recycling of organic waste as described below. CalRecycle's Frequently Asked Questions clarify that, for this purpose, the threshold applies to solid waste, recyclables, and organics.

CalRecycle also extended the exemption in Public Resources Code 42649.81 and 42649.83 for rural jurisdictions that adopt a resolution as specified. Districts in rural jurisdiction that have adopted such a resolution may delete the following paragraph.

INTEGRATED WASTE MANAGEMENT (continued)

Any school site or district facility which generates two or more cubic yards per week of solid waste, recyclables, and organics shall arrange for recycling services specifically for organic waste, including food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste. Such facilities shall take at least one of the following actions: (Public Resources Code 42649.8, 42649.81-42649.82, 42649.84)

- 1. Source separate organic waste from other waste and subscribe to a basic level of organic waste recycling service that includes collection and recycling of organic waste**
- 2. Recycle organic waste onsite or self-haul organic waste for recycling**
- 3. Subscribe to an organic waste recycling service that may include mixed waste processing that specifically recycles organic waste**
- 4. Make other arrangements to sell or donate recyclable organic waste materials**

Note: Public Resources Code 42649.2 and 42649.81 require a school or other district facility that generates at least four cubic yards of solid waste or two cubic yards of organic waste per week to provide recycling bins or containers to collect material purchased on the premises. According to CalRecycle's school poster, Recycling and Organics Recycling Guide for Schools, bins or containers must be placed where material is purchased on the premises for immediate consumption, such as areas where food is consumed.

Any school site or district facility that meets the above thresholds for solid or organic waste shall place a recycling bin or container for solid or organic waste, as applicable, in areas where food or other materials are purchased at the facility for immediate consumption. The recycling bin or container shall be: (Public Resources Code 42649.2, 42649.81)

- 1. Adjacent to each bin or container for nonrecyclable trash, except in restrooms**
- 2. Visible and easily accessible**

Note: Public Resources Code 42649.2 and 42649.81 require that each recycling bin or container be clearly marked with educational signage indicating what is appropriate to place in the bin or container. CalRecycle provides customizable signage for this purpose on its web site, or districts may contact their local government or waste hauler for signage.

- 3. Clearly marked with educational signage indicating appropriate items to be placed in the recycling bin or container in accordance with state law and the local jurisdiction's waste ordinances and practices**

(11/01 7/12) 6/21



CSBA Sample Board Policy

Business and Noninstructional Operations

BP 3515.31(a)

SCHOOL RESOURCE OFFICERS

NO - SA not employ SROs

Note: The following optional policy is for use by districts that choose to employ school resource officers (SROs) or enter into an agreement with local law enforcement for the purpose of providing SROs on school campuses and/or at school activities. 34 USC 10389 defines an SRO as a law enforcement officer with sworn authority who is assigned by the agency to work in collaboration with schools to (1) address crime and disorder problems, gangs, and drug activities affecting or occurring in or around a school; (2) develop or expand crime prevention efforts for students; (3) educate likely school-age victims in crime prevention and safety; (4) develop or expand community justice initiatives for students; (5) train students in conflict resolution, restorative justice, and crime awareness; (6) assist in the identification of physical changes in the environment that may reduce crime in and around the school; and (7) assist in developing school policy that addresses crime and recommend procedural changes.

Requirements for districts that choose to establish their own police or security department are addressed in BP/AR 3515.3 - District Police/Security Department.

Education Code 38000, as amended by SB 98 (Ch. 24, Statutes of 2020), expresses legislative intent to encourage districts to redirect resources currently allocated to contracts with local law enforcement or the maintenance of district police departments into student support services (e.g., mental health services) and professional development on cultural competency and restorative justice, if found to be a more appropriate use of resources based on student and school needs.

The Governing Board is committed to protecting the safety of students and staff and the security of district property. The district shall develop a multi-tiered approach focused on the prevention of school violence and crime and the development of a positive school culture, which may include providing mental health services and other student support services, implementing restorative justice practices, implementing professional development addressing cultural competency, and employing and/or contracting with a law enforcement agency to provide school resource officers (SROs) on school campuses and/or school activities.

In order to reduce unnecessary law enforcement interactions with students, the Superintendent or designee shall provide training to school staff regarding the role of SROs and the appropriate circumstances for contacting such officers.

(cf. 0450 - Comprehensive Safety Plan)

(cf. 1250 - Visitors/Outsiders)

(cf. 3515 - Campus Security)

(cf. 3515.2 - Disruptions)

(cf. 3515.3 - District Police/Security Department)

(cf. 3515.5 - Sex Offender Notification)

(cf. 3515.7 - Firearms on School Grounds)

(cf. 3516.2 - Bomb Threats)

(cf. 4158/4258/4358 - Employee Security)

(cf. 5131.4 - Student Disturbances)

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SCHOOL RESOURCE OFFICERS (continued)

- (cf. 5131.5 - Vandalism and Graffiti)**
- (cf. 5131.6 - Alcohol and Other Drugs)**
- (cf. 5131.7 - Weapons and Dangerous Instruments)**
- (cf. 5136 - Gangs)**
- (cf. 5141.5 - Mental Health)**
- (cf. 5142.1 - Identification and Reporting of Missing Children)**
- (cf. 5145.11 - Questioning and Apprehension by Law Enforcement)**
- (cf. 5145.12 - Search and Seizure)**

Note: The following paragraphs are for use by districts that contract with local law enforcement for the provision of SROs and may be revised to reflect district practice. If the district decides to contract for SROs, the district should enter into a memorandum of understanding (MOU) that clearly defines roles, responsibilities, and expectations for the district, school site, law enforcement agency, and individual officers. For further information, see the Memorandum of Understanding Fact Sheet issued by the U.S. Department of Justice's Office of Community Oriented Policing Services (COPS). In addition, sample MOUs are available on the National Association of School Resource Officers (NASRO) web site.

Agencies that receive grant funding from COPS to deploy SROs to school districts are subject to specified requirements, including, but not limited to, requirements to establish an MOU, ensure that SROs complete a basic training course no later than nine months after being notified of the grant award, and assign SROs to work in and around schools for at least 75 percent of the calendar year or 100 percent of the time during the school year, depending on the agreement between the agency and school district. See the COPS web site for information about this grant program.

The Board shall approve a memorandum of understanding (MOU) with the local law enforcement agency which includes, at a minimum:

- 1. The purpose of the agreement**
- 2. A clear definition of the roles and responsibilities of the district, school site, law enforcement agency, and SROs, including responsibility for supervision of the SRO**
- 3. The extent to which information will be shared between the district and law enforcement agency consistent with state and federal laws**
- 4. Requirements for qualifications and training of SROs**
- 5. Assigned hours of SRO duty in and around schools**
- 6. Performance monitoring**

The Board may expand on the above requirements to include more specific terms, such as acknowledgement of nondiscrimination requirements, training focused on eliminating

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SCHOOL RESOURCE OFFICERS (continued)

disproportionalities in SRO contacts with students, and staffing of an SRO position when the assigned SRO is on leave.

Duties

SROs are duly sworn peace officers who are authorized to carry out their duties pursuant to state law.

Note: The following paragraph reflects a recommendation of the U.S. Department of Education's Guiding Principles: A Resource Guide for Improving School Climate and Discipline that educators, rather than police or security officers, should handle student discipline issues. Law enforcement agencies that receive grant funding through COPS are required to include a statement in their MOU that SROs will not be responsible for requests to resolve routine student discipline problems; see COPS' Memorandum of Understanding Fact Sheet.

Job duties of the SRO shall not include the handling of student code of conduct violations or routine student disciplinary matters that should be addressed by school administrators, or conduct that would be better addressed by mental health professionals.

**(cf. 5144 - Discipline)
(cf. 5144.1 - Suspension and Expulsion/Due Process)**

Note: Pursuant to Government Code 7286, law enforcement agencies are required to establish policy that provides a minimum standard on the use of force, with specified components. In addition, pursuant to Penal Code 13651, as added by AB 846 (Ch. 322, Statutes of 2020), an agency that employs peace officers is required to review the job description that is used in recruitment and hiring and make changes that emphasize community-based policing, familiarization between law enforcement and community residents, and collaborative problem solving while de-emphasizing the paramilitary aspects of the job. Although these requirements are the responsibility of the law enforcement agency, not a district that contracts with a law enforcement agency for SROs, it is important that the district is aware of the expectations regarding use of force.

SROs shall be expected to collaborate with district staff in problem solving and, when circumstances warrant intervention with students, to use positive and restorative approaches in accordance with Penal Code 13651. SROs shall use tactics such as de-escalation techniques to mitigate the use of force in an educational setting and shall strictly adhere to the policy on minimum use of force pursuant to Government Code 7286.

When approved by the Superintendent or designee, an SRO may provide classroom presentations and/or parent/guardian education pertaining to safety issues and may link students, parents/guardians, and staff with resources and services.

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SCHOOL RESOURCE OFFICERS (continued)

Qualifications of Officers

Note: NASRO recommends that the selection, training, and supervision of SROs comport with NASRO's Standards and Best Practices for School Resource Officers and that SROs receive at least 40 hours of specialized training in school policing before beginning their assignment. NASRO offers training on adolescent development, trauma-informed investigations, crisis intervention and de-escalation, threat assessment, and active shooter situations.

In addition, Government Code 7286 requires that the law enforcement agency's use of force policy address training regarding the policy, including (1) training standards and requirements related to demonstrated knowledge and understanding of the agency's use of force policy; (2) training and guidelines regarding vulnerable populations, including, but not limited to, children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities; and (3) minimum training and course titles required to meet the objectives in the use of force policy.

Prior to beginning their assignment when possible, SROs shall complete specialized training in school policing, the unique experiences of the diverse populations within the school community, and the law enforcement agency's use of force policy.

Nondiscrimination

SROs shall not discriminate against or treat any person differently on the basis race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, age, religion, marital status, pregnancy, parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information; a perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

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

(cf. 0415 - Equity)

The Superintendent or designee shall periodically report to the Board disaggregated data on student interactions with SROs to evaluate the appropriateness of such interactions and ensure compliance with the prohibition against nondiscrimination. Such reports may include the number of arrests and referrals for prosecution, the number of reports provided to the school or district regarding student misconduct, or other actions taken by SROs with respect to individual students or others on campus.

As necessary, the Superintendent or designee shall develop and implement practices to prevent disproportionality of student interactions with SROs based on student characteristics and to minimize the potential for referrals of students into the juvenile justice system.

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SCHOOL RESOURCE OFFICERS (continued)

Access to Records

SROs shall not have access to student records, nor release student information to another person, agency, or organization, without written permission from the parent/guardian or adult student, unless specifically allowed or required by state or federal law. (Education Code 49076; 34 CFR 99.1)

SROs shall not solicit or collect information or documents regarding the citizenship or immigration status of students or their family members or provide assistance with immigration enforcement at district schools, except as may be required by state and/or federal law. (Education Code 234.7)

(cf. 5145.13 - Response to Immigration Enforcement)

Legal Reference: (see next page)

MS

SCHOOL RESOURCE OFFICERS (continued)

Legal Reference:

EDUCATION CODE

234.7 *Student protections relating to immigration and citizenship status*

GOVERNMENT CODE

3300-3312 *Public safety officers, rights and protections*

7286-7286.5 *Law enforcement use of force policies*

8597-8598 *Peace officers*

12525.2 *Reports of incidents involving peace officers*

PENAL CODE

290.45 *Sex offenders; authority of peace officers*

626.9 *Gun Free School Zone Act*

646.91 *Emergency protective order for stalking*

830-832.9 *Peace officers*

13510-13519.10 *Standards for recruitment and training*

13651 *Peace officers, job descriptions*

UNITED STATES CODE, TITLE 34

10389 *Public safety and community policing; definitions*

Management Resources:

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING PUBLICATIONS

POST Use of Force Standards and Guidelines, November 2020

NATIONAL ASSOCIATION OF SCHOOL RESOURCE OFFICERS PUBLICATIONS

Standards and Best Practices for School Resource Officers

To Protect and Educate: The School Resource Officer and the Prevention of Violence in Schools, 2012

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Guiding Principles: A Resource Guide for Improving School Climate and Discipline, 2014

U.S. DEPARTMENT OF JUSTICE PUBLICATIONS

School Resource Officers and School-Based Policing, Fact Sheet, 2019

Memorandum of Understanding Fact Sheet, 2017

Violence Prevention in Schools: Enhancement Through Law Enforcement Partnerships, 2017

Assigning Police Officers to Schools, 2013

WEB SITES

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

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

California School Resource Officers' Association: <https://csroa.org>

Commission on Peace Officer Standards and Training: <http://www.post.ca.gov>

National Association of School Resource Officers: <http://www.nasro.org>

U.S. Department of Justice, Office of Community Oriented Policing Services: <https://cops.usdoj.gov/supportingsafeschools>

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CSBA Sample Board Policy

All Personnel

BP 4112.42(a)

4212.42

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS

4312.42

Note: State and federal law (Vehicle Code 34520; 49 CFR 382.101-382.605) require that any district employing school bus drivers establish a drug and alcohol testing program, with specified components, applicable to bus drivers and any other drivers of a commercial motor vehicle weighing over 26,000 pounds or designed to transport 16 or more passengers including the driver. All testing must be conducted in accordance with 49 CFR 40.1-40.413. For further information, see the web sites of the U.S. Department of Transportation (DOT) and the California Highway Patrol (CHP).

In addition, Vehicle Code 34520.3 requires **individuals employed as** drivers of **other** school transportation vehicles (i.e., vehicles that are not school buses, student activity buses, or youth buses and are used by the district for the primary purpose of transporting children), such as a van, to participate in the testing program to the same extent as required by law for school bus drivers. ~~The Legislative Counsel has issued an opinion that Vehicle Code 34520.3 applies only to employees whose primary job is transportation.~~ The district should consult legal counsel as necessary to determine applicability of this law to district employees.

The district's drug and alcohol testing program is subject to compliance inspections conducted by the CHP. It is recommended that the district review the CHP's Controlled Substances and Alcohol Testing Compliance Checklist to assess whether its program fulfills legal requirements.

The Governing Board desires to ensure that district-provided transportation is safe for students, staff, and the public. To that end, the Superintendent or designee shall establish a drug and alcohol testing program designed to prevent the operation of buses or the performance of other safety-sensitive functions by a driver who is under the influence of drugs or alcohol, including a driver of a school bus, student activity bus, or other school transportation vehicle or any other employee who holds a commercial driver's license which is necessary to perform duties related to district employment.

(cf. 3540 - Transportation)

(cf. 3542 - School Bus Drivers)

(cf. 3543 - Transportation Safety and Emergencies)

(cf. 4020 - Drug and Alcohol-Free Workplace)

(cf. 4112.41/4212.41/4312.41 - Employee Drug Testing)

A driver shall not report for duty or remain on duty when **he/she the driver** has used any drug listed in 21 CFR 1308.11. A driver is also prohibited from reporting for duty or remaining on duty when **he/she the driver** has used any drug listed in 21 CFR 1308.12-1308.15, unless **he/she the driver** is using the drug under the direction of a physician who has advised **him/her the driver** that the substance will not adversely affect the driver's ability to safely operate a bus. **(49 CFR 382.213)**

In addition, a driver shall not consume alcohol while on duty **and/or performing safety-sensitive functions**, or for four hours prior to on-duty time. **(49 CFR ~~382.201-382.209, 382.213-382.205, 382.207~~)**

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BP 4112.42(b)
4212.42
4312.42

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

Note: 49 USC 31306 and 49 CFR 382.301-382.311 require that certain types of tests be part of the district's drug and alcohol testing program. See the accompanying administrative regulation for requirements applicable to each test.

Pursuant to 49 CFR 382.301, the district may, but is not required to, conduct pre-employment alcohol testing. The following paragraph should be revised by districts that choose to conduct such testing.

Drivers shall submit to drug and alcohol testing as required under federal law and specified in the accompanying administrative regulation. The district's testing program for drivers shall include pre-employment drug testing and reasonable suspicion, random, post-accident, return-to-duty, and follow-up drug and alcohol testing of drivers. (49 USC 31306; 49 CFR 382.301-382.311)

Note: Pursuant to 49 CFR 40.11, districts are responsible for implementing the drug and alcohol testing program. They may do this using their own employees, contracting for services, or joining together in a consortium with other employers. The following **optional** paragraph provides that the district will contract for such services and may be revised by districts that use alternative methods.

The Board shall contract for testing services upon verifying that the personnel are appropriately qualified and/or certified and that testing procedures conform to federal regulations.

Except as otherwise provided by law, the Superintendent or designee shall not release individual test results or medical information about a driver to a third party without the driver's specific written consent. (49 CFR 40.321)

Consequences Based on Test Results

No driver shall be temporarily removed from the performance of safety-sensitive functions based only on a laboratory report of a confirmed positive test **for a drug or drug metabolite** before the certified medical review officer has completed verification of the test results, unless the district has obtained a waiver **from the Federal Motor Carrier Safety Administration**. (49 CFR 40.3, 40.21, 382.107, 382.119)

Any driver **for whom the district receives a verified positive drug test result who refuses to take a required drug or alcohol test, tests positive for drugs, or who is found to have a blood alcohol concentration level that exceeds the levels specified in law of 0.04 or higher** shall be **immediately** removed from performing safety-sensitive functions in accordance with 49 CFR 40.23 and 382.211. **An alcohol concentration between 0.02 and 0.04 requires temporary removal of the bus driver for a 24-hour period following the test. Any driver who refuses to take a required drug or alcohol test shall not be permitted to perform or continue to perform safety-sensitive functions.** (49 CFR 40.23, 382.211)

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BP 4112.42(c)
4212.42
4312.42

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

Note: Pursuant to 49 CFR 40.21 and 382.119, before temporarily removing a driver from safety sensitive functions, the district must receive verification of the test results from a licensed physician certified as a medical review officer, unless a waiver of this requirement has been obtained from the Federal Motor Carrier Safety Administration.

No driver shall be temporarily removed from the performance of safety sensitive functions based only on a laboratory report of a confirmed positive test before the certified medical review officer has completed verification of the test results, unless the district has obtained a waiver. (49 CFR 40.21, 382.107, 382.119)

Not later than five days after receiving notification of the test result or refusal to comply, the Superintendent or designee shall report any refusal, failure to comply, or positive test result to the California Department of Motor Vehicles (DMV) using a form approved by the DMV. (Vehicle Code 13376)

A driver who has violated federal drug and alcohol regulations may be subject to disciplinary action up to and including dismissal in accordance with law, administrative regulations, and the district's collective bargaining agreement.

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Note: Pursuant to Vehicle Code 13376, upon receiving a report of a driver's refusal, failure to comply, or positive test result, the California Department of Motor Vehicles will revoke the driver certificate or refuse to approve an initial application for a certificate. An exception exists for a driver who complies with a rehabilitation or return-to-duty program that meets the requirements of federal regulations. For purposes of retaining a his/her certificate, the driver may participate in such a program only once within a three-year period.

The following paragraph is optional. Pursuant to 49 CFR 40.289, the district is not required to provide education and treatment services to any driver. However, if the district offers the driver an opportunity to return to work following a violation, then it must ensure that the driver receives an evaluation by a qualified substance abuse professional and successfully complies with the evaluation recommendations. Responsibility for payment for evaluation and services is to be determined by the district and driver and may be governed by a collective bargaining agreement and health care benefits.

Any driver who refuses, fails to comply, or has a positive test result may be referred to an education and treatment program that meets the requirements of 49 CFR 40.281-40.313. Any driver provided with an opportunity to return to a safety-sensitive duty following a violation shall be evaluated by a qualified substance abuse professional and complete the evaluation recommendations before returning to such duty. (49 CFR 40.289)

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

If the substance abuse professional recommends that **further and** ongoing services are needed to assist the driver to maintain sobriety or abstinence from drug use, the Superintendent or designee shall require the driver to participate in the recommended services as part of a return-to-duty agreement and shall monitor **his/her the driver's** compliance. Any drop from a rehabilitation or return-to-duty program or a subsequent positive test result shall be reported to the DMV. (Vehicle Code 13376; 49 CFR 40.285, 40.287, 40.303, 382.605)

(cf. 4159/4259/4359 - Employee Assistance Programs)
(cf. 4161/4261/4361 - Leaves)
(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)
(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)
(cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)
(cf. 4261.1 - Personal Illness/Injury Leave)

~~A driver who has violated federal drug and alcohol regulations may be subject to disciplinary action up to and including dismissal in accordance with law, administrative regulations, and the district's collective bargaining agreement.~~

~~*(cf. 4118 - Dismissal/Suspension/Disciplinary Action)*~~
~~*(cf. 4218 - Dismissal/Suspension/Disciplinary Action)*~~

Voluntary Self-Identification

Note: The following section is for use by districts that choose to establish a voluntary self-identification policy or program, pursuant to 49 CFR 382.121, which relieves drivers who admit alcohol or drug misuse from the federal requirements for referral, evaluation, and treatment contained in 49 CFR 40.281-40.313. If the district chooses to establish such a program, it is **mandated** to adopt a written policy containing the provisions specified in items #1-3 below. Pursuant to 49 CFR 382.121, the district's program may also include employee monitoring and non-DOT follow-up testing. If the district chooses to incorporate these elements, it should add them to this list.

Whenever a driver admits to alcohol or drug misuse under the district's voluntary self-identification program, the Superintendent or designee shall ensure all of the following: (49 CFR 382.121)

1. No adverse action shall be taken against the driver by the district.
2. The driver shall be allowed sufficient opportunity to seek evaluation, education, or treatment to establish control over **his/her the** drug or alcohol problem.
3. The driver shall be permitted to participate in safety-sensitive functions only after:

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DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

- MS
- a. Successfully completing an education or treatment program, as determined by a drug and alcohol abuse evaluation expert, such as an employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor
 - b. Undergoing a return-to-duty test with a result indicating an alcohol concentration of less than 0.02 and/or a verified negative result for drug use

A driver who admits to alcohol or drug misuse shall not be subject to federal requirements related to referral, evaluation, and treatment, provided that ~~he/she~~ **the driver** does not self-identify in order to avoid drug or alcohol testing, makes the admission prior to performing a safety-sensitive function, and does not perform a safety-sensitive function until ~~he/she~~ **the driver** has been evaluated and has successfully completed education or treatment requirements in accordance with program guidelines. (49 CFR 382.121)

Legal Reference: (see next page)

BP 4112.42(f)
4212.42
4312.42

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

GOVERNMENT CODE

8355 Drug-free workplace; employee notification

VEHICLE CODE

13376 Driver certificates; revocation or suspension

34500-34520.5 Safety regulations

CODE OF REGULATIONS, TITLE 13

1200-~~1293~~-1294 Motor carrier safety, especially:

1213.1 Placing drivers out-of-service

UNITED STATES CODE, TITLE 41

8101-8106 Drug-Free Workplace Act

UNITED STATES CODE, TITLE 49

31306 Alcohol and drug testing

CODE OF FEDERAL REGULATIONS, TITLE 21

1308.11-1308.15 Controlled substances

CODE OF FEDERAL REGULATIONS, TITLE 49

40.1-40.413 Procedures for transportation workplace drug and alcohol testing programs

382.101-382.~~605~~727 Drug and alcohol use and testing; especially:

382.205 On-duty use

382.207 Pre-duty use

382.209 Use following an accident

Management Resources:

CALIFORNIA HIGHWAY PATROL PUBLICATIONS

Controlled Substances and Alcohol Testing Compliance Checklist, 20072017

What is CSAT? Controlled Substances and Alcohol Testing, 20052016

WEB SITES

California Department of Motor Vehicles: <https://www.dmv.ca.gov>

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

Commercial Driver's License Drug and Alcohol Clearinghouse: <https://clearinghouse.fmcsa.dot.gov>

Federal Motor Carrier Safety Administration: <http://www.fmcsa.dot.gov>

U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance:

<http://www.dot.gov/ost/dapc>

(3/06 8/13) 6/21

Policy Reference UPDATE Service

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CSBA Sample Administrative Regulation

All Personnel

AR 4112.42(a)

4212.42

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS

4312.42

Note: The following administrative regulation reflects state and federal requirements (Vehicle Code 34520; 49 CFR 40.1-40.413, 382.101-382.605) for drug and alcohol testing of school bus drivers, including pre-employment, post-accident, random, reasonable suspicion, return-to-duty, and follow-up testing. Pursuant to 49 CFR 40.27, the district must not require a driver to sign a consent, release, waiver of liability, or indemnification agreement with respect to any part of the drug or alcohol testing process.

Definitions

Note: Regardless of state medical or recreational marijuana laws, marijuana remains an illegal drug under the Controlled Substances Act and use of it by a driver remains a violation of federal drug testing regulations.

For purposes of drug testing required by the U.S. Department of Transportation (DOT), *drugs included in the tests are* marijuana, cocaine, amphetamines, phencyclidine (PCP), and *opioids opiates*. (49 CFR 40.3, 40.85, 382.107)

Alcohol concentration or level (or content) means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath *as indicated by an evidential breath test*. For purposes of the DOT alcohol testing program, an alcohol level between 0.02 and 0.04 requires removal of the bus driver for a 24 hour period following the test. An alcohol level of 0.04 or higher requires immediate removal of the driver from performing safety sensitive functions until the driver has successfully completed the return to duty process. (49 CFR 40.3, 382.107, 382.201, 382.505)

Safety-sensitive function means all time from the time *he/she the driver* begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work. Safety-sensitive functions include, but are not limited to, all time driving or otherwise in the bus *or other school transportation vehicle*; waiting at a district facility to be dispatched; inspecting, servicing, or conditioning the *bus vehicle* or *bus vehicle* equipment; loading or unloading the *bus vehicle*; supervising or assisting in the loading or unloading of the *bus vehicle*; and repairing, obtaining assistance, or remaining in attendance upon a disabled *bus vehicle*. (49 CFR 382.107)

(cf. 3540 - Transportation)

(cf. 3542 - School Bus Drivers)

(cf. 3543 - Transportation Safety and Emergencies)

(cf. 4020 - Drug and Alcohol-Free Workplace)

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DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

Designated Employer Representative

Note: 49 CFR 40.35 and 40.215 require the district to identify a "designated employer representative" to perform the duties specified in 49 CFR 40.3. The following paragraph may be revised to reflect the title of the employee so designated.

The Superintendent or designee shall identify a designated employer representative **who is authorized to take immediate action to remove drivers from safety-sensitive functions and to make required decisions in the testing and evaluation processes. The designated employer representative shall also be responsible for receiving test results and other communications. The name and telephone number of the designated employer representative shall be provided** ~~and shall provide his/her name and telephone number~~ to the testing contractor to contact about any problems or issues that may arise during the testing process. (49 CFR 40.35, 40.215)

Pre-employment Testing

Note: Pursuant to 49 CFR 382.701, districts are required to conduct a pre-employment query using the Commercial Driver's License Drug and Alcohol Clearinghouse's online database, available on its web site, to obtain information about an applicant. Pursuant to 49 CFR 40.25 and 382.413, districts must also, until January 6, 2023, continue to request a driver's drug and alcohol testing record from any employer who has employed the driver during the previous three years.

When hiring a new driver, the Superintendent or designee shall, with the driver's written consent, **conduct a pre-employment query using the Commercial Driver's License Drug and Alcohol Clearinghouse to obtain information about whether the driver has committed a violation of federal drug or alcohol regulations. (49 CFR 382.701)**

The Superintendent or designee shall also, with the driver's consent, request the driver's past drug and alcohol testing record, as specified in 49 CFR 40.25 and **382.413**, from any employer who has employed the driver at any time during the previous ~~two~~ three years. **To the extent practicable, the Superintendent or designee shall obtain and review such information before the driver first performs safety-sensitive functions.** In addition, the Superintendent or designee shall ask the driver if ~~he/she tested~~ **there was a positive test**, or ~~refused a refusal~~ to test, on any pre-employment drug or alcohol test that was administered during the past two years in the course of applying for another safety-sensitive transportation position ~~that he/she did not obtain~~ **was not obtained. (49 CFR 40.25, 382.413)**

The driver shall not be permitted to perform safety-sensitive functions if ~~he/she~~ **the driver** refuses to provide consent to obtain the information from previous employers **or from the Clearinghouse;** the information from previous employers is not received within 30 days of

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

the date on which the driver first performed safety-sensitive functions for the district; or the driver, **the Clearinghouse**, or a previous employer reports a violation of a drug or alcohol regulation without subsequent completion of the return-to-duty process. (49 CFR 40.25, 382.413, **382.701, 382.703**)

~~Upon making a contingent offer of employment to a driver and prior to the first time the driver performs safety sensitive functions for the district, the Superintendent or designee shall require the~~ **A driver whom the district intends to hire or use shall** ~~to~~ undergo testing for drugs and ~~to~~ receive a verified negative test result prior to the first time the driver performs safety-sensitive functions for the district. This testing requirement may be waived if all of the following conditions exist: (49 CFR 382.301)

1. The driver has participated in a qualified drug testing program within the previous 30 days.
2. While participating in the program, the driver either was tested within the past six months **from the date of application** or participated in a random drug testing program for the previous 12 months **from the date of application**.
- ~~3. The Superintendent or designee has contacted the testing program(s) in which the driver has participated and has obtained information about the program and the driver's participation as specified in 49 CFR 382.301.~~
- 34.** No prior employer of the driver of whom the district has knowledge has records of the driver's violation of federal drug testing regulations within the previous six months.

The Superintendent or designee **shall contact** ~~has contacted~~ the testing program(s) in which the driver has participated and **obtain** ~~has obtained~~ information about the program and the driver's participation as specified in 49 CFR 382.301.

Note: The following **optional** paragraph is for use by districts that choose to conduct pre-employment alcohol testing; see the accompanying Board policy. Pursuant to 49 CFR 382.301, pre-employment alcohol testing is not required but, if the district chooses to conduct such testing, it must comply with the following requirements.

Yes -

In addition, the Superintendent or designee shall require the driver to undergo pre-employment alcohol testing in accordance with the procedures in 49 CFR 40.1-40.605 and to receive a test result indicating an alcohol concentration **level** of less than 0.04. (49 CFR 382.301)

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DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

Post-Accident Testing

As soon as practicable following an accident involving a school bus or student activity bus, the Superintendent or designee shall ensure that the driver involved is tested for alcohol and/or drugs under either of the following conditions: (49 CFR 382.303)

1. The accident involved loss of human life.
2. The driver receives a citation for a moving traffic violation **within eight hours of the accident** and the accident involved bodily injury to a person who required immediate medical treatment away from the scene of the accident and/or disabling damage to one or more vehicles requiring towing.

The Superintendent or designee shall attempt to administer a required alcohol test up to eight hours following the accident and/or a drug test up to 32 hours following the accident. The results of an alcohol or drug test conducted by federal, state, or local officials having independent authority for the test shall be considered to meet this requirement. If the alcohol test is not administered within two hours following the accident, or the test for drugs is not administered within 32 hours following the accident, the Superintendent or designee shall make a record stating the reasons the test was not promptly administered. (49 CFR 382.303)

No driver required to take a post-accident alcohol test pursuant to 49 CFR 382.303 shall use alcohol for eight hours following the accident or until the driver undergoes a post-accident alcohol test, whichever occurs first. (49 CFR 382.209)

Random Testing

Note: The district may revise the following paragraph to specify the method by which it will select drivers for random drug and alcohol testing. Pursuant to 49 CFR 382.305, the district must randomly select drivers for testing using a scientifically valid method such as a random number table or a computer-based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Pursuant to 49 CFR 40.347, the district may contract with a third-party administrator or join a consortium of employers to operate the random selection process.

The Superintendent or designee shall ensure that random, unannounced drug and alcohol tests of bus drivers are conducted on testing dates reasonably spread throughout the year.

Such tests shall be **unannounced and** conducted during, immediately before, or immediately after the performance of safety-sensitive functions. (49 CFR 382.305)

AB

AR 4112.42(e)
4212.42
4312.42

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

Note: Pursuant to 49 CFR 382.305, the district must annually test at least 10 percent of district drivers for alcohol and at least **25 50** percent for drugs. However, the minimum required percentage is subject to change as determined necessary by the Federal Motor Carrier Safety Administration (FMCSA). Any such change will be published in the Federal Register and on the FMCSA's web site and will be effective starting January 1 following such publication. **For 2018, the minimum percentage rates remain at 10 percent for alcohol and 25 percent for controlled substances.**

The Superintendent or designee shall ensure that the percentage of district drivers randomly tested for drugs and alcohol meets or exceeds the minimum annual percentage rates specified in 49 CFR 382.305 or subsequently published in the Federal Register.

Each driver selected for random testing shall have an equal chance of being tested each time selections are made. (49 CFR 382.305)

Each driver who is selected for testing shall proceed to the test site immediately or, if performing a safety-sensitive function other than driving a bus, then as soon as possible after ceasing that function. (49 CFR 382.305)

Reasonable Suspicion Testing

Note: The following section may be revised to reflect the position (e.g., driver's supervisor or other district employee) authorized and trained to make observations for reasonable suspicion drug or alcohol testing.

A driver shall be required to submit to a drug or alcohol test whenever the Superintendent or designee has reasonable suspicion that the driver has violated the prohibitions against the use of drugs or alcohol. Such reasonable suspicion shall be based on specific, contemporaneous, articulable observations, conducted during, immediately before, or immediately after the performance of safety-sensitive functions, concerning the driver's appearance, behavior, speech, and/or body odors. Reasonable suspicion of drug use may also include indications of the chronic and withdrawal effects of drugs. (49 CFR 382.307)

The person who makes the required observations for reasonable suspicion testing for drugs or alcohol shall be trained in accordance with 49 CFR 382.603. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not be the same person who conducts the alcohol test. (49 CFR 382.307)

Within 24 hours of the observed behavior or before the results of the drug or alcohol test are released, whichever is earlier, **the Superintendent or designee shall prepare and sign a written record of the observations leading to a reasonable suspicion test shall be made and signed by the person who made the observations.** (49 CFR 382.307)

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

An alcohol test required as a result of reasonable suspicion shall be administered within eight hours following the determination of reasonable suspicion. If the test is not administered within two hours, the Superintendent or designee shall prepare and maintain on file a record stating the reasons the test was not promptly administered. (49 CFR 382.307)

In the absence of a reasonable suspicion alcohol test, the district shall take no action against a driver based solely on the driver's behavior and appearance, except that the driver shall not be allowed to report for or remain on safety-sensitive functions until an alcohol test is administered and the results show a concentration less than 0.02 or 24 hours have elapsed following the determination of reasonable suspicion. (49 CFR 382.307)

Return-to-Duty Testing

Note: Pursuant to 49 CFR 40.305, the district may return a driver to safety-sensitive functions after ~~he/she~~ **the driver** completes required education and treatment services as described in the accompanying Board policy and a return-to-duty drug or alcohol test. Such personnel decisions may be subject to collective bargaining or other legal requirements.

The Superintendent or designee may permit a driver who has violated federal drug or alcohol regulations to return to safety-sensitive functions after the driver has successfully complied with the education and treatment services prescribed by a substance abuse professional and has ~~a~~ taken a return-to-duty drug or alcohol test. The driver shall not resume performance of safety-sensitive functions unless the drug test shows a negative result and/or the alcohol test shows a concentration of less than 0.02. (49 CFR 40.305, 382.309)

Follow-Up Testing

Note: Pursuant to 49 CFR 40.307, after a driver successfully complies with education and treatment services, the substance abuse professional will prescribe a follow-up testing plan and will present that plan to the designated employer representative. The plan must direct that the driver be subject to at least six unannounced follow-up tests in the first 12 months following the driver's return to safety-sensitive functions.

Upon receiving a written follow-up testing plan from a substance abuse professional, the Superintendent or designee shall determine the actual dates for follow-up testing consistent with those recommendations and shall ensure that such tests are unannounced and follow no discernable pattern as to their timing. No additional tests beyond those included in the plan shall be imposed by the district. (49 CFR 40.307-40.309, 382.111)

Mandatory Reporting and Annual Queries to the Drug and Alcohol Clearinghouse

105

AR 4112.42(g)
4212.42
4312.42

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

The Superintendent or designee shall report to the Clearinghouse any violation of federal drug and alcohol regulations, any refusal to test, and other required information by the close of the third business day following the date on which the information was obtained. (49 CFR 382.705)

The Superintendent or designee shall conduct a query using the Clearinghouse at least once a year for all drivers to determine whether information exists in the Clearinghouse about the drivers. (49 CFR 382.701)

In lieu of a full query, the Superintendent or designee may obtain the individual driver's consent to conduct a limited query that is effective for more than one year and informs the district about whether there is information about the driver in the Clearinghouse without releasing that information to the district. If the limited query shows that information exists in the Clearinghouse about the individual driver, the Superintendent or designee shall conduct a full query within 24 hours of conducting the limited query. If a full query is not conducted within 24 hours, the driver may not perform any safety-sensitive function until the results from a full query confirm that the driver may perform such functions. (49 CFR 382.701)

A driver may not perform any safety-sensitive function if the results of a Clearinghouse query demonstrate that the driver has committed a violation of federal drug or alcohol regulations. (49 CFR 382.701)

Notifications

Note: Pursuant to 49 CFR 382.601, the district is **mandated** to adopt policy and procedures pertaining to misuse of drugs and alcohol and to provide these materials to each driver. When conducting compliance inspections, the **CHP-California Highway Patrol** reviews whether district policy or regulations contain all of items #1-~~112~~ below.

The Superintendent or designee shall provide each driver with materials explaining the federal regulations and the district's policy and procedure related to drug and alcohol testing and shall notify representatives of employee organizations of the availability of this information. This information shall include a detailed discussion of at least the following: (49 CFR 382.113, 382.303, 382.601)

1. The identity of the person designated by the district to answer driver questions about the materials
2. The categories of drivers who are subject to drug and alcohol testing

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DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

3. Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the workday the driver is required to be in compliance
4. Specific information concerning prohibited driver conduct
5. The circumstances under which a driver will be tested for drugs and/or alcohol, including post-accident testing
6. The procedures that will be used to test for the presence of drugs and alcohol, protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver
7. The requirement that a driver submit to drug and alcohol tests
8. An explanation of what constitutes a refusal to submit to a drug or alcohol test and the attendant consequences
9. The consequences for drivers found to have violated the prohibitions against drug or alcohol use, including the circumstances under which drivers will be removed immediately from safety-sensitive functions and the requirements for education, treatment, and return-to-duty testing
10. The consequences for drivers found to have a blood alcohol concentration between 0.02 and 0.04
11. Information concerning the effects of drug and alcohol use on an individual's health, work, and personal life; signs and symptoms of a drug or alcohol problem (the driver's or a co-worker's); and available methods of intervening when a drug or alcohol problem is suspected, including confrontation, referral to any employee assistance program, and/or referral to management
- 12. The requirement that personal information collected and maintained pursuant to 49 CFR 382 shall be reported to the Clearinghouse**

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

Each driver shall sign a statement certifying ~~that he/she has received~~ receipt of a copy of the above materials. The Superintendent or designee shall maintain the original of the signed certificate and may provide a copy of the certificate to the driver. (49 CFR 382.601)

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AR 4112.42(i)
4212.42
4312.42

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

In addition, prior to administering each alcohol or drug test, the driver shall be notified that the test is required pursuant to Title 49, Part 382, of the Code of Federal Regulations. (49 CFR 382.113)

The driver shall be notified of the results of drug and alcohol tests in accordance with 49 CFR 382.411.

Records

Note: 49 CFR 40. 333 and 382.401 specify the records that must be retained by the district and how long each record must be retained (i.e., one year, two years, three years, five years, or indefinitely). Upon receiving a request from the FMCSA to inspect any such record, the district must make the record(s) available for inspection at the district office within two business days.

The Superintendent or designee shall maintain records of the district's drug and alcohol testing program in accordance with 49 CFR 40.333 and 382.401. Such records shall be maintained in a secure location with controlled access and shall be disclosed only in accordance with 49 CFR 382.405.

(cf. 3580 - District Records)

(8/13 8/14) 6/21

Policy Reference UPDATE Service

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CSBA Sample Board Policy

Certificated and Classified Personnel

BP 4141(a)
4241

COLLECTIVE BARGAINING AGREEMENT

Note: The following **optional** policy addresses the implementation of the collective bargaining agreement adopted by the Governing Board following a process of negotiations with the exclusive representatives of employees. See BP 4143/4243 - Negotiations/Consultation for information about the bargaining process.

The Governing Board recognizes that collective bargaining agreements are legally binding, bilateral agreements with the exclusive representatives of employees pertaining to terms and conditions of employment. The Board is committed to carrying out the provisions of each agreement and expects the agreements to be consistently and uniformly administered.

(cf. 4140/4240/4340 - Bargaining Units)
(cf. 4143/4243 - Negotiations/Consultation)

Note: Districts should consider deleting policies and administrative regulations on topics covered in collective bargaining agreements or retaining them only after determining that the provisions in the policy or regulation are consistent with the adopted agreements. Some policies or regulations may also need to be retained and/or modified when they pertain to unrepresented employees. Should a contract and a policy conflict, the district may be required to grant the benefits in both documents, even if the district believed that the contract was intended to supersede the policy. See BB 9310 - Board Policies.

If the district has adopted a merit system pursuant to Education Code 45220-45320, then its classified employees are subject to the rules prescribed by the district's personnel commission, except when the subject matter is within the scope of representation and is included in a negotiated agreement. Such districts may revise the following paragraph to clarify that the negotiated agreement supersedes any conflicting rules of the personnel commission.

In United Teachers of Los Angeles v. Los Angeles Unified School District, the California Supreme Court held that a provision in a collective bargaining agreement that directly conflicts with the Education Code cannot be enforced.

~~Education Code 35036 prohibits the Board from entering into a collective bargaining agreement that, after April 15 prior to the school year that a teacher's transfer would become effective, assigns priority to a teacher who requests to be transferred to another school over other qualified teachers who have applied for positions requiring certification qualifications at that school. See BP 4114 - Transfers.~~

Following adoption of the collective bargaining agreement, the Superintendent or designee shall review related Board policies and recommend to the Board any action needed to maintain consistency with the agreement. Whenever a Board policy conflicts with a provision in the collective bargaining agreement, the agreement shall be binding for those employees covered by the terms of the agreement. **Whenever a law conflicts with a provision in the collective bargaining agreement, the law will prevail as to those employees for whom the law applies.**

(cf. 9310 - Board Policies)

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COLLECTIVE BARGAINING AGREEMENT (continued)

Upon request by the Public Employment Relations Board, the Superintendent or designee shall provide, within 15 days of the request, a copy of the written agreement and any amendments. (8 CCR 32120)

Legal Reference:

EDUCATION CODE

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

35036 *Voluntary transfers*

35160 *Authority of governing boards*

35160.1 *Broad authority of school districts*

45220-45320 *Merit system, classified employees*

GOVERNMENT CODE

3540-3549.3 *Educational Employment Relations Act*

CODE OF REGULATIONS, TITLE 8

31001-32997 *Regulations of employee relations boards*

COURT DECISIONS

Janus v. American Federation of State, County and Municipal Employees, Council 31 (2018) 138 S.Ct. 2448

United Teachers of Los Angeles v. Los Angeles Unified School District (2012) 54 Cal. 4th 504

Round Valley Teachers Association (1996) 13 Cal. 4th 269

Management Resources:

WEB SITES

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

California Public Employee Relations: <http://cper.berkeley.edu>

Center for Collaborative Solutions: <http://www.ccscenter.org>

Public Employment Relations Board: <http://www.perb.ca.gov>

State Mediation and Conciliation Service (SMCS): <http://www.dir.ca.gov/csmcs/smcs.html>

(10/95 3/07) 6/21

Policy Reference UPDATE Service

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CSBA Sample Board Policy

All Personnel

BP 4158(a)

4258

EMPLOYEE SECURITY

4358

Note: Pursuant to Government Code 3543.2, safety conditions in employment are a mandatory subject of collective bargaining. The following Board policy and accompanying administrative regulation ~~are optional~~ and may be revised to reflect district practice **and the terms of the district's collective bargaining agreements.**

The Governing Board desires to provide a safe and orderly work environment for all employees. As part of the district's comprehensive safety plan, the Superintendent or designee shall develop strategies for protecting employees from potentially dangerous persons and situations and for providing necessary assistance and support when emergency situations occur.

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3515 - Campus Security)

(cf. 5131.4 - Student Disturbances)

Any person who threatens the safety of others at any district facility may be removed by the Superintendent or designee in accordance with AR 3515.2 - Disruptions.

(cf. 3515.2 - Disruptions)

Note: Code of Civil Procedure 527.8 allows the district to seek a temporary restraining order and injunction on behalf of an employee against any other individual who has subjected the employee to unlawful violence or a credible threat of violence in the workplace. In City of San Jose v. William Garbett, a California Court of Appeal held that a court's issuance of a temporary restraining order and injunction against a person who had verbally threatened a city official was not a violation of that person's right to free speech and right of access to a public place.

Pursuant to Penal Code 18150 and 18170, a gun violence restraining order prohibiting a person from owning, having custody or control of, purchasing, possessing, or receiving a firearm or ammunition may be petitioned by that person's employer, a coworker who has had substantial and regular interactions with the person for at least one year and has the employer's approval, or an employee or teacher of a secondary school that the person has attended in the past six months if the employee or teacher has obtained the approval or a school administrator or designee.

Any employee against whom violence or any threat of violence has been directed in the workplace shall notify the Superintendent or designee immediately. As appropriate, the Superintendent or designee shall initiate legal and security measures to protect the employee and others in the workplace. **Such measures may include seeking a temporary restraining order on behalf of the employee pursuant to Code of Civil Procedure 527.8 and/or a gun violence restraining order pursuant to Penal Code 18150 and 18170.**

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EMPLOYEE SECURITY (continued)

Upon request by an employee who is a victim of domestic violence, sexual assault, or stalking, the Superintendent or designee shall provide reasonable accommodations in accordance with Labor Code 230-230.1 and the accompanying administrative regulation to protect the employee's safety while at work.

(cf. 4161.2/4261.2/4361.2 - Personal Leaves)

Note: Pursuant to Education Code 48904 and 48905, ~~provides that~~ an employee who is injured or whose property is damaged by willful misconduct of a district student under the conditions described below may request that the district pursue legal action against the student, or ~~his/her~~ **the student's** parent/guardian, pursuant to Education Code 48904. Education Code 48904 provides that a parent/guardian will be liable for ~~damages caused by his/her minor child's willful misconduct resulting in injury to a district student, employee, or volunteer or damage to district or employee property.~~ Also ~~s~~See BP 3515.4 - Recovery for Property Loss or Damage and AR 5125.2 - Withholding Grades, Diploma or Transcripts. The district should consult legal counsel when considering whether to pursue legal action.

The Superintendent or designee may pursue legal action on behalf of an employee against a student or ~~his/her~~ **the student's** parent/guardian to recover damages **for injury** to the employee's **person** or ~~his/her~~ property caused by the student's willful misconduct that occurred on district property, at a school or district activity, or in retaliation for lawful acts of the employee in the performance of ~~his/her~~ **the employee's** duties. (Education Code 48904, 48905)

(cf. 3320 - Claims and Actions Against the District)
(cf. 3515.4 - Recovery for Property Loss or Damage)
(cf. 4156.3/4256.3/4356.3 - Employee Property Reimbursement)
(cf. 5125.2 - Withholding Grades, Diploma or Transcripts)

The Superintendent or designee shall ~~ensure that employees receive training~~ **provide staff development** in crisis prevention and intervention techniques, ~~which in order to protect themselves and students.~~ **Staff development** may include training in classroom management, effective communication techniques, procedures for responding to an active shooter situation, and crisis resolution.

(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

In accordance with law, ~~t~~The Superintendent or designee **also** shall inform teachers, ~~in accordance with law,~~ **administrators, and/or counselors** of crimes and offenses committed by students who may pose a danger in the classroom. (Education Code 48201, 49079; Welfare and Institutions Code 827)

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EMPLOYEE SECURITY (continued)

The Superintendent or designee may make available at appropriate locations, including, but not limited to, district and school offices, gyms, and classrooms, communication devices that would enable two-way communication with law enforcement and others when emergencies occur.

(cf. 5141 - Health Care and Emergencies)

Use of Pepper Spray

Note: The following section is **optional** and may be revised to reflect district practice. Penal Code 22810 authorizes adults, with certain exceptions, to carry an approved tear gas weapon such as pepper spray for purposes of self-defense. Penal Code 626.9 and 626.10, which prohibit the possession of weapons on school grounds, do not prohibit the possession of pepper spray on school grounds. Thus, the Governing Board may determine whether to allow or disallow, with certain exceptions, the possession of pepper spray on school property or at school activities. See the accompanying administrative regulation for related procedures.

de Employees shall not carry or possess pepper spray on school property or at school activities, except when authorized by the Superintendent or designee for self-defense purposes. When allowed, an employee may only possess pepper spray in accordance with administrative regulations and Penal Code 22810. Any employee who is negligent or careless in the possession or handling of pepper spray shall be subject to appropriate disciplinary measures.

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

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

Reporting of Injurious Objects

Note: The following **optional** section specifies actions to be taken in the event an employee becomes aware of any person who is in possession of an injurious object, and is consistent with the actions described in AR 5131.7 - Weapons and Dangerous Instruments related to student possession.

Pursuant to Education Code 49334, a school employee who **initially** notifies law enforcement regarding a student or adult who is in possession of an injurious object while on school grounds or under the authority of school personnel cannot be subject to any civil or administrative proceeding, including disciplinary action, for **such action violation of any district policy or procedure related to the notification of a law enforcement agency. Education Code 49334 requires such an employee to conform with district procedures after exercising the option to notify a law enforcement agency.**

ok ~~The Board requires employees to~~ **Employees shall** take immediate action upon being made aware that any person is in possession of a weapon or unauthorized injurious object on school grounds or at a school-related or school-sponsored activity. ~~The e~~**Employees** shall ~~use his/her own~~ **exercise their best** judgment as to the potential danger involved and shall do one of the following:

NA

EMPLOYEE SECURITY (continued)

1. Confiscate the object and deliver it to the principal immediately
2. Immediately notify the principal, who shall take appropriate action
3. Immediately call 911 and the principal

(cf. 3515.7 - Firearms on School Grounds)
(cf. 5131.7 - Weapons and Dangerous Instruments)
(cf. 5144 - Discipline)
(cf. 5144.1 - Suspension and Expulsion/Due Process)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

When informing the principal about the possession or seizure of a weapon or dangerous device, **the an** employee shall report the name(s) of persons involved, witnesses, location, and the circumstances of any seizure.

Legal Reference:

EDUCATION CODE

32210-32212 *Willful disturbance, public schools or meetings*
32225-32226 *Communication devices*
35208 *Liability insurance*
35213 *Reimbursement for loss, destruction or damage of school property*
44014 *Report of assault by pupil against school employee*
44807 *Duty concerning conduct of students*
48201 *Transfer of student records*
48900-48926 *Suspension or expulsion*
49079 *Notification to teacher; student who has engaged in acts re: grounds suspension or expulsion*
49330-49335 *Injurious objects*

CIVIL CODE

51.7 *Freedom from violence or intimidation*

CODE OF CIVIL PROCEDURE

527.8 *Workplace violence safety*

GOVERNMENT CODE

995-996.4 *Defense of public employees*
3543.2 *Scope of representation*

12926 Definitions

LABOR CODE

230-230.2 Leave for victims of domestic violence, sexual assault, or specified felonies

PENAL CODE

71 *Threatening public officers and employees and school officials*
240-246.3 *Assault and battery, especially:*
241.3 *Assault against school bus drivers*

Legal Reference continued: (see next page)

MS

EMPLOYEE SECURITY (continued)

Legal Reference: (continued)

PENAL CODE (continued)

- 241.6 Assault on school employee including board member
- 243.3 Battery against school bus drivers
- 243.6 Battery against school employee including board member
- 245.5 Assault with deadly weapon against school employee including board member
- 290 Registration of sex offenders
- 601 Trespass by person making credible threat
- 626-626.11 School crimes
- 646.9 Stalking

18150 Gun violence restraining orders

18170 Gun violence restraining order issued after notice and hearing

- 22810 Purchase, possession, and use of tear gas

WELFARE AND INSTITUTIONS CODE

- 827 Juvenile court proceedings; reports; confidentiality
- 828.1 District police or security department, disclosure of juvenile records

COURT DECISIONS

- City of San Jose v. William Garbett, (2010) 190 Cal. App. 4th 526

Management Resources:

WEB SITES

- CSBA: <http://www.csba.org>
- California Department of Education, Safe Schools and Violence Prevention Office:
<http://www.cde.ca.gov/ls/ss>

(3/11 5/18) 6/21

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CSBA Sample Administrative Regulation

All Personnel

AR 4158(a)

4258

EMPLOYEE SECURITY

4358

An employee may use reasonable and necessary force for self-defense or defense of another person, to quell a disturbance threatening physical injury to others or damage to property, or to obtain possession of weapons or other dangerous objects within the control of a student. (Education Code 44807, 49001)

(cf. 3515.2 - Disruptions)

(cf. 3515.3 - District Police/Security Department)

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

(cf. 3530 - Risk Management/Insurance)

(cf. 5131.7 - Weapons and Dangerous Instruments)

(cf. 5144 - Discipline)

~~Note: Pursuant to Education Code 44014, it is the duty of an employee and his/her immediate supervisor to report to law enforcement any attack, assault, or physical threat made against the employee by a student. Failure to report such an attack, assault, or physical threat is an infraction punishable by a fine. It is also an infraction for a Governing Board member or employee to prevent the filing of the report or to impose any sanction against an employee for so doing.~~

~~Although the law only requires employees to report attacks, assaults, or threats made by students, the following paragraph requires employees to report any attack, assault, or threat made against them by any other individual on school grounds.~~

An employee shall promptly report to the principal or other immediate supervisor any attack, assault, or physical threat made against ~~him/her~~ **the employee** by a student or by any other individual in relation to the ~~employee's~~ **employee's** performance of ~~his/her~~ **the employee's** duties, and any action the employee took in response. ~~When appropriate, the employee and the principal or other immediate supervisor shall report the incident to law enforcement. Reports of an~~ attack, assault, or threat shall be forwarded immediately to the Superintendent or designee.

Note: Pursuant to Education Code 44014, it is the duty of an employee and ~~his/her~~ **the employee's** immediate supervisor to report to law enforcement any attack, assault, or physical threat made against the employee by a student. **Compliance with district procedures related to reporting incidents, as specified in the paragraph above, does not exempt an employee or supervisor from the duty to make a report to law enforcement.** Failure to report such an attack, assault, or physical threat is an infraction punishable by a fine. It is also an infraction for a Governing Board member or employee to prevent the filing of the report or to impose any sanction against an employee for doing so.

Although the law only requires employees to report attacks, assaults, or threats made by students, the following paragraph ~~requires~~ **district may revise the following paragraph to require** employees to report any attack, assault, or threat made against them by any other individual on school grounds.

In addition, the employee and the principal or other immediate supervisor shall promptly report to local law enforcement authorities an attack, assault, or physical threat made against the employee by a student. (Education Code 44014)

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EMPLOYEE SECURITY (continued)

~~(cf. 3515.2 - Disruptions)~~

~~Reports of attack, assault, or threat shall be forwarded immediately to the Superintendent or designee.~~

~~(cf. 3320 - Claims and Actions Against the District)
(cf. 3515.4 - Recovery for Property Loss or Damage)
(cf. 3530 - Risk Management/Insurance)~~

Notice Regarding Student Offenses Committed While Under School Jurisdiction

When a student commits certain offenses that may endanger staff or others, the following procedures shall be implemented to notify staff members as appropriate:

1. Acts That Are Grounds for Suspension or Expulsion

Note: Education Code 49079 requires the district to inform teachers of students who have committed specified acts that constitute grounds for suspension or expulsion. School district officers or employees who knowingly fail to provide this information are guilty of a misdemeanor punishable by a fine and/or imprisonment.

- a. The Superintendent or designee shall inform the teacher(s) of each student who, during the previous three school years, has engaged in or is reasonably suspected to have engaged in any act, except the possession or use of tobacco products, that would constitute a ground for suspension or expulsion as specified in AR 5144.1 - Suspension and Expulsion/Due Process. This information shall be based upon district records maintained in the ordinary course of business or records received from a law enforcement agency. (Education Code 49079)

~~(cf. 4112.9/4212.9/4312.9 - Employee Notifications)
(cf. 5125 - Student Records)
(cf. 5144.1 - Suspension and Expulsion/Due Process)~~

Note: Education Code 48201 requires districts to request records of a transferring student regarding acts that resulted in the student's suspension or expulsion from the previous school, as specified below; see AR 5125 - Student Records. Once the record is received, the Superintendent or designee must inform the student's teacher(s) of the acts as specified below.

- b. Upon receiving a transfer student's record regarding acts committed by the student that resulted in ~~his/her~~ suspension or expulsion, the Superintendent or

EMPLOYEE SECURITY (continued)

designee shall inform the student's teacher(s) that the student was suspended from school or expelled from **his/her the** former district and of the act that resulted in the suspension or expulsion. (Education Code 48201)

- c.** Information received by teacher(s) shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher. (Education Code **48201**, 49079)

Notice Regarding Student Offenses Committed While Outside School Jurisdiction

2. Offenses Reported to the District by a Court

Note: ~~The following optional paragraph is for use by districts maintaining a district police or security department. Welfare and Institutions Code 828 specifies that information gathered by a law enforcement agency relating to a minor taken into custody may be disclosed to a school district police or security department. The following paragraph addresses the authority of the district police department to utilize such information as it pertains to certain offenses committed by students. Welfare and Institutions Code 827 requires a court, within seven days, to provide written notification to the Superintendent when a minor student has been found by the court to have committed a felony or misdemeanor involving specified offenses. Upon receiving such notification, the Superintendent must notify certain counselors, teachers, and administrators, as described in item #2.~~

In addition, Welfare and Institutions Code 828.1 specifies that a school district police or security department may provide written notification to the Superintendent when a minor student has been found by a court to have illegally used, sold, or possessed a controlled substance or committed specified crimes involving serious acts of violence. In such cases, the information may be transmitted to a teacher, counselor, or administrator with direct supervisory or disciplinary responsibility over the student, and such information must be received in confidence for the limited purpose for which it was provided. Districts that maintain their own police or security department may expand the following item to authorize the department to notify the Superintendent of such offenses.

~~When a minor student has been found by a court of competent jurisdiction to have illegally used, sold, or possessed a controlled substance or committed specified crimes involving serious acts of violence, the district police or security department may provide written notification to the Superintendent. (Welfare and Institutions Code 828.1)~~

~~(cf. 3515.3 - District Police/Security Department)~~

- a.** When informed by **the a** court that a minor student has been found by **a the** court to have committed any felony or any misdemeanor involving curfew, gambling, alcohol, drugs, tobacco products, carrying of weapons, a sex offense listed in Penal Code 290, assault or battery, larceny, vandalism, or graffiti, the Superintendent or designee shall **so inform expeditiously notify** the school principal. (Welfare and Institutions Code 827)

EMPLOYEE SECURITY (continued)

- b.** The principal shall **expeditiously** disseminate this information to any counselor who directly supervises or reports on the student's behavior or progress. ~~and to The principal shall also inform~~ any teacher or administrator directly supervising or reporting on the student's behavior or progress whom ~~he/she~~ **the principal** thinks may need the information ~~so as in order~~ to work with the student appropriately, avoid being needlessly vulnerable, or protect others from vulnerability. (Welfare and Institutions Code 827)
- c.** Any court-initiated information that a teacher, counselor, or administrator receives shall be kept confidential and used only to rehabilitate the student and protect other students and staff. The information shall be further disseminated only when communication with the student, parent/guardian, law enforcement staff, and probation officer is necessary to rehabilitate the student or to protect students and staff. (Welfare and Institutions Code 827)
- d.** When a student is removed from school as a result of ~~his/her~~ **an** offense, the Superintendent shall hold the court's information in a separate confidential file until the student is returned to the district. If the student is returned to a different district, the Superintendent shall transmit the information provided by the student's parole or probation officer to the superintendent of the new district of attendance. (Welfare and Institutions Code 827)
- e.** Any confidential file of court-initiated information shall be kept until the student becomes 18, graduates from high school, or is released from juvenile court jurisdiction, whichever occurs first, and shall then be destroyed. (Welfare and Institutions Code 827)

Procedures to Maintain Confidentiality of Student Offenses

Note: The following ~~section~~ **optional paragraph may be revised to reflect district practice.** ~~describes procedures for maintaining confidentiality of student records and documenting the district's good faith effort to notify counselors or teachers about student offenses.~~ Intentional violation of the confidentiality provisions of Welfare and Institutions Code 827 is a misdemeanor punishable by a fine. ~~This section may be modified to reflect district practice.~~

In order to maintain confidentiality when providing information about student offenses to **a** counselors ~~and or~~ teachers ~~of classes/programs to which a student is assigned,~~ the principal or designee shall send the staff member a written notification that ~~one of his/her students~~ **a student** has committed an offense that requires ~~his/her~~ review of a student's file in the school office. This notice shall not name or otherwise identify the student. The staff member shall ~~be asked to~~ initial the notification and ~~return it to the principal or designee.~~ ~~He/she~~ shall also initial the student's file when reviewing it in the school office.

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EMPLOYEE SECURITY (continued)

Accommodations for Victims of Domestic Violence, Sexual Assault, or Stalking

Note: Pursuant to Labor Code 230, the district is required to provide reasonable accommodations at work, upon request, to an employee who is a victim of domestic violence, sexual assault, or stalking. The district is not required to provide reasonable accommodations to an employee who has not disclosed the employee's status as a victim of domestic violence, sexual assault, or stalking nor to undertake an action that constitutes an undue hardship, as defined by Government Code 12926.

In addition, Labor Code 230 and 230.1 allow employees who are victims of domestic violence, sexual assault, or stalking to use available leave for the purposes of (1) obtaining relief (e.g., a temporary restraining order, restraining order, or injunctive relief) to protect the health, safety, or welfare of the employee or the employee's child; (2) seeking medical attention for injuries caused by the crime or abuse; (3) obtaining services from a domestic violence shelter, program, rape crisis center, or victim services organization or agency; (4) obtaining psychological counseling or mental health services related to an experience of crime or abuse; and/or (5) participating in safety planning and taking other actions to increase safety from future crime or abuse, including temporary or permanent relocation. As amended by AB 2992 (Ch. 224, Statutes of 2020), Labor Code 230 and 230.1 expand these provisions to include employees who are victims of a crime that caused physical injury, or mental injury with a threat of physical injury, and employees whose immediate family member is deceased as the direct result of a crime. See AR 4161.2/4261.2/4361.2 - Personal Leaves.

When requested by an employee who is a victim of domestic violence, sexual assault, or stalking, the district shall provide the employee reasonable accommodations which may include the implementation of safety measures, including: (Labor Code 230)

- 1. A transfer, reassignment, or modified schedule**
- 2. A changed work telephone or work station**
- 3. An installed lock**
- 4. Assistance in documenting domestic violence, sexual assault, stalking, or other crime that occurs in the workplace**
- 5. Referral to a victim assistance organization**
- 6. Another safety procedure or adjustment to a job structure, workplace facility, or work requirement in response to domestic violence, sexual assault, stalking, or other crime**

(cf. 4161.2/4261.2/4361.2 - Personal Leaves)

MS

EMPLOYEE SECURITY (continued)

The Superintendent or designee shall engage in a timely, good faith, and interactive process with the employee to determine effective reasonable accommodations that do not pose an undue hardship on the district. In determining whether an accommodation is reasonable, the Superintendent or designee shall consider any exigent circumstance or danger facing the employee. (Labor Code 230)

Upon the request of the Superintendent or designee, an employee requesting a reasonable accommodation shall provide a written statement, signed by the employee or an individual acting on the employee's behalf, certifying that the accommodation is for an authorized purpose. The Superintendent or designee may also request that the employee provide certification of the employee's status as a victim of domestic violence, sexual assault, or stalking. Such certification may include: (Labor Code 230)

- 1. A police report indicating that the employee was a victim**
- 2. A court order protecting or separating the employee from the perpetrator of the crime or abuse, or other evidence from the court or prosecuting attorney that the employee has appeared in court**
- 3. Documentation from a licensed medical professional or health care provider, domestic violence or sexual assault counselor, victim advocate, or counselor that the employee was undergoing treatment or receiving services for physical or mental injuries or abuse resulting in victimization from the crime or abuse**
- 4. Any other form of documentation that reasonably verifies that the crime or abuse occurred, including, but not limited to, a written statement signed by the employee or by an individual acting on the employee's behalf**

Any verbal or written statement, police or court record, or other documentation identifying an employee as a victim shall be confidential and shall not be disclosed by the district except as required by federal or state law or as necessary to protect the employee's safety in the workplace. The employee shall be notified before any authorized disclosure. (Labor Code 230)

Every six months after the date of the certification, the Superintendent or designee may request recertification of the employee's status as a victim of domestic violence, sexual assault, or stalking or ongoing circumstances related to the crime or abuse. The employee shall notify the Superintendent or designee if, due to changing circumstances, the employee needs a new accommodation or no longer needs an accommodation. (Labor Code 230)

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EMPLOYEE SECURITY (continued)

The district shall not retaliate against an employee because of the employee's status as a victim of crime or abuse or for requesting a reasonable accommodation, regardless of whether the request was granted. (Labor Code 230)

Use of Pepper Spray

Note: The following **optional** section may be revised to reflect district practice. **See the accompanying Board policy for further information and the Board's determination to allow or disallow, with certain exceptions, the possession of pepper spray on school property or at school activities.**

The Superintendent or designee shall notify employees of the district's policy prohibiting the possession of pepper spray on school property or at school-related activities without prior approval of the Superintendent or designee. Employees wishing to carry pepper spray shall submit to the Superintendent or designee a written request setting forth the need for the pepper spray. The Superintendent or designee shall notify the employee in writing as to whether the request was approved or denied.

When approving an employee's request, the Superintendent or designee shall inform the employee of the following conditions:

1. The pepper spray shall be used only in self-defense **pursuant to Penal Code 22810.**
2. An employee who uses pepper spray other than in self-defense shall be subject to disciplinary action by the district and, in accordance with law, a fine and/or imprisonment.

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

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

3. The pepper spray must be stored in a secure place and not be accessible to students or other individuals. Negligent storage of the pepper spray may subject the employee to disciplinary action.

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CSBA Sample Board Policy

Students

BP 5141.4(a)

CHILD ABUSE PREVENTION AND REPORTING

The Governing Board is committed to supporting the safety and well-being of district students and desires to facilitate the prevention of and response to child abuse and neglect. The Superintendent or designee shall develop and implement strategies for preventing, recognizing, and promptly reporting known or suspected child abuse and neglect.

The Superintendent or designee may provide a student who is a victim of abuse with school-based mental health services or other support services and/or may refer the student to resources available within the community as needed.

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

(cf. 5141.5 - Mental Health)

(cf. 5141.6 - School Health Services)

(cf. 6164.2 - Guidance/Counseling Services)

Child Abuse Prevention

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

~~Education Code 51220.5 specifies that the district's course of study for grades 7 and/or 8 may include parenting skills education, including instruction on child abuse and neglect; see AR 6143 - Courses of Study.~~

The district's instructional program ~~shall include~~ **may provide** age-appropriate and culturally sensitive child abuse prevention curriculum. ~~This curriculum shall~~ **which** explains students' right to live free of abuse, includes instruction in the skills and techniques needed to identify unsafe situations and react appropriately and promptly, informs students of available support resources, and teaches students how to obtain help and disclose incidents of abuse.

(cf. 6142.8 - Comprehensive Health Education)

(cf. 6143 - Courses of Study)

Note: The following paragraph is **optional**. Education Code 51900.6, ~~as added by AB 2016 (Ch. 809, Statutes of 2014)~~, authorizes districts to provide age-appropriate instruction in sexual abuse and sexual assault awareness and prevention in grades K-12, provided that students are allowed to be excused from such instruction upon the written request of their parents/guardians. It also requires the State Board of Education and Superintendent of Public Instruction to consider addressing these issues in the next revision of the state health education content standards and curriculum framework.

The district's program also may include age-appropriate curriculum in sexual abuse and sexual assault awareness and prevention. Upon written request of a student's parent/guardian, the student shall be excused from taking such instruction. (Education Code 51900.6)

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CHILD ABUSE PREVENTION AND REPORTING (continued)

Note: Pursuant to Education Code 33133.5, posters notifying students of the appropriate telephone number to call to report child abuse or neglect are available on the California Department of Education's web site in five languages. Education Code 33133.5 encourages districts to post the appropriate version or versions of the poster in an area of the school where students frequently congregate.

The Superintendent or designee may display posters, in areas on campus where students frequently congregate, notifying students of the appropriate telephone number to call to report child abuse or neglect. (Education Code 33133.5)

Note: The following paragraph is for use by districts that serve students in grades 7-12. Education Code 215.5 requires districts that issue or reissue student identification cards to have the telephone number of the National Domestic Violence Hotline (1-800-799-7233) printed on either side of student identification cards.

In addition, student identification cards for students in grades 7-12 shall include the National Domestic Violence Hotline telephone number. (Education Code 215.5)

(cf. 5142 - Safety)

The Superintendent or designee shall, to the extent feasible, seek to incorporate community resources into the district's child abuse prevention programs and may use these resources to provide parents/guardians with instruction in parenting skills and child abuse prevention.

Child Abuse Reporting

Note: The Child Abuse and Neglect Reporting Act (Penal Code 11164-11174.3) identifies persons who are mandated to report known or suspected child abuse or neglect and establishes procedures for filing a report; see the accompanying administrative regulation.

The Superintendent or designee shall establish procedures for the identification and reporting of known and suspected child abuse and neglect in accordance with law.

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

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

Procedures for reporting child abuse shall be included in the district and/or school comprehensive safety plan. (Education Code 32282)

(cf. 0450 - Comprehensive Safety Plan)

Note: Education Code 44252, as amended by AB 2560 (Ch. 110, Statutes of 2014), requires that teachers applying to the Commission on Teacher Credentialing for a new credential or a renewal of their credential read and sign a statement that they understand the duties imposed on them as mandated reporters pursuant to Penal Code 11164-11174.3.

CHILD ABUSE PREVENTION AND REPORTING (continued)

District employees who are mandated reporters, as defined by law and administrative regulation, are obligated to report all known or suspected incidents of child abuse and neglect.

Note: ~~As amended by AB 1432 (Ch. 797, Statutes of 2014),~~ Education Code 44691 and Penal Code 11165.7 require districts to annually train their employees regarding the duties of mandated reporters; see the accompanying administrative regulation. However, pursuant to Penal Code 11165.7, a lack of training does not excuse any mandated reporter from the duty to report suspected child abuse and neglect.

The Superintendent or designee shall provide training regarding the duties of mandated reporters **as required by law and as specified in the accompanying administrative regulation. (Education Code 44691; Penal Code 11165.7)**

*Legal Reference:*EDUCATION CODE

215.5 Student identification cards with National Domestic Violence Hotline telephone number

~~32280-32289.5 32289.8 Comprehensive school safety plans~~

33133.5 Posters of telephone number for students to report child abuse or neglect

33195 Heritage schools, mandated reporters

33308.1 Guidelines on procedure for filing child abuse complaints

44252 Teacher credentialing

44691 Staff development in the detection of child abuse and neglect

44807 Duty concerning conduct of students

48906 Notification when student released to peace officer

48987 Dissemination of reporting guidelines to parents

49001 Prohibition of corporal punishment

51220.5 Parenting skills education

51900.6 Sexual abuse and sexual assault awareness and prevention **instruction**

CODE OF CIVIL PROCEDURE

340.1 Damages suffered as a result of childhood sexual abuse

PENAL CODE

152.3 Duty to report murder, rape, or lewd or lascivious act

273a Willfully ~~crucely or~~ causing unjustifiable **pain or mental suffering** ~~punishment~~ of child; endangering life or health

286 Crime of sodomy

287 Crime of oral copulation

288 Definition of lewd or lascivious act requiring reporting

289 Crime of sexual penetration

11164-11174.3 Child Abuse and Neglect Reporting Act

WELFARE AND INSTITUTIONS CODE

15630-15637 Dependent adult abuse reporting

CODE OF REGULATIONS, TITLE 5

3200-3205 4650 Filing complaints with CDE; special education students

UNITED STATES CODE, TITLE 42

11434a McKinney-Vento Homeless Assistance Act; definitions

COURT DECISIONS

Camreta v. Greene (2011) 131 S.Ct. 2020

Management Resources: (see next page)

CHILD ABUSE PREVENTION AND REPORTING (continued)

Management Resources:

CSBA PUBLICATIONS

Why Schools Hold the Promise for Adolescent Mental Health, Governance Brief, May 2019

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

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

Health Framework for California Public Schools, Kindergarten Through Grade Twelve

WEB SITES

California Attorney General's Office, Suspected Child Abuse Report Form:

~~http://www.ag.ca.gov/childabuse/pdf/ss_8572.pdf~~

https://oag.ca.gov/sites/all/files/agweb/pdfs/childabuse/ss_8572.pdf

California Department of Education, ***Child Abuse Prevention Training and Resources Safe Schools:***

~~<http://www.cde.ca.gov/ls/ss/ap>~~

California Department of Social Services, ***Information Resources Guide Children and Family***

Services Division: ~~<http://www.childsworld.ca.gov>~~

U.S. Department of Health and Human Services, Child Welfare Information Gateway:

~~<https://www.childwelfare.gov/eas>~~ **<https://www.childwelfare.gov>**

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CSBA Sample Administrative Regulation

Students

AR 5141.4(a)

CHILD ABUSE PREVENTION AND REPORTING

Note: Pursuant to Education Code 44691, ~~as amended by AB 1432 (Ch. 797, Statutes of 2014)~~, the California Department of Education (CDE) is required to disseminate information to all school districts regarding the detection and reporting of child abuse and to provide guidance on the responsibilities of mandated reporters. See ~~the CDE's~~ web site for information and resources.

Definitions

Child abuse or neglect includes the following: (Penal Code 11165.5, 11165.6)

1. A physical injury or death inflicted by other than accidental means on a child by another person

Note: Pursuant to Penal Code 11165.1, as amended by AB 1145 (Ch. 180, Statutes of 2020), sexual assault does not include voluntary conduct in violation of Penal Code 286, 287, or 289 (sodomy, oral copulation, or sexual penetration) if there are no indicators of abuse, unless such conduct is between a person who is 21 years of age or older and a minor who is under 16 years of age. ~~AB 1775 (Ch. 264, Statutes of 2014) amended Penal Code 11165.1 to revise the definition of sexual exploitation to also include knowingly downloading, streaming, or accessing through any electronic or digital media a film, photograph, videotape, video recording, negative, or slide in which a child is engaged in an act of obscene sexual conduct.~~

2. Sexual abuse of a child, including sexual assault or sexual exploitation, as defined in Penal Code 11165.1
3. Neglect of a child as defined in Penal Code 11165.2
4. Willful harming or injuring of a child or the endangering of the person or health of a child as defined in Penal Code 11165.3
5. Unlawful corporal punishment or injury as defined in Penal Code 11165.4

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

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

Child abuse or neglect does not include:

1. A mutual affray between minors (Penal Code 11165.6)
2. An injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of ~~his/her~~ employment (Penal Code 11165.5, 11165.6)

(cf. 3515.3 - District Police/Security Department)

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CHILD ABUSE PREVENTION AND REPORTING (continued)

Note: Education Code 44807 provides that physical control of a student under the conditions specified in item #3 below is not subject to criminal prosecution or penalties.

3. An injury resulting from the exercise by a teacher, vice principal, principal, or other certificated employee of the same degree of physical control over a student that a parent/guardian would be **legally** privileged to exercise, not exceeding the amount of physical control reasonably necessary to maintain order, protect property, protect the health and safety of students, or maintain proper and appropriate conditions conducive to learning (Education Code 44807)
4. An injury caused by a school employee's use of force that is reasonable and necessary to quell a disturbance threatening physical injury to persons or damage to property, **for purposes of self-defense** to protect himself/herself, or to obtain weapons or other dangerous objects within the control of a student (Education Code 49001)

(cf. 5131 - Conduct)

(cf. 5131.7 - Weapons and Dangerous Instruments)

(cf. 5144 - Discipline)

(cf. 6159.4 - Behavioral Interventions for Special Education Students)

5. Physical pain or discomfort caused by athletic competition or other such recreational activity voluntarily engaged in by a student (Education Code 49001)

(cf. 6142.7 - Physical Education and Activity)

(cf. 6145.2 - Athletic Competition)

Note: Pursuant to Penal Code 11165.15, ~~as added by AB 652 (Ch. 486, Statutes of 2013)~~, the fact that a child is homeless or is classified as an unaccompanied minor, as defined in the federal McKinney-Vento Homeless Assistance Act (42 USC 11434a), is not, in and of itself, a sufficient basis for reporting child abuse or neglect.

6. Homelessness or classification as an unaccompanied minor (Penal Code 11165.15)

Note: The following definition of "mandated reporters" does not list non-school persons (e.g., physicians, clergy members) who are also mandated to report suspected child abuse or neglect and may be revised to reflect additional positions applicable to the district as specified in Penal Code 11165.7.

Penal Code 11165.7 clarifies that volunteers whose duties require direct contact with and supervision of children are not mandated reporters. However, the law encourages volunteers to obtain training in the identification and reporting of child abuse and neglect and to report known or suspected incidents of child abuse or neglect.

Mandated reporters include, but are not limited to, teachers; instructional aides; teacher's aides or assistants; classified employees; certificated pupil personnel employees; administrative officers or supervisors of child attendance; athletic coaches, administrators,

CHILD ABUSE PREVENTION AND REPORTING (continued)

and directors; **licensees**, administrators, and employees of a licensed child day care facility; Head Start **program** teachers; district police or security officers; licensed nurses or health care providers; and administrators, presenters, and counselors of a child abuse prevention program. (Penal Code 11165.7)

Reasonable suspicion means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on **the person's his/her** training and experience, to suspect child abuse or neglect. However, *reasonable suspicion* does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect. (Penal Code 11166)

Reportable Offenses

Note: Penal Code 11166 specifies that a mandated reporter has a duty to report when acting in **a his/her** professional capacity or within the scope of employment. When a mandated reporter is acting in a private capacity, like other private citizens, **he/she has the discretion whether or not to make making a report is discretionary.**

A mandated reporter shall make a report using the procedures provided below whenever, **acting in a his/her** professional capacity or within the scope of **his/her** employment, **he/she the mandated reporter** has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. (Penal Code 11166)

Any mandated reporter who has knowledge of or who reasonably suspects that a child is suffering serious emotional damage or is at a substantial risk of suffering serious emotional damage, based on evidence of severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, may make a report to the appropriate agency. (Penal Code **11165.9**, 11166.05, 11167)

Note: Pursuant to Penal Code 152.3, it **is may be** a misdemeanor, with specified exceptions, for a witness to not report a murder, rape, or lewd or lascivious act as defined in Penal Code 288 where the victim is under age 14. Persons who fail to report such offenses may be subject to a fine and/or imprisonment.

Any district employee who reasonably believes **to have that he/she has** observed the commission of a murder, rape, or lewd or lascivious act by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury against a victim who is a child under age 14 shall notify a peace officer. (Penal Code 152.3, 288)

Responsibility for Reporting

The reporting duties of mandated reporters are individual and cannot be delegated to another person. (Penal Code 11166)

CHILD ABUSE PREVENTION AND REPORTING (continued)

When two or more mandated reporters jointly have knowledge of a known or suspected instance of child abuse or neglect, the report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report. (Penal Code 11166)

Note: Penal Code 11166.01 provides that it **may be is** a crime, punishable by a fine and/or imprisonment, for a supervisor or administrator to knowingly inhibit or impede a mandated reporter from making a report.

No supervisor or administrator shall impede or inhibit a mandated reporter from making a report. (Penal Code 11166)

Any person not identified as a mandated reporter who has knowledge of or observes a child whom **he/she the person** knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to the appropriate agency. (Penal Code 11166)

(cf. 1240 - Volunteer Assistance)

Reporting Procedures

1. Initial Telephone Report

Note: Penal Code 11165.9 specifies the agencies that are authorized to receive reports of suspected child abuse and neglect, as detailed in the following paragraph. The agency must accept a report even if it lacks subject matter or geographical jurisdiction to investigate the case; the agency is then responsible for referring the case to an agency with proper jurisdiction.

Immediately or as soon as practicable after knowing or observing suspected child abuse or neglect, a mandated reporter shall make an initial report by telephone to any police department (excluding a school district police/security department), sheriff's department, county probation department if designated by the county to receive such reports, or county welfare department. (Penal Code 11165.9, 11166)

Note: It is recommended that the district's administrative regulation include the name, address, and phone number of the appropriate agencies in its area **to whom reports should be made.**

Such reports shall be made to the following agency(ies):

Child Welfare Services

(Name of appropriate agency)

County of San Diego

(Address)

858-560-2191

(Phone number)

San Diego Police Department

Emergency: 911

Non-Emergency: (619) 531-7000

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CHILD ABUSE PREVENTION AND REPORTING (continued)

Note: The following paragraph is **optional**.

When the initial telephone report is made, the mandated reporter shall note the name of the official contacted, the date and time contacted, and any instructions or advice received.

2. Written Report

Within 36 hours of knowing or observing the information concerning the incident, the mandated reporter shall ~~then~~ prepare and either send, fax, or electronically **transmit submit** to the appropriate agency a written follow-up report, which includes a completed **California** Department of Justice (**DOJ**) form (**BCIASS** 8572). (Penal Code 11166, 11168)

Note: Pursuant to Penal Code 11168, the **California** Department of Justice (**DOJ**) form shall be distributed by the police department, sheriff's department, county probation department, or county welfare department as appropriate and is available on the ~~DOJ's Department of Justice's~~ web site. It may also be made available at the district office or school site. The following **optional** paragraph should be revised to reflect district practice.

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The ~~DOJ Department of Justice~~ form may be obtained from the district office or other appropriate agencies, such as the **police department, or sheriff's department, or county probation or welfare department** ~~or the police or sheriff's department~~.

Note: Penal Code 11167 requires the mandated reporter's ~~to give his/her~~ name when reporting known or suspected child abuse. However, the reporter's name and the report are confidential and are only disclosed in limited circumstances provided by law.

Reports of suspected child abuse or neglect shall include, if known: (Penal Code 11167)

- a. The name, business address, and telephone number of the person making the report and the capacity that makes the person a mandated reporter
- b. The child's name and address, present location, and, where applicable, school, grade, and class
- c. The names, addresses, and telephone numbers of the child's parents/guardians
- d. The name, address, telephone number, and other relevant personal information about the person(s) who might have abused or neglected the child

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CHILD ABUSE PREVENTION AND REPORTING (continued)

- e. The information that gave rise to the reasonable suspicion of child abuse or neglect and the source(s) of that information

The mandated reporter shall make a report even if some of this information is not known or is uncertain to **the mandated reporter him/her**. (Penal Code 11167)

The mandated reporter may give to an investigator from an agency investigating the case, including a licensing agency, any information relevant to an incident of child abuse or neglect or to a report made for serious emotional damage pursuant to Penal Code 11166.05. (Penal Code 11167)

Note: Item #3 below is **optional** and may be revised to reflect district practice. Pursuant to Penal Code 11166, school districts may establish internal reporting procedures encouraging employees to notify supervisors and administrators of reports that are made. These internal procedures must not inhibit or impede immediate and direct reporting by employees to appropriate agencies, **direct an employee to allow the employee's supervisor to file or process a mandated report under any circumstances, or require any employee to disclose the employee's identity to the employer.** ~~Penal Code 11166 prohibits internal procedures from requiring the employee to make a report to the district or requiring that the identity of the mandated reporter be disclosed to the district.~~

3. Internal Reporting

The mandated reporter shall not be required to disclose **the mandated reporter's his/her** identity to **his/her a** supervisor, the principal, or the Superintendent or designee. (Penal Code 11166)

However, employees reporting child abuse or neglect to an appropriate agency are encouraged, but not required, to notify the principal as soon as possible after the initial telephone report to the appropriate agency. When so notified, the principal shall inform the Superintendent or designee.

The principal so notified shall provide the mandated reporter with any assistance necessary to ensure that reporting procedures are carried out in accordance with law, Board policy, and administrative regulation. At the mandated reporter's request, the principal may assist in completing and filing the necessary forms.

Reporting the information to an employer, supervisor, principal, school counselor, co-worker, or other person shall not be a substitute for making a mandated report to the appropriate agency. (Penal Code 11166)

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CHILD ABUSE PREVENTION AND REPORTING (continued)

Training

~~Note: As amended by AB 1432 (Ch. 797, Statutes of 2014), Education Code 44691 and Penal Code 11165.7 require districts to annually train their employees and any other mandated reporters working on their behalf regarding the duties of mandated reporters. Education Code 44691, as amended, also requires the CDE to develop an online training module to be provided to the California Department of Social Services for use by districts.~~

Within the first six weeks of each school year, **or within the first six weeks of employment if hired during the school year**, the Superintendent or designee shall provide training on mandated reporting requirements to district employees and persons working on their behalf who are mandated reporters. **Any school personnel hired during the school year shall receive such training within the first six weeks of employment.** (Education Code 44691; Penal Code 11165.7)

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Note: Education Code 44691 requires school districts to use the online training module provided by the California Department of Social Services **(CDSS), available on the CDSS web site**. However, if the online training module is not used, the Superintendent or designee is required to report to ~~the~~ CDE regarding the training being used in its place.

The Superintendent or designee shall use the online training module provided by the California Department of Social Services **(CDSS)**. (Education Code 44691)

The training shall include, but not necessarily be limited to, training in identification and reporting of child abuse and neglect. In addition, the training shall include information that failure to report an incident of known or reasonably suspected child abuse or neglect as required by law is a misdemeanor punishable by imprisonment and/or a fine as specified. (Education Code 44691; Penal Code 11165.7)

Note: Education Code 44691, **as amended by AB 1432 (Ch. 797, Statutes of 2014)**, requires districts to develop a process by which all persons required to receive training must provide proof of receiving the training (e.g., the use of a sign-in sheet, submission of a certificate of completion). The following paragraph may be revised to reflect district practice.

The Superintendent or designee shall obtain and retain proof of each mandated reporter's completion of the training. (Education Code 44691)

Note: The following **optional** paragraph may be revised to reflect district practice. Education Code 44691, **as amended by AB 1058 (Ch. 748, Statutes of 2015)**, encourages districts to provide training to all school employees, at least once every three years, on the prevention of child abuse on school grounds, by school personnel, or in school-sponsored programs. **As amended, Pursuant to** Education Code 44691, **also requires**

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CHILD ABUSE PREVENTION AND REPORTING (continued)

~~the CDE's web site includes to establish~~ best practices for prevention of abuse and ~~to provide links on its web site~~ to training resources.

In addition, at least once every three years, school personnel may receive training in the prevention of child abuse, including sexual abuse, on school grounds, by school personnel, or in school-sponsored programs. (Education Code 44691)

Victim Interviews by Social Services

Note: Penal Code 11174.3 authorizes a representative from ~~the Department of Social Services CDSS~~ or another government agency investigating suspected child abuse or neglect to interview a student during school hours, on school grounds, concerning a report of child abuse or neglect that occurred at home or in an out-of-home care facility. However, there is no clear guidance regarding the procedures to be followed if a social worker is accompanied by law enforcement. In Greene v. Camreta, the 9th Circuit Court of Appeals had ruled that, absent exigent circumstances, a social worker and sheriff could not question a student in school without obtaining a warrant, court order, or parent/guardian consent. Subsequently, that ruling was vacated by the U.S. Supreme Court on appeal (Camreta v. Greene) since the case was then moot. Districts should proceed with caution and consult ~~with~~ legal counsel as necessary.

Whenever ~~the Department of Social Services CDSS~~ or another government agency is investigating suspected child abuse or neglect that occurred within the child's home or out-of-home care facility, the student may be interviewed by an agency representative during school hours, on school premises. The Superintendent or designee shall give the student the choice of being interviewed in private or in the presence of any adult school employee or volunteer aide selected by the student. (Penal Code 11174.3)

A staff member or volunteer aide selected by a child may decline to be present at the interview. If the selected person accepts, the principal or designee shall inform ~~the person him/her~~ of the following requirements **prior to the interview**: (Penal Code 11174.3)

1. The purpose of the selected person's presence at the interview is to lend support to the child and enable ~~the child him/her~~ to be as comfortable as possible.
2. The selected person shall not participate in the interview.
3. The selected person shall not discuss the facts or circumstances of the case with the child.
4. The selected person is subject to the confidentiality requirements of the Child Abuse and Neglect Reporting Act, a violation of which is punishable as specified in Penal Code 11167.5.

If a staff member agrees to be present, the interview shall be held at a time during school hours when it does not involve an expense to the school. (Penal Code 11174.3)

CHILD ABUSE PREVENTION AND REPORTING (continued)**Release of Child to Peace Officer**

When a child is released to a peace officer and taken into custody as a victim of suspected child abuse or neglect, the Superintendent or designee and/or principal shall not notify the parent/guardian, but rather shall provide the peace officer with the address and telephone number of the child's parent/guardian. (Education Code 48906)

(cf. 5145.11 - Questioning and Apprehension by Law Enforcement)

Parent/Guardian Complaints

Note: Education Code 48987 requires the district, **upon request**, to disseminate guidelines, ~~upon request,~~ **adopted by CDE** advising parents/guardians of procedures for filing child abuse complaints. ~~As required by Education Code 33308.1, the CDE has prepared sample guidelines for this purpose, which were updated in March 2014 and~~ Such **sample guidelines** are available on ~~the~~ CDE's web site.

Claims against the district for childhood sexual assault are governed by the timelines and procedures specified in Code of Civil Procedure 340.1; see AR 3320 - Claims and Actions Against the District.

Upon request, the Superintendent or designee shall provide parents/guardians with procedures for reporting suspected child abuse occurring at a school site to appropriate agencies. For parents/guardians whose primary language is not English, such procedures shall be in their primary language and, when communicating orally regarding those **guidelines and/or** procedures, an interpreter shall be provided.

To file a complaint against a district employee or other person suspected of child abuse or neglect at a school site, parents/guardians may file a report by telephone, in person, or in writing with any appropriate agency identified above under "Reporting Procedures." If a parent/guardian makes a complaint about an employee to any other employee, the employee receiving the information shall notify the parent/guardian of procedures for filing a complaint with the appropriate agency. **The employee shall also file a report when obligated to do so pursuant to Penal Code 11166 using the procedures described above for mandated reporters.** ~~The employee also is obligated pursuant to Penal Code 11166 to file a report himself/herself using the procedures described above for mandated reporters.~~

(cf. 1312.1 - Complaints Concerning District Employees)

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

Note: **5 CCR 3201, as added by Register 2020, No. 21, authorizes p**Parents/guardians of special education students ~~also may to~~ file a complaint with ~~the~~ CDE as provided in the following paragraph. ~~The~~ CDE does not investigate allegations of child abuse or neglect, but may investigate conditions that may involve **immediate physical safety concerns as such concerns interfere with the provision of danger or** ~~threaten the health, safety, or welfare of the child and which may result in denial of a free appropriate public education.~~

CHILD ABUSE PREVENTION AND REPORTING (continued)

In addition, if the child is enrolled in special education, a separate complaint may be filed with the California Department of Education pursuant to 5 CCR **3200-3205 4650**.

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

Notifications

The Superintendent or designee shall provide to all new employees who are mandated reporters a statement that informs them of their status as mandated reporters, their reporting obligations under Penal Code 11166, and their confidentiality rights under Penal Code 11167. The district also shall provide these new employees with a copy of Penal Code 11165.7, 11166, and 11167. (Penal Code 11165.7, 11166.5)

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

Before beginning employment, any person who will be a mandated reporter by virtue of **the person's** ~~his/her~~ position shall sign a statement indicating ~~that he/she has~~ knowledge of the reporting obligations under Penal Code 11166 and **will comply** with ~~these such~~ provisions. The signed statement shall be retained by the Superintendent or designee. (Penal Code 11166.5)

Employees who work with dependent adults shall be notified of legal responsibilities and reporting procedures pursuant to Welfare and Institutions Code 15630-15637.

Note: The remainder of this section is **optional** and should be deleted by districts that do not provide these additional notifications.

The Superintendent or designee also shall notify all employees that:

1. A mandated reporter who reports a known or suspected instance of child abuse or neglect shall not be held civilly or criminally liable for making a report and this immunity shall apply even if the mandated reporter acquired the knowledge or reasonable suspicion of child abuse or neglect outside of **the mandated reporter's** ~~his/her~~ professional capacity or outside the scope of ~~his/her~~ employment. Any other person making a report shall not incur civil or criminal liability unless it can be proven that **the person** ~~he/she~~ knowingly made a false report or made a report with reckless disregard of the truth or falsity of the report. (Penal Code 11172)
2. If a mandated reporter fails to timely report an incident of known or reasonably suspected child abuse or neglect, **the mandated reporter** ~~he/she~~ may be guilty of a crime punishable by a fine and/or imprisonment. (Penal Code 11166)

CHILD ABUSE PREVENTION AND REPORTING (continued)

3. No employee shall be subject to any sanction by the district for making a report unless it can be shown that **the employee** ~~he/she~~ knowingly made a false report or made a report with reckless disregard of the truth or falsity of the report. (Penal Code 11166, **11172**)

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CSBA Sample Board Policy

Students

BP 5141.52(a)

SUICIDE PREVENTION

Note: Education Code 215 mandates that the Governing Board of any district serving students in grades K-12 adopt a policy on student suicide prevention, intervention, and postvention (i.e., intervention conducted after a suicide) with specified components. AB 1767 (Ch. 694, Statutes of 2019) amended Education Code 215 to mandate policy on suicide prevention, intervention, and postvention for students in grades K-6 beginning in the 2020-21 school year. The required components are addressed in the following policy and the accompanying administrative regulation.

The following policy is consistent with the California Department of Education's ~~Also see the California Department of Education's~~ (CDE) Model Youth Suicide Prevention Policy, which also includes an extensive list of resources to assist in the prevention, intervention, and postvention of student suicide. ~~developed pursuant to Education Code 215.~~ Districts are encouraged to work closely with their county behavioral health department to identify and access resources at the local level.

The Mental Health Services Oversight and Accountability Commission developed a suicide prevention plan for the state which is published in Striving for Zero: California's Strategic Plan for Suicide Prevention 2020-2025, available on its web site. The plan presents strategic aims, with related goals, objectives, and an implementation schedule. Districts may find the strategic plan useful in learning more about the stigma associated with behavioral health needs, myths and misconceptions about suicidal behavior and its hinderance to prevention efforts, suicidal behavior, risk and protective factors, and best practices in suicide prevention.

The following policy and accompanying administrative regulation should be revised to reflect district practice and the grade levels offered by the district.

The Governing Board recognizes that suicide is a leading cause of death among youth, **prevention is a collective effort that requires stakeholder engagement**, and ~~that~~ school personnel who regularly interact with students are often in a position to recognize the warning signs of suicide and to offer appropriate referral and/or assistance. In an effort to reduce suicidal behavior, ~~and~~ its impact on students and families, **and other trauma associated with suicide**, the Superintendent or designee shall develop measures, ~~and~~ strategies, **practices, and supports** for suicide prevention, intervention, and postvention.

Note: Pursuant to Education Code 215, as amended by AB 1767, the district's suicide prevention policy ~~must be developed in consultation with school and community stakeholders, school-employed mental health professionals, suicide prevention experts, and, for policy for grades K-6, the county mental health plan. According to CDE's Model Youth Suicide Prevention Policy, school-employed mental health professionals may include school counselors, psychologists, social workers, and nurses. CDE's model policy also includes consultation with administrators, other school staff, parents/guardians, students, local health agencies and professionals, law enforcement, and community organizations.~~

It is recommended that districts ~~also consult with legal counsel and the district's risk manager or insurance carrier, as appropriate.~~

SUICIDE PREVENTION (continued)

In developing policy and **procedures strategies** for suicide prevention, **and**-intervention, **and postvention**, the Superintendent or designee shall consult with school and community stakeholders, ~~such as administrators, other staff, parents/guardians and students; school-employed mental health professionals, such as school counselors, school psychologists, school social workers, and school nurses;~~ **suicide prevention experts, such as local health agencies, mental health professionals, and community organizations; law enforcement;** and, in developing policy for grades K-6, the county mental health plan. (Education Code 215)

(cf. 1220 - Citizen Advisory Committees)

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

Note: The following optional paragraph may be revised to reflect district practice. Education Code 215 does not define "school and community stakeholders" or "school-employed mental health professionals" who must be consulted in the development of policy. The following examples are consistent with CSBA and CDE recommendations.

School and community stakeholders and school mental health professionals with whom the Superintendent or designee shall consult may include district and school administrators, school counselors, school psychologists, school social workers, school nurses, other staff, parents/guardians and caregivers, students, local health agencies, mental health professionals, community organizations, law enforcement, legal counsel, and/or the district's risk manager or insurance carrier. The Superintendent or designee may also collaborate with county and/or city governments in an effort to align district policy with any existing community suicide prevention plans.

~~Note: Education Code 215, as amended by AB 1767, requires that the district's policy for students in grades K-6 be age appropriate and delivered and discussed in a manner that is sensitive to the needs of young students. The following paragraph is for use by districts that serve K-6 students, and may be revised as appropriate for the student population served by the district.~~

~~The Board shall ensure that measures and strategies for students in grades K-6 are age appropriate and delivered and discussed in a manner that is sensitive to the needs of young students. (Education Code 215)~~

Measures and strategies for suicide prevention, intervention, and postvention shall include, but are not limited to:

Note: Education Code 215, as amended by AB 1767, mandates that the district's policy address any training on suicide awareness and prevention to be provided to teachers of students in all grade levels served by the district. See the accompanying administrative regulation for additional language fulfilling this mandate. In addition, Education Code 49604 encourages each district to provide suicide prevention training at least once to each middle, junior high, and high school counselor. Item #1 **may should be revised to specify **the other** categories of employees who will receive the training.**

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SUICIDE PREVENTION (continued)

1. Staff development on suicide awareness and prevention for teachers, **interns**, school counselors, and others ~~district employees~~ who interact with students, **including, as appropriate, substitute teachers, coaches, expanded day learning staff, crossing guards, tutors, and volunteers**, as described in the accompanying administrative regulation

(cf. 1240 - Volunteer Assistance)

(cf. 4112.21 - Interns)

(cf. 4121 - Temporary/Substitute Personnel)

(cf. 4127/4227/4327 - Temporary Athletic Team Coaches)

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

(cf. 5142 - Safety)

(cf. 5148 - Child Care and Development)

(cf. 5148.2 - Before/After School Programs)

(cf. 6145.2 - Athletic Competition)

Note: Items #2-79 below reflect **optional** strategies for suicide prevention, intervention, and postvention and may be revised to reflect district practice.

2. Instruction to students in problem-solving, ~~and~~ coping, **and resiliency** skills to promote students' mental, emotional, and social health and well-being, as well as instruction in recognizing and appropriately responding to warning signs of suicidal intent in others

(cf. 6142.8 - Comprehensive Health Education)

3. Methods for promoting a positive school climate that enhances students' feelings of connectedness with the school and that is characterized by caring staff and harmonious interrelationships among students

(cf. 5131 - Conduct)

(cf. 5131.2 - Bullying)

(cf. 5137 - Positive School Climate)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

(cf. 5145.9 - Hate-Motivated Behavior)

4. **The review of materials and resources used in awareness efforts and communications to ensure they align with best practices for safe and effective messaging about suicide**

SUICIDE PREVENTION (continued)

54. The provision of information to parents/guardians **and caregivers** regarding risk **and protective** factors, ~~and~~-warning signs of suicide, the severity of the suicide problem among youth, the district's suicide prevention curriculum, **the district's suicide prevention policy and procedures**, basic steps for helping suicidal youth, **the importance of communicating with appropriate staff if suicide risk is present or suspected**, **access to suicide prevention training**, and/or school and community resources that can help youth in crisis
65. Encouragement for students to notify appropriate school personnel or other adults when they are experiencing thoughts of suicide or when they suspect or have knowledge of another student's suicidal intentions
76. Crisis intervention procedures for addressing suicide threats or attempts
87. Counseling and other postvention strategies for helping students, staff, and others cope in the aftermath of a student's suicide

Note: The National Association of School Psychologists recommends that the district and/or school sites create a suicide prevention crisis team to assist in effectively identifying and intervening with students who are at risk of suicidal behavior, including adoption and implementation of policies and procedures. It is recommended that such teams include, at a minimum, administration, mental health staff, and school security personnel. The same crisis intervention team may be established to address broader mental health concerns as described in BP 5141.5 - Mental Health.

9. **Establishment of district and/or school-site crisis intervention team(s) to ensure the proper implementation and review of this policy and other district practices related to the emotional and behavioral wellness of students, including, but not limited to, the oversight of mental health and suicide prevention training, collaboration with community mental health organizations, identification of resources and organizations that provide evidence-based treatment, collaboration to build community response, and compliance with Education Code 215**

(cf. 5141.5 - Mental Health)

Note: Education Code 215 **mandates** that the district's policy specifically address the needs of high-risk groups, including, but not limited to, those listed in the following paragraph. See the accompanying administrative regulation for additional language fulfilling this mandate.

As appropriate, these measures and strategies shall specifically address the needs of students who are at high risk of suicide, including, but not limited to, students who are bereaved by suicide; students with disabilities, mental illness, or substance use disorders; students who are experiencing homelessness or who are in out-of-home settings such as foster care; and students who are lesbian, gay, bisexual, transgender, or questioning. (Education Code 215)

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SUICIDE PREVENTION (continued)

Note: The following two paragraphs are ~~is~~ for use by districts that serve students in grades K-6. Education Code 215, as amended by AB 1767, ~~mandates that the district's policy for students in grades K-6 ensure proper coordination and consultation with the county mental health plan if a referral is made for mental health or related services on behalf of a student who is a Medi-Cal beneficiary.~~

The Board shall ensure that measures and strategies for students in grades K-6 are age appropriate and delivered and discussed in a manner that is sensitive to the needs of young students. (Education Code 215)

If a referral is made for mental health or related services for a student in grade K-6 who is a Medi-Cal beneficiary, the Superintendent or designee shall coordinate and consult with the county mental health plan. (Education Code 215)

(cf. 5141.6 - School Health Services)

District employees shall act only within the authorization and scope of their credential or license. Nothing in this policy shall be construed as authorizing or encouraging district employees to diagnose or treat mental illness unless they are specifically licensed and employed to do so. (Education Code 215)

Note: Education Code 215 requires that the district's student suicide prevention policy be updated at least every five years. Given the severity of the issue and importance of maintaining an up-to-date suicide prevention policy, CSBA and CDE recommend reviewing and updating this policy annually. The following paragraph may be revised to reflect district practice.

The Board shall review, and update as necessary, this policy at least every five years. **The Board may, at its discretion, review the policy more frequently.** (Education Code 215)

The Superintendent or designee shall periodically review district data pertaining to school climate and reports of suicidal ideation, attempts, or death to identify patterns or trends and make recommendations regarding program development.

Note: Education Code 234.6, as added by AB 34 (Ch. 282, Statutes of 2019), requires districts, beginning in the 2020-21 school year, to ensure that the district's suicide prevention policies for grades K-6 and 7-12 be readily accessible in a prominent location on the district's web site in a manner that is easily accessible to parents/guardians and students.

The Superintendent or designee shall post this policy on the district's web site, in a prominent location and in a manner that is easily accessible to parents/guardians and students. (Education Code 234.6)

Legal Reference: (see next page)

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SUICIDE PREVENTION (continued)

Legal Reference:

EDUCATION CODE

215 Student suicide prevention policies

215.5 Suicide prevention hotline contact information on student identification cards

216 Suicide prevention online training programs

234.6 Posting suicide prevention policy on web site

32280-32289.5 Comprehensive safety plan

49060-49079 Student records

49602 **Counseling; Confidentiality of student information**

49604 Suicide prevention training for school counselors

GOVERNMENT CODE

810-996.6 Government Claims Act

PENAL CODE

11164-11174.3 Child Abuse and Neglect Reporting Act

WELFARE AND INSTITUTIONS CODE

5698 Emotionally disturbed youth; legislative intent

5850-5886 Children's Mental Health Services Act

COURT DECISIONS

Corales v. Bennett (Ontario-Montclair School District) (2009) 567 F.3d 554

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Health Framework for California Public Schools, Kindergarten Through Grade Twelve, 2019

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

Health Framework for California Public Schools, Kindergarten Through Grade Twelve, 2019

Model Youth Suicide Prevention Policy

CALSCHLS PUBLICATIONS

California Healthy Kids Survey (CHKS)

California School Parent Survey (CSPS)

California School Staff Survey (CSSS)

CENTERS FOR DISEASE CONTROL AND PREVENTION PUBLICATIONS

School Connectedness: Strategies for Increasing Protective Factors Among Youth, 2009

EACH MIND MATTERS: CALIFORNIA'S MENTAL HEALTH MOVEMENT PUBLICATIONS

Making Headlines: Guide to Engaging the Media in Suicide Prevention in California, 2012

HEARD ALLIANCE PUBLICATIONS

K-12 Toolkit for Mental Health Promotion and Suicide Prevention, 2017

MENTAL HEALTH SERVICES OVERSIGHT AND ACCOUNTABILITY COMMUNICATIONS PUBLICATIONS

Striving for Zero: California's Strategic Plan for Suicide Prevention 2020-2025

NATIONAL ASSOCIATION OF SCHOOL PSYCHOLOGISTS PUBLICATIONS

Preventing Suicide: Guidelines for Administrators and Crisis Teams, 2015

SUICIDE PREVENTION RESOURCE CENTER PUBLICATIONS

After a Suicide: A Toolkit for Schools, 2nd Edition, 2018

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES PUBLICATIONS

National Strategy for Suicide Prevention: Goals and Objectives for Action, rev. 2012

Preventing Suicide: A Toolkit for High Schools, 2012

Management Resources continued: (see next page)

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SUICIDE PREVENTION (continued)

Management Resources: (continued)

WEB SITES

American Academy of Pediatrics: <https://www.healthychildren.org>
American Association of Suicidology: <http://www.suicidology.org>
American Foundation for Suicide Prevention: <https://afsp.org>
American Psychological Association: <http://www.apa.org>
American School Counselor Association: <https://www.schoolcounselor.org>
California Department of Education, Mental Health: <http://www.cde.ca.gov/ls/cg/mh>
California Department of Health Care Services, Mental Health Services:
<http://www.dhcs.ca.gov/services/MH>
California Mental Health Services Authority: <https://www.calmhsa.org>
CalSCHLS: <https://calschls.org>
Centers for Disease Control and Prevention, Mental Health: <http://www.cdc.gov/mentalhealth>
Crisis Text Line: <https://www.crisistextline.org>
Each Mind Matters: California's Mental Health Movement: <https://emmresourcecenter.org>
HEARD Alliance: <https://www.heardalliance.org>
Mental Health Services Oversight and Accountability Commission: <https://mhsaac.ca.gov>
National Action Alliance for Suicide Prevention: <https://theactionalliance.org>
National Association of School Psychologists: <https://www.nasponline.org>
National Child Traumatic Stress Network: <https://www.nctsn.org>
National Institute for Mental Health: <http://www.nimh.nih.gov>
Substance Abuse and Mental Health Services Administration: <https://www.samhsa.gov>
Suicide Prevention Lifeline: <https://suicidepreventionlifeline.org>
Suicide Prevention Messaging: <https://suicidepreventionmessaging.org>
Suicide Prevention Resource Center: <https://www.sprc.org/about-suicide>
~~**Suicide Prevention Lifeline:** <https://suicidepreventionlifeline.org>~~
Trevor Project: <http://thetrevorproject.org>
U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration: <http://www.samhsa.gov>

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CSBA Sample Administrative Regulation

Students

AR 5141.52(a)

SUICIDE PREVENTION

Note: Education Code 215, ~~as amended by AB 1767 (Ch. 694, Statutes of 2019),~~ **mandates** policy on suicide prevention, intervention, and postvention for grades ~~K7-12 and, beginning in the 2020-21 school year, for grades K-6.~~ See the accompanying Board policy. The following administrative regulation provides additional strategies that fulfill the mandate and may be revised to reflect district practice. Pursuant to Education Code 215, the following regulation should be developed in consultation with school and community stakeholders, school-employed mental health professionals, suicide prevention experts, and, in developing strategies for grades K-6, the county mental health plan.

Examples of suicide prevention strategies are also available in the California Department of Education's (CDE) Model Youth Suicide Prevention Policy, **Mental Health Services Oversight and Accountability Commission's (MHSOAC) Striving for Zero: California's Strategic Plan for Suicide Prevention 2020-2025**, the U.S. Department of Health and Human Services publication Preventing Suicide: A Toolkit for High Schools, and resources issued by other state and federal agencies and organizations. For further information about strategies to protect students from bullying, cyberbullying, and other harassment, see BP 5131 - Conduct, BP 5131.2 - Bullying, BP 5145.3 - Nondiscrimination/Harassment, **BP/AR 5145.7 - Sexual Harassment**, and BP 5145.9 - Hate-Motivated Behavior.

Staff Development

Note: Education Code 215, ~~as amended by AB 1767,~~ **mandates** that the district's policy address any training on suicide awareness and prevention to be provided to teachers of students in all grade levels served by the district. In addition, Education Code 49604 encourages each district to provide suicide prevention training at least once to each middle, junior high, and high school counselor.

CDE recommends that employees receive training on the core components of suicide prevention at the beginning of employment, and also receive training each year on risk factors, protective factors, warning signs of suicide, suicide prevention, intervention, referral, and postvention, with a minimum of one hour of general suicide prevention training. The following section ~~may~~ **should** be revised to reflect district practice.

Education Code 216 requires CDE to identify evidence-based online training program(s), aligned with the requirements of Education Code 215, that districts ~~may~~ **can** use to train students and staff.

~~Additionally,~~ **Education Code 216 also requires CDE,** dependent upon funds being appropriated in the annual Budget Act, ~~CDE will to~~ provide grants, upon application, to county offices of education for the acquisition of such training programs to disseminate to districts at no cost.

Suicide prevention training shall be provided to teachers, **interns**, counselors, and others ~~district employees~~ who interact with students, **including, as appropriate, substitute teachers, coaches, expanded day learning staff, crossing guards, tutors, and volunteers.** The training shall be offered under the direction of a district counselor, ~~psychologist,~~ **and/or social worker who has received advanced training specific to suicide and who may collaborate and/or in cooperation** with one or more **county or** community mental health agencies.

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SUICIDE PREVENTION (continued)

(cf. 1240 - Volunteer Assistance)
(cf. 4112.21 - Interns)
(cf. 4121 - Temporary/Substitute Personnel)
(cf. 4127/4227/4327 - Temporary Athletic Team Coaches)
(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)
(cf. 5142 - Safety)
(cf. 5148 - Child Care and Development)
(cf. 5148.2 - Before/After School Programs)
(cf. 6145.2 - Athletic Competition)

Materials for training shall include how to identify appropriate mental health services at the school site and within the community, and when and how to refer youth and their families to those services. Materials also may include programs that can be completed through self-review of suitable suicide prevention materials. (Education Code 215)

Additionally, Staff development shall include research and information related to the following topics:

Note: Education Code 215 **mandates** that the district's policy specifically address the needs of high-risk groups; see the accompanying Board policy. One strategy to specifically address their needs is to increase staff awareness of the higher rates of suicide among these groups, as provided in item #1 below.

1. The higher risk of suicide among certain groups, including, but not limited to, students who are impacted by suicide; students with disabilities, mental illness, or substance use disorders; students who are experiencing homelessness or who are in out-of-home settings such as foster care; and students who are lesbian, gay, bisexual, transgender, or questioning

Note: Staff development may include training about individual risk factors associated with suicide, as provided in item #2 below. Information about risk factors is available from **MHSOAC's Striving for Zero: California's Strategic Plan for Suicide Prevention 2020-2025** ~~CDE~~, the Centers for Disease Control and Prevention, American Association of Suicidology, American Foundation for Suicide Prevention, Trevor Project, and other **publications**, agencies, and organizations.

2. Individual risk factors such as previous suicide attempt(s) or self-harm, history of depression or mental illness, family history of suicide or violence, feelings of isolation, interpersonal conflicts, a recent severe **or traumatic** stressor or loss, family instability, impulsivity, and other factors

(cf. 5131.6 - Alcohol and Other Drugs)

SUICIDE PREVENTION (continued)

3. **Identification of students who may be at risk of suicide, including, but not limited to,** warning signs that may indicate depression, emotional distress, or suicidal intentions, such as changes in students' personality or behavior and verbalizations of hopelessness or suicidal intent
4. Protective factors that may help to decrease a student's suicide risk, such as resiliency, problem-solving ability, access to mental health care, and positive connections to family, peers, school, and community
5. Instructional strategies for teaching the suicide prevention curriculum, **and promoting mental and emotional health, reducing the stigma associated with mental illness, and using safe and effective messaging about suicide**

6. The importance of early prevention and intervention in reducing the risk of suicide

- 76.** School and community resources and services, including resources and services that meet the specific needs of high-risk groups

(cf. 5141.6 - School Health Services)
(cf. 6164.2 - Guidance/Counseling Services)

- 87.** Appropriate ways to interact with a student who is demonstrating emotional distress or is suicidal and procedures for intervening when a student attempts, threatens, or discloses the desire to die by suicide, including, but not limited to, appropriate protocols for **constant monitoring and supervision of the student, during the time the student is in the school's physical custody,** while the immediate referral of the student to medical or mental health services is being processed

- 98.** District procedures for responding after a suicide has occurred

10. Common misconceptions about suicide

The district may provide additional professional development in suicide risk assessment and crisis intervention to district mental health professionals, including, but not limited to, school counselors, psychologists, social workers, and nurses.

Instruction

Note: The state's content standards for health education include voluntary standards pertaining to mental, emotional, and social health at selected elementary and secondary grades and suicide prevention instruction at grade 7 or 8 and in high school.

SUICIDE PREVENTION (continued)

CDE recommends that the instruction be under the supervision of district-employed mental health professionals following consultation with county and community health agencies, and that it be incorporated into areas of the curriculum in addition to health classes.

The district's comprehensive health education program shall promote the healthy mental, emotional, and social development of students and shall be aligned with the state content standards and curriculum framework. Suicide prevention instruction shall be incorporated into the health education curriculum in an age **and developmentally** appropriate manner and shall be designed to help students:

1. Identify and analyze **warning signs** ~~of~~ **and risk factors associated with suicide, including, but not limited to, understanding how mental health challenges and emotional distress, such as** ~~depression and self-destructive behaviors in oneself and others and understand how~~ feelings of depression, loss, isolation, inadequacy, and anxiety, can lead to thoughts of suicide
2. Develop coping and resiliency skills **for dealing with stress and trauma, and building** self-esteem
3. Learn to listen, be honest, share feelings, and get help when communicating with friends who show signs of suicidal intent
4. Identify **trusted adults;** school resources, **including the district's suicide prevention, intervention, and referral procedures;** and/or community crisis intervention resources where youth can get help **and recognize that there is no stigma associated with seeking services for mental health, substance abuse, and/or suicide prevention**

(cf. 5131.6 - Alcohol and Other Drugs)

(cf. 5141.6 - School Health Services)

(cf. 6142.8 - Comprehensive Health Education)

(cf. 6164.2 - Guidance/Counseling Services)

5. **Develop help-seeking strategies** and recognize that there is no stigma associated with seeking services for mental health, substance abuse, and/or suicide prevention

(cf. 5131.6 - Alcohol and Other Drugs)

6. **Recognize that early prevention and intervention can drastically reduce the risk of suicide**

The Superintendent or designee may develop and implement school activities that raise awareness about mental health wellness and suicide prevention.

SUICIDE PREVENTION (continued)

(cf. 6145.8 - Assemblies and Special Events)

Student Identification Cards

Note: The following section is for use by districts that serve students in grades 7-12. Education Code 215.5 requires districts that issue or reissue student identification cards to have printed on either side of the card the telephone number of the National Suicide Prevention Lifeline (1-800-273-8255), and allows to have printed on the card the Crisis Text Line (texting HOME to 741741) and/or a local suicide prevention hotline telephone number. ~~If, as of July 1, 2020, the district has unissued student identification cards that do not comply with the above requirements, the cards should be issued until the supply is depleted.~~

Student identification cards for students in grades 7-12 shall include the National Suicide Prevention Lifeline telephone number and may also include the Crisis Text Line and/or a local suicide prevention hotline telephone number. (Education Code 215.5)

Intervention

Note: Education Code 215 mandates that the district's policy and procedures address suicide intervention. The following section should be revised to reflect district practice. ~~In addition, the district may choose to incorporate crisis intervention strategies in its comprehensive school safety plan adopted pursuant to Education Code 32280-32289.5; see BP/AR 0450 - Comprehensive Safety Plan.~~

~~The following paragraph is for use by districts that have formed and trained district and/or school site crisis intervention team(s) to assist with suicide intervention; see the accompanying Board policy. The National Association of School Psychologists (NASP) recommends that crisis intervention teams assign one or more individuals as a "designated reporter" to receive and act upon all reports from teachers, other staff, and students who may be suicidal.~~

~~In addition, the district may choose to incorporate crisis intervention strategies in its comprehensive school safety plan adopted pursuant to Education Code 32280-32289.5; see BP/AR 0450 - Comprehensive Safety Plan.~~

NS *X* ~~The Superintendent or designee shall provide the name, title, and contact information of the members of the district and/or school crisis intervention team(s) to students, staff, parents/guardians, and caregivers and on school and district web sites. Such notifications shall identify the mental health professional who serves as the crisis intervention team's designated reporter to receive and act upon reports of a student's suicidal intention.~~

Students shall be encouraged to notify a teacher, principal, counselor, **designated reporter**, or other adult when they are experiencing thoughts of suicide or when they suspect or have knowledge of another student's suicidal intentions.

SUICIDE PREVENTION (continued)

Every statement regarding suicidal intent shall be taken seriously. Whenever a staff member suspects or has knowledge of a student's suicidal intentions based on the student's verbalizations or act of self-harm, the staff member shall promptly notify the principal, ~~or~~ school counselor, **or designated reporter**, who shall implement district intervention protocols as appropriate.

Note: Education Code 49602 generally protects the confidentiality of information of a personal nature disclosed to a school counselor by a student age 12 years or older or by a parent/guardian. However, in certain circumstances, the counselor may disclose such information to avert a clear and present danger to the health, safety, or welfare of the student or others within in the school community. Also see BP 6164.2 - Guidance/Counseling Services.

Although any personal information that a student discloses to a school counselor shall generally not be revealed, released, ~~referenced, or~~ discussed, **or referred to** with third parties, the counselor may report to the principal or student's parents/guardians when there is reasonable cause to believe that disclosure is necessary to avert a clear and present danger to the health, safety, or welfare of the student or others within the school community. In addition, the counselor may disclose information of a personal nature to psychotherapists, other health care providers, or the school nurse for the sole purpose of referring the student for treatment, **or to report child abuse and neglect as required by Penal Code 11164-11174.3**. (Education Code 49602)

(cf. 5141 - Health Care and Emergencies)

Whenever schools establish a peer counseling system to provide support for students, peer counselors shall receive training that includes identification of the warning signs of suicidal behavior and referral of a suicidal student to appropriate adults.

(cf. 5138 - Conflict Resolution/Peer Mediation)

When a suicide attempt or threat is reported, the principal or designee shall ensure student safety by taking the following actions:

1. Immediately securing medical treatment and/or mental health services as necessary
2. Notifying law enforcement and/or other emergency assistance if a suicidal act is being actively threatened
3. Keeping the student under continuous adult supervision **and providing comfort to the student** until the parent/guardian and/or appropriate support agent or agency can be contacted and has the opportunity to intervene
4. Removing other students from the immediate area as soon as possible

SUICIDE PREVENTION (continued)

(cf. 0450 - Comprehensive Safety Plan)
~~*(cf. 5141 - Health Care and Emergencies)*~~

The principal or designee shall document the incident in writing, including the steps that the school took in response to the suicide attempt or threat.

(cf. 5125 - Student Records)

Note: The following paragraph is **optional**. If a student's parents/guardians refuse or neglect to access treatment for a student who has been identified to be at risk for suicide, the Superintendent or designee shall consider whether a referral to child protective services for child neglect is needed. Pursuant to Penal Code 11164-11174.3, the Child Abuse and Neglect Reporting Act, school employees who are mandated reporters are required to report child abuse or neglect, as defined in law, when they have knowledge of or reasonably suspect that a child is a victim of child abuse or neglect. See BP/AR 5141.4 - Child Abuse Prevention and Reporting.

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The Superintendent or designee shall follow up with the parent/guardian and student in a timely manner to provide referrals to appropriate services as needed. If the parent/guardian does not access treatment for the student, the Superintendent or designee may meet with the parent/guardian to identify barriers to treatment and assist the family in providing follow-up care for the student. If follow-up care is still not provided, the Superintendent or designee shall consider whether it is necessary, pursuant to laws for mandated reporters of child neglect, to refer the matter to the local child protective services agency.

(cf. 5141.4 - Child Abuse Prevention and Reporting)

For any student returning to school after a mental health crisis, the principal or designee and/or school counselor may meet with the parents/guardians and, if appropriate, with the student to discuss re-entry and appropriate ~~next~~ steps to ensure the student's readiness for return to school and determine the need for ongoing support.

Postvention

Note: Education Code 215 **mandates** that the district's policy and procedures address suicide postvention. The following section should be revised to reflect district practice.

In the event that a student dies by suicide, the Superintendent or designee shall communicate with the student's parents/guardians to offer condolences, assistance, and resources. In accordance with the laws governing confidentiality of student record information, the Superintendent or designee shall consult with the parents/guardians regarding facts that may be divulged to other students, parents/guardians, and staff.

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SUICIDE PREVENTION (continued)

Note: Research has identified an increased risk of suicide among youth who are grieving the suicide of another (so-called "suicide contagion"). The National Association of School Psychologists NASP, in its Preventing Suicide: Guidelines for Administrators and Crisis Teams, recommends that memorials should be implemented with care so as not to sensationalize or glamorize suicide and thereby increase the suicide risk to other students. If a memorial is conducted for a student who dies by suicide, the association suggests a living memorial, such as making donations to a local crisis center, participating in an event that raises awareness about suicide prevention, or providing other opportunities for service activities in the school that emphasize the importance of students taking care of each other.

The Superintendent or designee shall implement procedures to address students' and staff's grief and to minimize the risk of imitative suicide or suicide contagion. The Superintendent or designee shall provide students, parents/guardians, and staff with information, counseling, and/or referrals to community agencies as needed. Students significantly affected by suicide death and those at risk of imitative behavior should be identified and closely monitored. School staff may receive assistance from school counselors or other mental health professionals in determining how **to** best **to** discuss the suicide or attempted suicide with students.

Any response to media inquiries shall be handled by the district-designated spokesperson who shall not divulge confidential information. The district's response shall not sensationalize suicide and shall focus on the district's postvention plan and available resources.

(cf. 1112 - Media Relations)

After any suicide or attempted suicide by a student, the Superintendent or designee shall provide an opportunity for all staff who responded to the incident to debrief, evaluate the effectiveness of the strategies used, and make recommendations for future actions.

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CSBA Sample Board Policy

Students

BP 5142.2(a)

SAFE ROUTES TO SCHOOL PROGRAM

Note: The following **optional** policy may be revised to reflect district practice. ~~Districts are encouraged to review CSBA's policy brief, *Safe Routes to School: Program and Policy Strategies for School Districts*, when developing policy on this topic.~~

Education Code 44808 provides that districts are not responsible or in any way liable for the conduct or safety of students at any time when students are not on school property unless the district has undertaken to provide transportation for students to and from the school premises, has undertaken a school-sponsored activity off premises, has otherwise specifically assumed responsibility or liability, or has failed to exercise reasonable care under the circumstances. In addition, districts should consult legal counsel and/or the district's insurance provider regarding any potential liability issues. Also see BP/AR 5142 - Safety.

~~Both state and federal grants are available to support local efforts to increase the number of students walking and bicycling to school and to make it safer for them to do so. The federal Safe Routes to Schools (SRTS) program supports both infrastructure and noninfrastructure projects and focuses on grades K-8 (23 USC 148). The state program, referred to as SR2S, provides funding to cities and counties for infrastructure projects in the vicinity of K-12 schools, with up to 10 percent expenditure allowable for noninfrastructure activities (Streets and Highways Code 2333.5). Funding for both federal and state programs is distributed through the California Department of Transportation's (Caltrans) Division of Local Assistance. Questions about program administration may be directed to the Caltrans regional coordinator.~~

Strategies to promote walking, bicycling, and other forms of active transport to school may be **included** ~~referenced~~ in the district's school wellness policy, adopted pursuant to ~~the federal Child Nutrition and Women, Infants and Children (WIC) Reauthorization Act of 2004 (42 USC 1758b)~~, which is required to include goals for physical activity, ~~see BP 5030 - Student Wellness~~. Strategies may also be included in the district's comprehensive safety plan adopted pursuant to Education Code 32282, ~~and see AR 0450 - Comprehensive Safety Plan~~, **the district's environmental programs.** ~~See BP 5030 - Student Wellness, AR 0450 - Comprehensive Safety Plan, and BP 3510 - Green School Operations.~~

The Governing Board recognizes that walking, bicycling, and other forms of active transport to school **promote increase** students' physical activity and reduce vehicle traffic and air pollution in the vicinity of schools. As part of the district's coordinated approach to supporting student wellness and safety and enhancing student learning **and achievement**, the Superintendent or designee shall develop and implement strategies to establish and **promote encourage** safe routes to school program activities.

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3510 - Green School Operations)

(cf. 3514 - Environmental Safety)

(cf. 5030 - Student Wellness)

(cf. 5142 - Safety)

All students shall have equitable access and opportunity to participate in the district's safe routes to school program.

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SAFE ROUTES TO SCHOOL PROGRAM (continued)*(cf. 0415 - Equity)*

Note: Districts that have a school wellness council and/or a committee that focuses on environmental efforts may want to identify those groups to assist with the planning and coordination of safe routes to school activities, as described below. Districts may revise the following paragraph to reflect district practice.

The Superintendent or designee may ~~identify~~ **appoint** a program coordinator ~~or and identify~~ **or** establish district and/or school site committees to oversee and coordinate related activities.

The Superintendent or designee may collaborate with local public works and public safety departments, transportation agencies, other city and county agencies, school staff, students, parents/guardians and parent organizations, health organizations, community organizations, and/or businesses in the development, implementation, and evaluation of strategies.

*(cf. 1220 - Citizen Advisory Committees)**(cf. 1230 - School-Connected Organizations)**(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)**(cf. 1700 - Relations Between Private Industry and the Schools)**(cf. 6020 - Parent Involvement)*

Strategies **in support of the safe routes to school program** shall be based on the grade levels of the students and an assessment of the conditions and needs of each school and the surrounding neighborhoods.

Note: Both state and federal grants are available to support local efforts to increase the number of students walking and bicycling to school and to make it safer for them to do so. The federal Safe Routes to Schools (SRTS) program supports both infrastructure and noninfrastructure projects and focuses on grades K-8 (23 USC 148). The state program, referred to as SR2S, provides funding to cities and counties for infrastructure projects in the vicinity of K-12 schools, with up to 10 percent expenditure allowable for noninfrastructure activities (Streets and Highways Code 2333.5). Pursuant to 23 USC 133, funding for infrastructure and noninfrastructure projects that support safe routes to schools may be available under the Surface Transportation Block Grant. At the state level, districts may apply for funding through the Active Transportation Program (ATP) (Streets and Highways Code 2380-2385). Funding for both federal and state programs is distributed through the California Department of Transportation's (Caltrans) Division of Local Assistance. Questions about program administration may be directed to the Caltrans regional coordinator.

When local agencies partner together to apply for a state or federal grant, the city or county is generally the lead applicant for infrastructure funding. A school district may be named as the responsible agency for a federal grant if it partners with a city, county, or transportation agency. However, Additionally, the district may collaborate with local agencies and organizations to find funding sources and also may seek alternative funding sources for district projects and events that are not covered by a grant.

Streets and Highways Code 2380 expresses legislative intent that disadvantaged communities fully share in the benefits of the ATP, and Streets and Highways Code 2382 requires that the guidelines for the ATP ensure that no less than 25 percent of overall program funds benefit disadvantaged communities, as defined, during each program cycle.

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SAFE ROUTES TO SCHOOL PROGRAM (continued)

The Superintendent or designee shall explore the availability of grant funds and other sources of funding to support related projects and activities.

(cf. 1260 - Educational Foundation)

(cf. 3100 - Budget)

(cf. 3290 - Gifts, Grants and Bequests)

(cf. 3470 - Debt Issuance and Management)

(cf. 3471 - Parcel Taxes)

(cf. 7110 - Facilities Master Plan)

Note: The following **optional** paragraph may be revised to reflect indicators agreed upon by the Governing Board and Superintendent ~~or designee~~ to assess progress toward program goals. To assist with program evaluation, the National Center for Safe Routes to School (NCSRTS) has developed a standardized survey of parents/guardians' attitudes about allowing their child to walk or bicycle to school as well as student tally forms for recording the modes of travel that students use. NCSRTS recommends that a district use these forms both before and after implementation of a project in order to evaluate changes in attitudes and behaviors. NCSRTS also provides **an online data system to enter and view data collected from the data analysis and report preparation** of parent surveys and student tallies. Caltrans requires the use of these evaluation forms by grant recipients.

The Superintendent or designee shall periodically report to the Board on the implementation of program activities and progress toward program goals. Such reports may include, but **are** not ~~be~~ limited to, levels of participation in promotional and educational activities, survey results of parent/guardian attitudes about allowing their child to walk or bicycle to school, tallies of the numbers of students using various modes of travel to and from school and how these numbers have changed over time, records of student attendance and on-time arrival, and injury data within the school and/or district attendance boundaries.

(cf. 0500 - Accountability)

Legal Reference:

EDUCATION CODE

~~32282 32283~~ Comprehensive safety plan

44808 Liability for conduct or safety of students when not on district property

45450-45451 Crossing guards

GOVERNMENT CODE

65352.2 General planning; communication between cities, counties and school districts

STREETS AND HIGHWAYS CODE

~~2333.5 Safe routes to schools construction program~~

2380-2385 Active Transportation Program

VEHICLE CODE

21200-~~21213 21212~~ Operation of bicycles, especially:

21212 Helmet required for bicycle, nonmotorized scooter, skateboard, skates

21949-21971 Pedestrian rights and duties

Legal Reference continued: (see next page)

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SAFE ROUTES TO SCHOOL PROGRAM (continued)

Legal Reference: (continued)

UNITED STATES CODE, TITLE 23

133 Surface transportation block grant program

148 Highway safety improvement program

UNITED STATES CODE, TITLE 42

1758b Local wellness policy

COURT DECISIONS

Cerna v. City of Oakland (2008) 161 Cal.App.4th 1340

Management Resources:

CSBA PUBLICATIONS

Safe Routes to School: Program and Policy Strategies for School Districts, Policy Brief, August 2009

Building Collaboration: Tools and Ideas for Creating Active Living, Healthy Eating Communities, August 2009

CALIFORNIA DEPARTMENT OF TRANSPORTATION PUBLICATIONS

Active Transportation Program Fact Sheet, January 2020

ATP Purpose and Goals as Defined by the State Legislature and SB 99, March 2015

NATIONAL CENTER FOR SAFE ROUTES TO SCHOOL PUBLICATIONS

Safe Routes to School Guide

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION PUBLICATIONS

Advancing Pedestrian and Bicyclist Safety: A Primer for Highway Safety Professionals, April 2016

Safe Routes to School Toolkit, 2002

SAFE ROUTES TO SCHOOL NATIONAL PARTNERSHIP PUBLICATIONS

Safe Routes to School by the Numbers: Using Data to Foster Walking and Biking to School, June 2016

Safe Routes to School 2009 Policy Report: Moving to the Future: Building on Early Achievements, March 2009

WEB SITES

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

California Center for Physical Activity: <http://www.caphysicalactivity.org>

California Department of Transportation, Safe Routes to School:

<http://www.dot.ca.gov/hq/LocalPrograms/saferoutes/saferoutes.htm>

National Center for Safe Routes to School: <http://www.saferoutesinfo.org>

National Highway Traffic Safety Administration: <http://www.nhtsa.gov>

Safe Routes to School National Partnership: <http://www.saferoutespartnership.org>

U.S. Department of Transportation, Federal Highway Administration, Safe Routes to School:

<http://safety.fhwa.dot.gov/saferoutes> https://www.fhwa.dot.gov/environment/safe_routes_to_school

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Policy Reference UPDATE Service

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CSBA Sample Administrative Regulation

Students

AR 5142.2(a)

SAFE ROUTES TO SCHOOL PROGRAM

Note: The following **optional** administrative regulation should be revised to reflect district practice. The strategies listed below are organized around the "**five fundamental E's**" (~~education, encouragement, enforcement, engineering, and evaluation~~) recommended for inclusion in all-local programs by the U.S. Department of Transportation's Federal Highway Administration (NHTSA) and the National Center for Safe Routes to School's online resource guide, ~~the Safe Routes to School Guide~~. **NHTSA's *Advancing Pedestrian and Bicyclist Safety: A Primer for Highway Safety Professionals* states that the most often addressed E's are engineering, education, and enforcement, with encouragement and engagement, evaluation, emerging technologies, emergency response, and equity as other important E's to consider.**

District strategies to improve student safety along routes to school and to promote walking, bicycling, and other forms of active transport to school by students may include:

1. Education activities that promote safety and awareness, such as:
 - a. Instructing students about pedestrian, bicycle, and personal safety
 - b. Instructing students about the health, **academic**, and environmental benefits of walking, bicycling, and other forms of active transport to school

(cf. 3510 - Green School Operations)

(cf. 5030 - Student Wellness)

(cf. 6142.7 - Physical Education and Activity)

(cf. 6142.8 - Comprehensive Health Education)

- c. Offering driver safety **education information** to high school students, parents/guardians, and the community **to promote safety around school campuses and routes**
2. Encouragement strategies designed to generate interest in active transport to school, such as:
 - a. Organizing or facilitating "walking school buses" and/or "bicycle trains" whereby students walk or bike to school in groups escorted by parents/guardians or other volunteers as needed
 - b. Organizing special events and activities, such as Walk or Bike to School Day, International Walk to School Month, or year-round competitions
 - c. Publicizing the district's efforts in order to build support of parents/guardians and the community, including providing information about the district's safe

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SAFE ROUTES TO SCHOOL PROGRAM (continued)

routes to school program in parent/guardian communications and in any notifications about transportation options

(cf. 1112 - Media Relations)

(cf. 1113 - District and School Web Sites)

(cf. 1114 - District Sponsored Social Media)

(cf. 3540 - Transportation)

(cf. 3541 - Transportation Routes and Services)

3. Enforcement strategies to deter unsafe behaviors of drivers, pedestrians, and bicyclists, such as:
 - a. Initiating or expanding crossing guard, student safety patrol, and/or parent/guardian safety patrol programs

(cf. 5142 - Safety)

- b. Partnering with local law enforcement to help ensure that traffic laws are obeyed in the vicinity of schools and to implement appropriate measures such as placement of speed feedback monitors, ticketing, and/or driver safety campaigns
 - c. Monitoring to ensure that students who bicycle to school or who use skateboards, skates, or nonmotorized scooters wear helmets in accordance with Vehicle Code 21212
4. Engineering strategies that address the design, implementation, operation, and maintenance of traffic control devices or physical measures, such as:
 - a. Working with local government agencies, parents/guardians, school staff, and others as appropriate to gather data about environmental conditions and hazards along routes to school

(cf. 1220 - Citizen Advisory Committees)

(cf. 1230 - School-Connected Organizations)

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

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

(cf. 6020 - Parent Involvement)

- b. Working with local government agencies to make operational and physical improvements that reduce or eliminate hazards, such as reducing motor vehicle traffic speeds in the area and establishing safer and fully accessible crosswalks, walkways, trails, and bikeways

SAFE ROUTES TO SCHOOL PROGRAM (continued)

- c. Assessing the adequacy, accessibility, and safety of bicycle parking at schools and making modifications as needed, such as increasing the number of or relocating bicycle racks and/or equipment storage areas

(cf. 7111 - Evaluating Existing Buildings)

- d. Considering safe routes to school when making decisions about siting and designing of new schools

(cf. 7110 - Facilities Master Plan)

(cf. 7150 - Site Selection and Development)

Note: See the accompanying Board policy for additional information about program evaluation, including examples of indicators that may be used to measure program implementation and effectiveness.

- 5. Evaluation to assess progress toward program goals, including:
 - a. Gathering and interpreting data based on indicators established by the Superintendent ~~or designee~~ and the Governing Board
 - b. Presenting data to the Board, program partners, and the public
 - c. Recommending program modifications as needed

6. Emerging technologies that aid in the prevention and mitigation of accidents

7. Emergency response in managing injuries after an accident occurs, including, but not limited to, training staff, crossing guards, student and/or parent/guardian safety patrols, and other volunteers who assist with drop-off and pick-up in emergency procedures

(cf. 0450 - Comprehensive Safety Plan)

8. Equity, such that resources are distributed in a manner that provides safe access and participation in an equitable manner

(cf. 0415 - Equity)

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CSBA Sample Board Policy

Students

BP 5145.12(a)

SEARCH AND SEIZURE

Note: The following **optional policy and accompanying administrative regulation** should be modified to reflect district practice. **The legality of a search by school officials is complex and depends on the particular circumstances surrounding the search. Districts with specific questions about the legality of a search should consult legal counsel.** It is also recommended that the district work with legal counsel to provide staff development for employees conducting searches on behalf of the district.

The following policy and accompanying administrative regulation address circumstances under which searches of individual students may be authorized based on individualized suspicion, and circumstances under which the district may conduct searches without individualized suspicion (e.g., searches of lockers, use metal detectors, or use contraband detection dogs). In *In re Sean A.*, the Court of Appeal upheld a limited search for weapons or drugs without individualized suspicion where a school policy called for students who left campus and returned in the middle of the day to be searched. Districts that wish to develop policy authorizing limited searches for weapons or drugs without individualized suspicion should consult legal counsel.

The Governing Board is fully committed to promoting a safe learning environment and, to the extent possible, eliminating the possession and use of weapons, illegal drugs, and other controlled substances by students on school premises and at school activities. As necessary to protect the health and welfare of students and staff, **and only as authorized by law, Board policy, and administrative regulation**, school officials may search students, their property, and/or district property under their control and may seize illegal, unsafe, or otherwise prohibited items. ~~The Board urges that employees~~ **School officials shall exercise discretion and use good judgment when conducting searches.**

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

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

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

~~(cf. 3515 - Campus Security)~~

~~(cf. 3515.3 - District Police/Security Department)~~

~~(cf. 5131 - Conduct)~~

~~(cf. 5131.7 - Weapons and Dangerous Instruments)~~

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

~~(cf. 5145.3 - Nondiscrimination/Harassment)~~

~~The Board urges that employees exercise discretion and good judgment. When conducting a search or seizure, employees shall act in accordance with law, Board policy, and administrative regulation.~~

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

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

~~(cf. 5145.3 - Nondiscrimination/Harassment)~~

SEARCH AND SEIZURE (continued)

Note: As discussed below, the law surrounding student searches is complex. Therefore, it is recommended that the district work with legal counsel to provide training for employees conducting searches on behalf of the district.

The Superintendent or designee shall ensure that staff who conduct student searches receive training regarding the requirements of the district's policy and administrative regulation and other legal issues, as appropriate.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Individual Searches Based on Individualized Suspicion

Note: The Fourth Amendment of the U.S. Constitution, which prohibits unreasonable search and seizure, also applies to students in the school setting. In *New Jersey v. T.L.O.*, the U.S. Supreme Court held that the legality of a search of a student and/or ~~his/her~~ **the student's** belongings depends on whether the search is "reasonable." The "reasonableness" of a search depends on two factors: (1) whether there is individualized suspicion that the search will turn up evidence of a student's violation of the law or school rules and (2) whether the search is reasonably related to the objectives of the search and not excessively intrusive in light of the student's age, gender, and/or the nature of the infraction.

In *Redding v. Safford Unified School District*, the U.S. Supreme Court held that a strip search of a student (~~permissible in Arizona schools~~) was beyond the scope and overly intrusive in light of the seriousness of the student's alleged violation (i.e., possession of ibuprofen), the lack of immediate danger, and the lack of justification for the search given that the basis of the search was an uncorroborated tip from a fellow student. Although the specific type of search discussed in the court decision is not permissible in California schools pursuant to Education Code 49050, the factors considered by the court are applicable to an analysis as to whether a search is reasonable in scope, as specified below.

~~The law regarding searches of students' cellular phones, personally owned computers, or other personal communications devices is still developing. It is especially difficult to determine whether the school can impose discipline in circumstances where the behavior, such as sending a threatening message, occurs off-campus; see BP 5131 - Conduct. When the student brings an electronic device onto school grounds, it may be searched by school officials, but the search is subject to the same legal standards as a search of other student property, such as a backpack or purse. Therefore, when searching a student's personally owned electronic device, the district must have individualized suspicion that the search will lead to evidence that the student is violating a specific law or school rule and the scope of the search must be reasonably related to that violation. For example, searching a student's phone for evidence against another student or searching text messages extending well beyond the period of time of the alleged violation would likely be considered excessive in scope and thus unlawful. These standards for personally owned items are not applicable to a district's right to monitor a student's use of district owned computer equipment or networks, subject to the district's acceptable use agreement; see BP/E 6163.4 - Student Use of Technology.~~

School officials may search any individual student, ~~his/her~~ **the student's** property, or district property under ~~his/her~~ **the student's** control when there is a reasonable suspicion that the search will uncover evidence that ~~he/she~~ **the student** is violating the law, Board policy,

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SEARCH AND SEIZURE (continued)

administrative regulation, or other rules of the district or the school. Reasonable suspicion shall be based on specific and objective facts that the search will produce evidence related to the alleged violation.

The types of student property that may be searched by school officials include, but are not limited to, lockers, desks, purses, backpacks, student vehicles parked on district property, cellular phones, or other electronic communication devices.

Note: In *Redding v. Safford Unified School District*, the U.S. Supreme Court held that a strip search of a student (permissible in Arizona schools) was beyond the scope and overly intrusive in light of the seriousness of the student's alleged violation (i.e., possession of ibuprofen), the lack of immediate danger, and the lack of justification for the search given that the basis of the search was an uncorroborated tip from a fellow student. Although the specific type of search discussed in the court decision is not permissible in California schools pursuant to Education Code 49050, the factors considered by the court are applicable to an analysis as to whether a search is reasonable in scope, as specified below.

Any search of a student, his/her the student's property, or district property under his/her the student's control shall be limited in scope and designed to produce evidence related to the alleged violation. Factors to be considered by school officials when determining the scope of the search shall include the danger to the health or safety of students or staff, such as the possession of weapons, drugs, or other dangerous instruments, and whether the item(s) to be searched by school officials are reasonably related to the contraband to be found. In addition, school officials shall consider the intrusiveness of the search in light of the student's age, gender, and the nature of the alleged violation.

The types of student property that may be searched by school officials include, but are not limited to, lockers, desks, purses, backpacks, and student vehicles parked on district property, cellular phones, or other electronic communication devices.

Note: In California, searches of personal electronic devices such as cellular phones are subject to the restrictions imposed by Penal Code 1546.1 in addition to the prohibitions against unreasonable searches and seizures under the Fourth Amendment. Districts with questions about searches of electronic devices such as cellular phones should consult legal counsel.

A student's personal electronic device may be searched only if a school official, in good faith, believes that an emergency involving danger of death or serious physical injury to the student or others requires access to the electronic device information.

(cf. 6163.4 - Student Use of Technology)

Employees shall not conduct strip searches or body cavity searches of any student. (Education Code 49050)

Searches of individual students shall be conducted in the presence of at least two district employees.

SEARCH AND SEIZURE (continued)

The principal or designee shall notify the parent/guardian of a student subjected to an individualized search as soon as possible after the search.

(cf. 5145.11 - Questioning and Apprehension by Law Enforcement)

Searches of Multiple Student Lockers and Desks

Note: **The ability of school officials to search a locker without individualized suspicion depends on whether, under the circumstances, the student has a reasonable expectation of privacy in the locker. In *In re Cody S.*, the Court of Appeal observed that, while students in California generally have a reasonable expectation of privacy in lockers, that expectation can be limited where school policy makes it clear that lockers are the property of the district and subject to search. Nonetheless, board policy alone will not determine whether a student has a reasonable expectation of privacy in a locker as other circumstances such as staff communication and school practice can also inform the reasonableness of a student's expectation of privacy. Districts with specific questions about whether school officials can search lockers without individualized suspicion should consult legal counsel.**

~~Like other student belongings, individual lockers and desks may be searched when there is reasonable, individualized suspicion, subject to the limits discussed in the above section entitled "Individual Searches." An argument could be made that, because lockers and desks are the property of the district, a student does not have an expectation of privacy and thus school officials could search them at any time, without individualized suspicion. However, because California courts have not ruled on this issue, the state of the law is unclear and districts that wish to develop policy authorizing searches of lockers and desks at any time, without individualized suspicion, should consult legal counsel.~~

The following **optional** section is for districts that conduct regular, announced inspections of multiple student lockers and/or desks **and should be revised to reflect district practice.** ~~Because such searches are random and announced in advance, individualized suspicion is not required.~~

~~All student lockers and desks are the property of the district. The principal or designee may conduct a general inspection of school properties that are within the control of students, such as lockers and desks, on a regular, announced basis, with students standing by their assigned lockers or desks. Any items contained in a locker or desk shall be considered to be the property of the student to whom the locker or desk was assigned.~~

Use of Metal Detectors

Note: **In *In re Latasha W.*, the Court of Appeal upheld a policy of random weapons screening with a handheld metal detector. In addition, an Attorney General opinion (75 Ops.Cal.Atty.Gen. 155 (1992)) states that the reasonable use of metal detectors to deter the presence of weapons in schools is appropriate without individualized suspicion. The Attorney General recommends that the Governing Board make a specific finding identifying the rationale for the use of metal detectors. This finding need not be based on a specific weapons incident, but rather may be based on the need for metal detectors in response to the general harm caused by weapons and the need to provide a safe learning environment.**

The following **optional** paragraph should be modified to reflect the district's rationale for the use of metal detectors.

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SEARCH AND SEIZURE (continued)

NO The Board **believes finds** that the presence of weapons in the schools threatens the district's ability to provide the safe and orderly learning environment to which district students and staff are entitled. The Board also **believes finds** that metal detector searches offer a reasonable means to keep weapons out of the schools and mitigate the fears of students and staff.

Note: The Board should consider where and when metal detectors will be used, such as on a permanent basis at certain sites, rotated among sites, during regular school hours, and/or during special events such as athletic events or dances. To ensure that a metal detector search is reasonable, the Attorney General recommends that an administrative plan be established which contains uniform, established procedures and adequate safeguards against arbitrary and capricious enforcement by school officials. For example, the plan may specify that metal detectors be used at randomly selected schools or that students will be searched on a random basis (e.g., every fifth student entering). The key is to ensure that neutral criteria are applied so that the persons conducting the search do not exercise discretion in determining whether specific persons are targeted or selected for the search. The Attorney General's opinion also recommends that the district's use of metal detectors be incorporated into the district and/or school site safety plan; see BP/AR 0450 - Comprehensive Safety Plan. See the accompanying administrative regulation for other safeguards identified by the Attorney General.

NO The Superintendent or designee shall use metal detectors **at district schools** as necessary to **keep weapons out of schools and** help provide a safe learning environment. **He/she The Superintendent or designee** shall establish a plan to ensure that metal detector searches are conducted in a uniform and consistent manner.

Use of Contraband Detection Dogs

Note: The following **optional** section is for districts that use trained dogs for random and unannounced inspections for contraband. Prior to instituting such a program, districts wishing to conduct these types of "sniff searches" should make specific findings as to the need for the program and consult legal counsel.

Legally, problems arise when individual persons are sniffed and when students are separated from their belongings so that the belongings can be sniffed. In B.C. v. Plumas, the 9th Circuit Court of Appeals concluded that the random and suspicionless dog sniff of a student as he walked by the dog while exiting the room was unreasonable. The court found compelling the fact that there were not specific findings of a serious drug problem at the school that would necessitate the need for the use of the dogs. This court did not rule on whether sniffs of inanimate objects (such as automobiles or lockers) in a school setting are legal. However, courts outside of California (Zamora v. Pomeroy and Horton v. Goose Creek Independent School District) have indicated that dog sniffing around lockers and cars would probably not be deemed a "search" and thus would be permissible on a random basis without individualized suspicion. If the dog then alerts on a particular car or locker, this alert could then constitute the reasonable suspicion needed in order to conduct a search.

The law is unclear as to whether the district can conduct random and unannounced use of dogs whereby students are asked or required to leave their belongings so that the dog can sniff those belongings. An Attorney General opinion (83 Ops.Cal.Atty.Gen. 257 (2001-2000)) states that, unless exigent circumstances exist (e.g., supporting data of a known drug problem), requiring students to leave their belongings behind in the classroom (e.g., backpacks, purses, jackets) in order to conduct random, unannounced and neutral sniff

SEARCH AND SEIZURE (continued)

tests on students' personal belongings would be unreasonable and therefore unconstitutional. Whether the district can "ask" students to leave their belongings behind is also questionable since such a request might be considered an unconstitutional "seizure." Districts that wish to institute either type of policy should consult legal counsel and have specific data demonstrating the need for such a policy. Although Attorney General opinions are not law, they are generally afforded deference by the courts. See the accompanying administrative regulation.

NO
In an effort to keep the schools free of dangerous contraband, the district may use specially trained, nonaggressive dogs to sniff out and alert staff to the presence of substances prohibited by law or Board policy. The dogs may sniff the air around lockers, desks, or vehicles on district property or at district-sponsored events. Dogs shall not sniff within the close proximity of students or other persons and may not sniff any personal items on those persons **without individualized suspicion.** ~~without their consent.~~

Legal Reference: (see next page)

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SEARCH AND SEIZURE (continued)

Legal Reference:

EDUCATION CODE

32280-32289 School safety plans
35160 Authority of governing boards
35160.1 Broad authority of school districts
48900-48927 Suspension and expulsion
49050-49051 Searches by school employees
49330-49334 Injurious objects

PENAL CODE

626.9 Firearms
626.10 Dirks, daggers, knives or razor
1546-1546.1 Production of or access to electronic communication information

CALIFORNIA CONSTITUTION

Article I, Section 28(c) Right to Safe Schools

COURT DECISIONS

In G.C. v. Owensboro Public Schools (6th Cir. 2013) 711 F.3d 623
In re Sean A. (2010) 191 Cal. App. 4th 182
Redding v. Safford Unified School District, (2009) 557 U.S. 364 (2009)
B.C. v. Plumas, (9th Cir. 1999) 192 F.3d 1260
Jennings v. Joshua Independent School District, (5th Cir. 1992) 948 F.2d 194 557 U.S. 364 (2009)
In re Cody S., 121 Cal. App. 4th 86, 92 (2004)
Klump v. Nazareth Area School District (E.D. Pa. 2006) 425 F. Supp. 2d 622, 640
In Re William V. (2003) 111 Cal.App.4th 1464
B.C. v. Plumas, (9th Cir. 1999) 192 F.3d 1260
In re Latasha W. (1998), 60 Cal. App. 4th 1524
O'Connor v. Ortega, (1987) 480 U.S. 709
In re William G (1985) 40 Cal. 3d 550
New Jersey v. T.L.O., (1985) 469 U.S. 325
Horton v. Goose Creek Independent School District, (5th Cir. 1982) 690 F.2d 470
Zamora v. Pomeroy, (10th Cir. 1981) 639 F.2d 662

ATTORNEY GENERAL OPINIONS

83 **Ops.Cal.Atty.Gen. 257 (2001-2000)**
75 **Ops.Cal.Atty.Gen. 155 (1992)**

Management Resources:

NATIONAL INSTITUTE OF JUSTICE PUBLICATIONS

The Appropriate and Effective Use of Security Technologies in U.S. Schools: A Guide for Schools and Law Enforcement Agencies, 1999

WEB SITES

CSBA: <http://www.csba.org>
California Attorney General's Office: <http://caag.state.ca.us>
California Department of Education, Safe Schools: <http://www.cde.ca.gov/lr/ss>
National Institute of Justice: <http://www.ojp.usdoj.gov/nij>

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Policy Reference UPDATE Service

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CSBA Sample Board Policy

Students

BP 5145.9(a)

HATE-MOTIVATED BEHAVIOR

Note: The following **optional** policy addresses prevention strategies for hate-motivated incidents and should be modified to reflect district practice. Elements of this policy may be integrated into existing district and school site plans, such as the local control and accountability plan, comprehensive school safety plan, and staff development plans.

The Governing Board is committed to providing a **respectful, inclusive, and** safe learning environment that protects students from discrimination, harassment, intimidation, bullying, **or any other type of behavior that is motivated by hate.** ~~and other behavior motivated by a person's hostility towards another person's real or perceived ethnicity, national origin, immigrant status, sex, gender, sexual orientation, religious belief, age, disability, or any other physical or cultural characteristic.~~ The Superintendent or designee shall design strategies to **promote harmonious relationships among students, prevent incidents of hate motivated behavior to the extent possible, and address such incidents if they occur.**

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

(cf. 0415 - Equity)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 0460 - Local Control and Accountability Plan)

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

(cf. 5131- Conduct)

(cf. 5131.2 - Bullying)

(cf. 5131.5 - Vandalism and Graffiti)

(cf. 5136 - Gangs)

(cf. 5137 - Positive School Climate)

(cf. 5141.52 - Suicide Prevention)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

Note: The following paragraph reflects the definition of "hate-motivated behavior" specified in the California Department of Education's (CDE) publication **Bullying at School**, expanded to include the categories of protected characteristics identified in state and federal law. Also see BP 0410 - Nondiscrimination in District Programs and Activities and AR 1312.3 - Uniform Complaint Procedures.

Hate-motivated behavior is any behavior intended to cause emotional suffering, physical injury, or property damage through intimidation, harassment, bigoted slurs or epithets, force or threat of force, or vandalism motivated in part or in whole by bias or hostility toward the victim's real or perceived race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, age, religion, marital status, pregnancy, parental status, physical or mental disability, medical condition, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55.

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HATE-MOTIVATED BEHAVIOR (continued)

The Superintendent or designee shall design strategies to promote harmonious relationships among students, prevent incidents of hate-motivated behavior to the extent possible, and address such incidents **in a timely manner** ~~if when they occur.~~

Note: Hate-motivated behavior, such as an assault, physical threat, bomb threat, destruction of property, graffiti, and ~~certain types of~~ vandalism, may constitute a crime under state or federal law. Local law enforcement agencies, ~~and human rights commissions,~~ **and community organizations** throughout the state have established countywide hate crimes networks aimed at responding to and preventing hate crimes.

Districts can identify local hate crime resources through the California Association of Human Relations Organizations, which conducts activities designed to protect human and civil rights **by creating a climate of respect and inclusion** through networks of collaborations that reduce community tension and build intergroup relationships.

~~The following optional paragraph should be revised to reflect district practice.~~

The Superintendent or designee shall collaborate with regional programs and community organizations to promote ~~safe and~~ environments ~~for youth~~ **where diversity is celebrated and hate-motivated behavior is not tolerated.** Such collaborative efforts shall focus on ~~ensuring an efficient use of district and community resources, developing the development of~~ effective prevention strategies and response plans, ~~providing provision of~~ assistance to students affected by hate-motivated behavior, and/or ~~educating education of~~ students who have perpetrated hate-motivated acts.

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

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

(cf. 5148.2 - Before/After School Programs)

The district shall provide students with age-appropriate instruction that:

1. ~~i~~**Includes the development of social-emotional learning,**
2. ~~p~~**Promotes their an understanding, awareness, appreciation, of and respect for human rights, human relations, diversity, and acceptance in a multicultural society,**
3. **Explains the harm and dangers of explicit and implicit biases**
4. **Discourages discriminatory attitudes and practices and**
5. ~~p~~**Provides strategies to manage conflicts constructively.**

(cf. 5138 - Conflict Resolution/Peer Mediation)

(cf. 6142.3 - Civic Education)

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

(cf. 6142.94 - History-Social Science Instruction)

HATE-MOTIVATED BEHAVIOR (continued)

As necessary, the district shall provide counseling, guidance, and support to students who are victims of hate-motivated behavior and to students who exhibit such behavior.

(cf. 6164.2 - Guidance/Counseling Services)

When appropriate, students who engage in hate-motivated behavior shall be disciplined.

(cf. 5144 - Discipline)

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

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

~~The Superintendent or designee shall ensure that the rules prohibiting hate-motivated behavior and procedures for reporting a hate-motivated incident are provided to students and parents/guardians.~~

Note: Education Code 218 requires CDE, by July 1, 2021, to develop and/or update resources for use in schools serving students in grades 7-12 for in-service training for the support of lesbian, gay, bisexual, transgender, queer, and questioning (LGBTQ) students, and strategies to increase support for LGBTQ students which improve overall school climate. Pursuant to Education Code 218, districts that serve students in grades 7-12 are encouraged to use such resources to provide training at least once every two years to teachers and other certificated staff.

The Superintendent or designee shall provide staff with training **that on:**

- 1. Promotes an understanding of diversity, equity, and inclusion**
- 2. Discourages the development of discriminatory attitudes and practices**
- 3. Includes social-emotional learning and nondiscriminatory instructional and counseling methods**
- 4. Supports the prevention, recognition, recognizing and response preventing to hate-motivated behavior**
- 5. Raises the awareness and sensitivity of staff to potentially prejudicial and discriminatory behavior and on**
- 6. Includes effectively enforcement enforcing of rules for appropriate student conduct.**

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

HATE-MOTIVATED BEHAVIOR (continued)

Employees who engage in hate-motivated behavior shall be subject to disciplinary action, up to and including dismissal.

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

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

~~The Superintendent or designee shall ensure that the~~ Rules prohibiting hate-motivated behavior and procedures for reporting a hate-motivated incident ~~are~~ **shall be provided to students, staff, and parents/guardians.**

This policy shall be posted in a prominent location on the district's web site in a manner that is readily and easily accessible to parents/guardians and students. (Education Code 234.6)

(cf. 1113 - District and School Web Sites)

Complaints Process

Note: Pursuant to Education Code 234.1, districts are required to adopt a process for receiving and investigating complaints involving unlawful discrimination (such as discriminatory harassment, intimidation, and bullying) based on race or ethnicity, nationality, **disability**, gender, **gender identity**, **gender expression**, sex, sexual orientation, religion, immigration status, or any characteristic contained in the definition of hate crimes in Penal Code 422.55, **or association with a person or group with one or more of these actual or perceived characteristics**. In addition, federal regulations require districts to adopt procedures providing for the prompt and equitable resolution of complaints of discrimination on the basis of sex (34 CFR 106.8), disability (34 CFR 104.7 and 28 CFR 35.107), and age (34 CFR 110.25). Pursuant to 5 CCR 4600-4670, uniform complaint procedures (UCP) must be used for this purpose. See BP/AR 1312.3 - Uniform Complaint Procedures. **Complaints of sexual harassment that meet the federal definition of sexual harassment in 34 CFR 106.30 must be addressed through the procedures specified in 34 CFR 106.44-106.45; see AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.**

Although some incidents of harassment, intimidation, or bullying may not fall within the provisions of Education Code 234.1 or federal civil rights regulations, CSBA **strongly** recommends that districts use the UCP to investigate all incidents (whether discriminatory or nondiscriminatory) to ensure consistent implementation by district staff. It is not always easy or possible for staff to know prior to an investigation whether a student was victimized because of ~~his/her~~ **an** actual or perceived membership in a legally protected class. Those incidents found to involve discrimination based on the results of the investigation would then be resolved using the UCP. When an incident is determined to be nondiscriminatory, it should be resolved through the appropriate disciplinary process.

~~A student or parent/guardian who believes the student is a victim of hate-motivated behavior is strongly encouraged to report the incident to a teacher, the principal, or other staff member.~~

Any staff member who is notified that hate-motivated behavior has occurred, observes such behavior, or otherwise becomes aware of an incident shall immediately contact the **principal**

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HATE-MOTIVATED BEHAVIOR (continued)

~~or the~~ compliance officer responsible for coordinating the district's response to complaints and complying with state and federal civil rights laws. As appropriate, ~~he/she~~ **the staff member** shall also contact law enforcement.

(cf. 3515.3 - District Police/Security Department)

(cf. 5145.11 - Questioning and Apprehension by Law Enforcement)

A student or parent/guardian who believes the student is a victim of hate-motivated behavior is ~~strongly~~ encouraged to report the incident to a teacher, the principal, **the district's compliance officer**, or other staff member.

Any complaint of hate-motivated behavior shall be investigated and, if determined to be discriminatory, shall be resolved in accordance with law and the district's uniform complaint procedures specified in AR 1312.3 - Uniform Complaint Procedures **or other applicable procedure**. If, during the investigation, it is determined that a complaint is about nondiscriminatory behavior, the principal or designee shall inform the complainant and shall take all necessary actions to resolve the complaint.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.3 - Uniform Complaint Procedures)

~~*(cf. 5144 - Discipline)*~~

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

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

~~*(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)*~~

Legal Reference: (see next page)

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HATE-MOTIVATED BEHAVIOR (continued)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

32282 School safety plans

48900.3 Suspension for hate violence

48900.4 Suspension or expulsion for ~~threats or~~ harassment, threats, or intimidation

GOVERNMENT CODE

11135 Prohibition of discrimination in programs or activities

PENAL CODE

422.55 Definition of hate crime

422.6 Crimes, harassment

CODE OF REGULATIONS, TITLE 5

4600-4670 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

CODE OF FEDERAL REGULATIONS, TITLE 28

35.107 Nondiscrimination on basis of disability; complaints

CODE OF FEDERAL REGULATIONS, TITLE 34

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

104.7 Designation of responsible employee for Section 504

106.8 Designation of responsible employee for Title IX

106.30 Discrimination on the basis of sex in education programs and activities; definitions

106.44 Recipient's response to sexual harassment

106.45 Grievance process for formal complaints of sexual harassment

110.25 Prohibition of discrimination based on age

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Bullying at School, 2003

CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS

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

HUMAN RIGHTS CAMPAIGN FOUNDATION PUBLICATIONS

California LGBTQ Youth Report, 2019

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

Dear Colleague Letter: Harassment and Bullying, October 2010

Dear Colleague Letter: Prohibited Disability Harassment, July 2000

WEB SITES

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

California Association of Human Relations Organizations: <http://www.cahro.org>

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

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

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

U.S. Department of Health and Human Services: <http://www.stopbullying.gov>

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

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Policy Reference UPDATE Service

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NIA SDU Preschool is private program and not state-sponsored

CSBA Sample Board Policy

Students

BP 5148(a)

CHILD CARE AND DEVELOPMENT

Note: The following **optional** policy is for use by districts that operate child care and development services through a contract with the California Department of Education (CDE) may be revised to reflect the type(s) of child care and development programs offered by the district.

The Child Care and Development Services Act (Education Code 8200-8499.10) establishes a variety of child care programs that may be offered by districts or other local providers. These include, including but are not limited to, General Child Care and Development, Resource and Referral, Alternative Payment, Migrant Child Care and Development, and Severely Handicapped programs resource and referral programs (Education Code 8210-8216; 5 CCR 18240-18248), alternative payment programs (Education Code 8220-8227.7; 5 CCR 18220-18231), migrant child care and development programs (Education Code 8230-8233), general child care and development programs (Education Code 8240-8244), and programs for children with special needs (Education Code 8250-8252). Pursuant to Welfare and Institutions Code 10200-10206, as added by SB 98 (Ch. 24, Statutes of 2020), effective July 1, 2021, the state's responsibility for administering these programs will transfer from the California Department of Education (CDE) to the California Department of Social Services (CDSS).

The district may revise the following policy to reflect the specific program(s) offered by the district and to ensure its compliance with the terms of its contract(s) with the CDE. Compliance with major requirements for early education and support programs is reviewed during the CDE's Federal Program Monitoring/Contract Monitoring Review process.

For requirements pertaining to before-school and after-school programs, including the After-School Education and Safety program (Education Code 8482-8484.65) and 21st Century Community Learning Centers (Education Code 8484.7-8484.8), see BP/AR 5148.2 - Before/After School Programs. The California State Preschool Program (Education Code 8235-8239) for children ages 3-4 is addressed in BP/AR 5148.3 - Preschool/Early Childhood Education.

The Governing Board desires to provide child care and development services which meet the developmental needs of children and offer a convenient child care alternative for parents/guardians in the community.

(cf. 5148.2 - Before/After School Programs)

(cf. 5148.3 - Preschool/Early Childhood Education)

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

(cf. 6175 - Migrant Education Program)

The Board shall enter into a contract with the California Department of **Education (CDE) Social Services (CDSS)** for the provision of child care and development services by the district.

(cf. 3312 - Contracts)

Note: The following **optional** paragraph may be revised to reflect district practice. Education Code 8499-8499.7 establish county-level child care and development planning councils, with members selected by the

CHILD CARE AND DEVELOPMENT (continued)

County Board of Supervisors and County Superintendent of Schools, to identify local priorities for child care and to develop policies to meet identified needs.

The district shall work cooperatively with the local child care and development planning council, public and private agencies, parents/guardians, and other community members to assess child care needs in the community, establish program priorities, obtain ongoing feedback on program quality, and supply information about child care options.

(cf. 1020 - Youth Services)

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

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

Note: Pursuant to 5 CCR 18271, the district must have a written philosophical statement, goals, and objectives, approved by the Governing Board, which address each program component specified in 5 CCR 18272-18281. See the accompanying administrative regulation for required program components.

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

(cf. 0000 - Vision)

(cf. 0100 - Philosophy)

(cf. 0200 - Goals for the School District)

Eligibility and Enrollment

Note: Pursuant to 5 CCR 18105, districts contracting with CDE to offer child care services are mandated to develop written admissions policies and procedures that conform to requirements of 22 CCR 101218, as provided below. See the accompanying administrative regulation for additional language that fulfills this mandate.

Child care admissions policies and procedures shall be in writing and available to the public. Such policies and procedures shall include criteria designating those children whose needs can be met by the child care center's program and services, the ages of children who will be accepted, program activities, any supplementary services provided, any field trip provisions, any transportation arrangements, food service provisions, and health examination requirements. (5 CCR 18105; 22 CCR 101218)

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

(cf. 3540 - Transportation)

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

(cf. 5141.22 - Infectious Diseases)

(cf. 5141.3 - Health Examinations)

(cf. 5141.31 - Immunizations)

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CHILD CARE AND DEVELOPMENT (continued)

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

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

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

Note: The following paragraph is **optional** and may be revised to reflect any district-established priorities for nonsubsidized services.

To the extent that space is available after the enrollment of children who are eligible for subsidized services, priority for admissions shall be given to district students, children of district students, and children of district employees.

(cf. 5111.1 - District Residency)
(cf. 5146 - Married/Pregnant/Parenting Students)

Staffing

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

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

The Superintendent or designee shall ensure that individuals working in child care and development programs have the necessary qualifications and have satisfied all legal requirements.

(cf. 1240 - Volunteer Assistance)
(cf. 4112.2 - Certification)
(cf. 4112.4/4212.4/4312.4 - Health Examinations)
(cf. 4112.5/4212.5/4312.5 - Criminal Record Check)
(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

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CHILD CARE AND DEVELOPMENT (continued)

Facilities

Note: **Optional** items #1-5 below present examples of methods that may be used to provide facilities for child care services and may be revised to reflect district practice.

~~Pursuant to Education Code 8278.3, districts providing subsidized child care services that have a current need for facilities are eligible to apply for loans under the Child Care Facilities Revolving Fund. For further information, see the CDE's web site.~~

Upon recommendation of the Superintendent or designee, the Board may approve any of the following for the provision of child care and development services:

1. The use of existing district facilities that have capacity
2. Renovation or improvement of district facilities to make them suitable for such services
3. Purchase of relocatable child care facilities
4. Inclusion of child care facilities in any new construction
5. Agreement with a public agency or community organization for the use of community facilities

(cf. 1330.1 - Joint Use Agreements)

(cf. 7110 - Facilities Master Plan)

The Superintendent or designee shall ensure that facilities used for child care services meet all applicable health and safety standards. (5 CCR 18020; 22 CCR 101238-101239.2)

Complaints

Note: Pursuant to 5 CCR 4610, the district's uniform complaint procedures should be used to resolve any complaint alleging violation of state or federal laws governing educational programs, including child care and development programs; see BP/AR 1312.3 - Uniform Complaint Procedures. However, **5 CCR 4611, as amended by Register 2020, No. 21, provides that** as clarified in the CDE's brochure Uniform Complaint Procedures, health and safety complaints regarding licensed facilities that operate a child care and development programs should be referred to ~~other agencies~~ **CDSS** as described in the following paragraph and BP 1312.3.-

Pursuant to 22 CCR 101156, all child care centers must be licensed by **the California Department of Social Services CDSS** unless exempted by law. See the accompanying administrative regulation for information about child care programs that are exempted from licensure requirements. If all of the district's child care services are **either licensed or all license-exempt**, ~~the district may revise the following paragraph to reflect the types of facilities maintained by the district.~~ **the following paragraph may be deleted.**

CHILD CARE AND DEVELOPMENT (continued)

For a licensed child care center, any complaint alleging health and safety violations shall be referred to **CDSS** the California Department of Social Services. For a license exempt facility, such complaints shall be referred to the appropriate Child Development regional administrator. (5 CCR 4611)

Any other alleged violation of state or federal laws governing child care and development programs shall be investigated and resolved using the district's procedures in BP/AR 1312.3 - Uniform Complaint Procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

Program Evaluation

Note: 5 CCR 18279-18281 require child care and development programs to be evaluated through the CDE's standardized "Desired Results for Children and Families" system. The system requires a program self-evaluation that includes, but is not limited to, a staff assessment, a parent survey, and an environment rating scale using instruments selected by the CDE; see the accompanying administrative regulation. The annual report submitted to the CDE also must include an action plan presented on the appropriate CDE form.

The Superintendent or designee shall annually conduct an evaluation of the district's child care and development services in accordance with state requirements. **The results of the evaluation shall be used to develop** The evaluation report shall be submitted to the Board and the CDE along with an action plan which establishes program goals and objectives for the coming year and addresses any areas identified as needing improvement. (5 CCR 18279-18281)

(cf. 0500 - Accountability)

Legal Reference: (see next page)

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CHILD CARE AND DEVELOPMENT (continued)

Legal Reference:

EDUCATION CODE

- 8200-8499.10 *Child Care and Development Services Act, especially:*
- 8200-8209 *General provisions for child care and development services*
- 8210-8216 *Resource and referral program*
- 8220-8226 *Alternative payment program*
- 8230-8233 *Migrant child care and development program*
- 8235-8239 *California state preschool program*
- 8240-8244 *General child care programs*
- 8250-8252 *Programs for children with special needs*
- 8263 *Eligibility and priorities for subsidized child development services*
- 8263.3 *Disenrollment of families due to reduced funding levels*
- 8263.4 *Enrollment of students ages 11-12 years*
- 8273-8273.3 *Fees*

8278.3 Child Care Facilities Revolving Fund

- 8360-8370 *Personnel qualifications*
- 8400-8409 *Contracts*
- 8482-8484.65 *After-school education and safety program*
- 8484.7-8484.8 *21st Century community learning centers*
- 8493-8498 *Facilities*
- 8499-8499.7 *Local planning councils*
- 49540-49546 *Child care food program*
- 49570 *National School Lunch program*
- 56244 *Staff development funding*

HEALTH AND SAFETY CODE

- 1596.70-1596.895 *California Child Day Care Act*
- 1596.90-1597.21 *Day care centers*
- 120325-120380 *Immunization requirements*

WELFARE AND INSTITUTIONS CODE

10200-10206 Early Childhood Development Act of 2020

CODE OF REGULATIONS, TITLE 5

- 4610-4687 *Uniform complaint procedures*
- 18000-18434 *Child care and development programs, especially:*
- 18012-18122 *General requirements*
- 18180-18192 *Federal and state migrant programs*
- 18210-18213 *Severely handicapped program*
- 18220-18231 *Alternative payment program*
- 18240-18248 *Resource and referral program*
- 18270-18281 *Program quality, accountability*
- 18290-18292 *Staffing ratios*
- 18295 *Waiver of qualifications for site supervisor*
- 18300-18308 *Appeals and dispute resolution*
- 80105-80125 *Commission on Teacher Credentialing, child care and development permits*

CODE OF REGULATIONS, TITLE 22

- 101151-101239.2 *General requirements, licensed child care centers, especially:*
- 101151-101163 *Licensing and application procedures*
- 101212-101231 *Continuing requirements*
- 101237-101239.2 *Facilities and equipment*

Legal Reference continued: (see next page)

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CHILD CARE AND DEVELOPMENT (continued)

Legal Reference: (continued)

UNITED STATES CODE, TITLE 42

1751-1769j *National School Lunch Programs*

9831-9852 *Head Start programs*

9858-9858q *Child care and development block grant*

CODE OF FEDERAL REGULATIONS, TITLE 7

210.1-210.31 *National School Lunch program*

CODE OF FEDERAL REGULATIONS, TITLE 45

98.2-98.93 *Child care and development fund*

COURT DECISIONS

CBS Inc. v. The Superior Court of Los Angeles County, State Department of Social Services, (2001)

91 Cal.App.4th 892

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

14-03a Revised Child Care and Development Fee Schedule, Management Bulletin, September 2014

Uniform Complaint Procedures, 2014

12-07 Disenrollment due to Maximum Reimbursable Amount Reduction, Management Bulletin, July 2012

Keeping Children Healthy in California's Child Care Environments: Recommendations to Improve Nutrition and Increase Physical Activity, 2010

WEB SITES

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

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

California Child Development Administrators Association: <http://www.ccdca.org>

California Department of Education, Early Education and Support Division:

<http://www.cde.ca.gov/sp/cd>

California Department of Education, Early Education Management Bulletins:

<http://www.cde.ca.gov/sp/cd/ci/allmbs.asp>

California Department of Social Services, Licensing Information: <http://celd.ca.gov/PG492.htm>

<https://www.cdss.ca.gov>

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

California School-Age Consortium: <http://calsac.org>

Commission on Teacher Credentialing: <http://www.ctc.ca.gov>

National Association for the Education of Young Children: <http://www.naeyc.org>

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

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Policy Reference UPDATE Service

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CSBA Sample Administrative Regulation

Students

AR 5148(a)

CHILD CARE AND DEVELOPMENT

Note: The following administrative regulation is for use by districts that operate child care and development services through a contract with the California Department of Education (CDE) and reflects provisions generally applicable to programs under the Child Care and Development Services Act (Education Code 8200-8499.7). Such programs include resource and referral programs (Education Code 8210-8216; 5 CCR 18240-18248), alternative payment programs (Education Code 8220-8227.7; 5 CCR 18220-18231), migrant child care and development programs (Education Code 8230-8233), California State Preschool Programs (CSPP) (Education Code 8235-8239.1), general child care and development programs (Education Code 8240-8244), and programs for children with special needs (Education Code 8250-8252). Pursuant to Welfare and Institutions Code 10200-10206, as added by SB 98 (Ch. 24, Statutes of 2020), effective July 1, 2021, the state's responsibility for administering these programs will transfer from the California Department of Education (CDE) to the California Department of Social Services (CDSS).

The district may revise this regulation to reflect specific requirements for the program(s) it offers. See BP/AR 5148.2 - Before/After School Programs for requirements pertaining to the After-School Education and Safety program (Education Code 8482-8484.65) and 21st Century Community Learning Centers (Education Code 8484.7-8484.8), and BP/AR 5148.3 - Preschool/Early Childhood Education for California State Preschool Program (CSPP) requirements.

The following administrative regulation does not reflect all policy language mandated for each specific program. The district should be careful to include the mandates, if any, applicable to the program(s) it offers. For example, for the alternative payment program, 5 CCR 18221 mandates a written policy statement that includes specified components, including, but not limited to, program purpose, enrollment priorities, reimbursement of providers, and family fee collection. For the resource and referral program, 5 CCR 18244 mandates written referral policies and written complaint procedures.

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

Licensing

Note: Pursuant to 22 CCR 101156, all child care centers must be licensed by the California Department of Social Services (CDSS) unless exempted by law. Health and Safety Code 1596.792 and 22 CCR 101158 list exemptions from the licensure requirements including, but not limited to, any program that (1) is a "public recreation program" that meets the criteria specified in Health and Safety Code 1596.792, (2) is operated before and/or after school by qualified teachers employed by the district, (3) is a school parenting program or adult education child care program, (4) operates only one day per week for no more than four hours on that day, (5) offers temporary child care services to parents/guardians who are on the same premises as the child care site, (6) provides activities that are of an instructional nature in a classroom-like setting when K-12 students are normally not in session and the sessions do not exceed a total of 30 days when only school-age children are enrolled or 15 days when younger children are enrolled, or (7) is a CSPP program operated in a school building that meets specified health and safety requirements. If the district offers only programs that are exempted from licensure, it should modify the following regulation accordingly.

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CHILD CARE AND DEVELOPMENT (continued)

Pursuant to Health and Safety Code 1596.951, **as added by AB 605 (Ch. 574, Statutes of 2018)**, CDSS **is was** required to adopt regulations by January 1, 2021 to create a new child care center license including components for serving infant, toddler, preschool, and school-age children; health and safety standards; and enhanced ability to transition children to the next age group. **However, the regulations were delayed due to the COVID-19 pandemic.** Pursuant to Health and Safety Code 1596.951, all child care centers are required to obtain this license by January 1, 2024.

All district child care and development services shall be licensed by the California Department of Social Services, unless exempted pursuant to Health and Safety Code 1596.792 or 22 CCR 101158.

The license shall be posted in a prominent, publicly accessible location in the facility. (Health and Safety Code 1596.8555)

Licensed child care centers shall be subject to the requirements of Health and Safety Code 1596.70-1597.21, 22 CCR 101151-101239.2, and, when applicable, 22 CCR 101451-101539.

Program Components

Note: Items #1-7 and 9 below list components of child care and development programs **that are** required for all providers pursuant to 5 CCR 18272-18281. The Governing Board is required, pursuant to 5 CCR 18271, to approve goals and objectives addressing each of these program components; see the accompanying Board policy. The district may add components of other programs offered by the district.

The district's child care and development program shall include the following components:

1. The use of a developmental profile reflecting each child's physical, cognitive, social, and emotional development to plan and conduct developmentally and age appropriate activities (Education Code 8203.5; 5 CCR 18272)

Program staff shall complete the **"Desired Results Developmental Profile,"** available from the California Department of Education (CDE), **developmental profile** for each child who is enrolled in the program for at least 10 hours per week and for any child with disabilities regardless of the number of hours enrolled. The profile shall be completed within 60 days of enrollment and at least once every six months thereafter for children of all ages. (Education Code 8203.5; 5 CCR 18270.5, 18272)

2. An educational program that complies with 5 CCR 18273, including the provision of services that are developmentally, linguistically, and culturally appropriate and inclusive of children with special needs

(cf. 5148.2 - Before/After School Programs)

(cf. 5148.3 - Preschool/Early Childhood Education)

(cf. 6159 - Individualized Education Program)

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

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CHILD CARE AND DEVELOPMENT (continued)

(cf. 6174 - Education for English Learners)

3. A staff development program which complies with 5 CCR 18274

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

4. Parent/guardian involvement and education that comply with 5 CCR 18275 and include an orientation, at least two individual conferences per year, meetings with program staff, an advisory committee, participation in daily activities, and information regarding their child's progress

(cf. 6020 - Parent Involvement)

5. A health and social services component that complies with 5 CCR 18276 and includes referrals to appropriate community agencies as needed

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

(cf. 5141 - Health Care and Emergencies)

(cf. 5141.23 - Asthma Management)

(cf. 5141.6 - School Health Services)

6. A community involvement component that complies with 5 CCR 18277

Note: Health and Safety Code 1596.808 establishes beverage standards for licensed child care centers. In addition, centers that receive funding through the Child and Adult Care Food Program (42 USC 1766) must meet federal guidelines for meals, snacks, fluid milk or nutritionally equivalent milk substitutes, and drinking water.

7. As applicable, a nutrition component that ensures children in the program are provided nutritious meals, beverages, and snacks that meet state and federal standards and have access to drinking water throughout the day, including meal times (Health and Safety Code 1596.808; 5 CCR 18278; 42 USC 1766)

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

(cf. 5030 - Student Wellness)

(cf. 5141.27 - Food Allergies/Special Dietary Needs)

Note: Item #8 below is **optional** and may be revised to reflect district practice. 42 USC 1766 encourages child care centers to provide opportunities for physical activity and to limit the amount of time spent in sedentary activities, such as time spent using electronic **media devices**.

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CHILD CARE AND DEVELOPMENT (continued)

8. Programs that promote age-appropriate structured and unstructured opportunities for physical activity and that limit the amount of time spent in sedentary activities to an appropriate level

Note: 5 CCR 18279-18281 require an annual evaluation using the standardized "Desired Results for Children and Families" system developed by CDE. The system requires a program self-evaluation that includes, but is not limited to, a staff assessment, a parent/guardian survey, and an environment rating scale using forms selected by CDE. Each contractor is required to submit a summary of the self-evaluation findings to CDE by June 1 of each year. In addition, every three years, CDE conducts a Federal Program Monitoring/Contract Monitoring Review (FPM/CMR) process with each contract agency to review compliance with program requirements. The FPM/CMR instrument is available on the CDE's web site.

9. An annual plan for program evaluation which conforms with the state's "Desired Results for Children and Families" system and includes, but is not limited to, a self-evaluation, parent/guardian survey, and environment rating scale using forms provided by the CDE (5 CCR 18270.5, 18279, 18280)

(cf. 0500 - Accountability)

Health and Safety

Note: The following section is for use by districts that offer one or more licensed child care programs. Health and Safety Code 1596.7996, as added by AB 2370 (Ch. 676, Statutes of 2018), requires licensed child care programs to provide parents/guardians of enrolled children with a flyer developed by CDSS in conjunction with the California Department of Public Health, which contains specified information regarding lead exposure and blood testing. The flyer is available on the CDSS web site.

When a child enrolls or reenrolls in a licensed child care program, the center shall provide the child's parent/guardian with written information on the risks and effects of lead exposure, blood lead testing recommendations and requirements, and options for obtaining blood lead testing, including any state or federally funded programs that offer free or discounted tests. (Health and Safety Code 1596.7996)

(cf. 5145.6 - Parental Notifications)

Note: Pursuant to Health and Safety Code 1597.16, a licensed child care center located in a building that was constructed before January 1, 2010 must have its drinking water tested for lead contamination as provided below. A licensed child care center is subject to the temporary suspension of its license if it fails to comply with the requirements to cease using any fountains and faucets where elevated lead levels may exist and to provide potable water.

If a licensed child care center is located in a building that was constructed before January 1, 2010, the center shall have its drinking water tested for lead contamination every five years following an initial test conducted between January 1, 2020 and

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CHILD CARE AND DEVELOPMENT (continued)

January 1, 2023. The center shall notify the parents/guardians of enrolled children of the requirement to test a facility's drinking water and of the test results. If notified of elevated lead levels, the center shall immediately make inoperable and cease using the fountains and faucets where elevated lead levels may exist and shall obtain a potable source of water for children and staff at that location. (Health and Safety Code 1597.16)

Staffing

The district's child care and development program shall maintain at least the minimum adult-child and teacher-child ratios specified in 5 CCR 18290-18292 based on the ages of the children served.

All persons employed at a licensed district child care center and all volunteers who provide care and supervision to children at such a center shall be immunized against influenza, pertussis, and measles. If they meet all other requirements for employment or volunteering, as applicable, but need additional time to obtain and provide immunization records, they may be employed or volunteer conditionally for a maximum of 30 days upon signing and submitting a written statement attesting that they have been immunized as required. In addition, employees and volunteers shall receive an influenza vaccination between August 1 and December 1 of each year. A person shall be exempt from these requirements only under any of the following circumstances: (Health and Safety Code 1596.7995)

1. The person submits a written statement from a licensed physician declaring either that immunization is not safe because of the person's physical condition or medical circumstances or that the person has evidence of current immunity to influenza, pertussis, and measles.
2. In the case of the influenza vaccine, the person submits a written declaration declining the vaccination.
3. In the case of the influenza vaccine required during the first year of employment or volunteering, the vaccine is not timely because the person was hired after December 1 of the previous year and before August 1 of the current year.

(cf. 1240 - Volunteer Assistance)

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

Documentation of the required immunizations or exemptions from immunization shall be maintained in the employee's personnel file. (Health and Safety Code 1596.7995)

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

CHILD CARE AND DEVELOPMENT (continued)

In addition to the above immunization requirements, teachers employed in a licensed child care center shall present evidence of a current tuberculosis clearance and meet other requirements specified in Health and Safety Code 1597.055. (Health and Safety Code 1597.055)

Eligibility and Enrollment

Note: ~~CDE contracts provide~~ State funding only is only available for services to families who meet the criteria for subsidized services as specified in Education Code 8263. The district may also provide services to nonsubsidized families provided the district uses other funding sources or the families pay the full cost of services; see section on "Fees and Charges" below.

Pursuant to 5 CCR 18105, districts contracting with CDE to offer child care services are **mandated** to develop written admissions policies and procedures that conform to requirements of 22 CCR 101218, including criteria designating those children whose needs can be met by the child care center's program and services and the ages of children who will be accepted.

The following section should be revised to reflect the district's contract(s) ~~with CDE~~.

The district's subsidized child care and development services may be available to infants and children through 12 years of age and to individuals with disabilities through 21 years of age in accordance with their individualized education program and Education Code 8208. (Education Code 8208, 8263.4; 5 CCR 18089, 18407, 18422)

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

Pursuant to Education Code 8263.1, ~~as amended by AB 2626 (Ch. 945, Statutes of 2018),~~ income eligibility is based on an adjusted monthly family income at or below 85 percent of the state median income, adjusted for family size, ~~for purposes of establishing ongoing income eligibility after January 1, 2019 or initial eligibility after July 1, 2019.~~

Eligible families shall be those who document both an eligibility basis and a need for care, as follows: (Education Code 8263, **8263.1**)

1. The family is eligible for subsidized services on the basis of being a current aid recipient, income eligible, or homeless and/or the family's children are recipients of protective services or have been identified as being or at risk of being abused, neglected, or exploited.
2. The family has a need for child care based on either of the following:
 - a. The unavailability of the parents/guardians to care for and supervise their children for some portion of the day because they are participating in

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CHILD CARE AND DEVELOPMENT (continued)

vocational training leading directly to a recognized trade, paraprofession, or profession; are engaged in an educational program for English language learners or to attain a high school diploma or general educational development certificate; are employed or seeking employment; are seeking permanent housing for family stability; or are incapacitated

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

Note: The following paragraph may be revised to reflect district practice. Unless state funding is allocated to support the centralized eligibility list established in each county pursuant to Education Code 8499.5, such lists will be maintained only if locally funded. In situations where there is no locally funded centralized eligibility list or the district elects not to participate in the local list, the district must establish its own waiting list in accordance with admission priorities pursuant to Education Code 8263 and 5 CCR 18106.

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

First priority for enrollment shall be given to neglected or abused children who are recipients of child protective services, or children who are at risk of being neglected or abused, upon written referral from a legal, medical, or social services agency. If unable to enroll a child in this category, the district shall refer the child's parent/guardian to local resource and referral services so that services for the child can be located. (Education Code 8263)

Second priority for enrollment shall be given to families who are income eligible, as defined in Education Code 8263.1. Families with the lowest gross monthly income in relation to family size shall be admitted first. If two or more families are in the same priority in relation to income, the family that has a child with disabilities shall be admitted first or, if there is no child with disabilities, the family that has been on the waiting list for the longest time shall be admitted first. (Education Code 8263, 8263.1)

The district shall allow eligible children 11-12 years of age to combine enrollment in a before-school or after-school program with subsidized child care services during the time that the before-school or after-school program does not operate. Children 11-12 years of age, except for children with disabilities, shall be eligible for subsidized child care services only for the portion of care needed that is not available in a before-school or after-school program. (Education Code 8263.4)

Note: The following **optional** paragraph may be revised to reflect additional enrollment priorities or criteria established by the district, such as priority for district students, children of district students, or children of district employees; see the accompanying Board policy.

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CHILD CARE AND DEVELOPMENT (continued)

After all children eligible for subsidized services have been enrolled, the district may enroll children in accordance with the priorities established by the Governing Board.

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

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

(cf. 5145.6 Parental Notifications)

Note: Pursuant to Education Code 8263, as amended by AB 2626, effective July 1, 2019, a family that establishes initial or ongoing eligibility for services, regardless of the basis of eligibility, is entitled to receive those services for at least 12 months before being recertified for eligibility, except when an increase in income results in the family income exceeding the threshold for ongoing eligibility.

Upon establishing eligibility for services, a family shall be eligible for and shall receive services for not less than 12 months before having the family's eligibility or need recertified and shall not be required to report changes to income or other changes for at least 12 months. However, a family establishing eligibility on the basis of income shall report any increases in income that exceed the threshold for ongoing income eligibility specified in Education Code 8263.1, and the family's ongoing eligibility shall be recertified at that time. At any time a family may voluntarily report income or other changes, which shall be used, as applicable, to reduce the family's fees, increase the family's services, or extend the period of eligibility before recertification. (Education Code 8263)

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

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

1. A determination made during recertification or the update of the application that the need or eligibility requirements are no longer being met or the fee or amount of service needs to be modified

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CHILD CARE AND DEVELOPMENT (continued)

2. Failure of the parent/guardian to document the family's need or eligibility after the district requested such documentation in writing
3. An indication by the parent/guardian that the service is no longer wanted
4. The death of a parent/guardian or child
5. The conclusion of a limited-term agreement, provided that the parent/guardian has been informed in writing of the date that the services would terminate

The Superintendent or designee shall establish and maintain a basic data file for each family receiving child care and development services containing the completed and signed application for services, documentation used to determine the child's eligibility and need, and copies of all Notices of Action. (5 CCR 18081, 18095)

Fees and Charges

Note: Education Code 8273 requires the Superintendent of Public Instruction (SPI) state to establish a fee schedule for families using child care services through a CDE contract, including families who are eligible for subsidized child care services based on the criteria specified in item #1 in the section "Eligibility and Enrollment" above. See CDE Management Bulletin 14-03a.

~~Pursuant to 5 CCR 18109 and CDE's Frequently Asked Questions to Management Bulletin 14-03a, the district may charge a full time, part time, or "cost of care" fee calculated pursuant to 5 CCR 18109, whichever is less, depending on the number of hours that a child will receive services.~~

Education Code 8250 and 5 CCR 18110 prohibit districts from assessing fees for children enrolled in a program for severely disabled children or a federally based migrant program. Districts may revise the following paragraph to reflect any such program(s) offered by the district. Districts that offer only programs prohibited from charging fees may delete the following section.

Except when offering a program that is prohibited by law from charging any fees, the Superintendent or designee may charge fees for services according to the state fee schedule established by the Superintendent of Public Instruction, the actual cost of services, or the maximum daily/hourly rate specified in the contract, whichever is least. (Education Code 8250, 8263, 8273, 8273.1, 8447; 5 CCR 18078, 18108-18110)

However, no fee shall be charged to a family that is receiving CalWORKS cash aid, an income-eligible family whose child is enrolled in a part-day California State Preschool Program, or a family whose income level, in relation to family size, is less than the first entry in the fee schedule. (Education Code 8273.1; 5 CCR 18110)

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CHILD CARE AND DEVELOPMENT (continued)

In addition, any family receiving child care on the basis of having a child who is a recipient of child protective services, or having a certification by a county child welfare agency that child care services continue to be necessary, may be exempt from these fees for up to 12 months. (Education Code 8273.1)

Note: Pursuant to Education Code 8273 and CDE Management Bulletin 14-03a, family fees must be assessed at initial enrollment and reassessed at recertification or when the family data file is updated due to a change in status.

Pursuant to 5 CCR 18114, districts contracting with CDE to offer child care services are **mandated** to adopt a policy for the collection of fees in advance of providing services, as provided below. 5 CCR 18114 contains an alternative definition of delinquency for alternative payment programs offered pursuant to Education Code 8220-8224.

Fees shall be assessed at initial enrollment and reassessed when a family is recertified or experiences a change in status. Fees shall be considered delinquent after seven days from the date that fees are due. Parents/guardians shall be notified in the event that fees are delinquent. If a reasonable plan for payment of the delinquent fees has not been provided by the parents/guardians, services shall be terminated if all delinquent fees are not paid within two weeks of such notification. Parents/guardians shall receive a copy of the district's regulations regarding fee collection at the time of initial enrollment into the program. (Education Code 8273; 5 CCR 18082, 18114, 18115)

Note: The following paragraph is for use by districts that contract with CDE to offer child care services and wish to require parents/guardians to provide diapers and/or to pay the costs of field trips (unless the program is exempt from fees), and may be modified to delete diapers as appropriate for the age of the children served. Education Code 8273.3 **mandates** that such districts have a written policy which includes parents/guardians in the decision-making process. Pursuant to Education Code 8273.3, the fees cannot exceed \$25 per child in the contract year.

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

Disenrollment

Note: Education Code 8263.3 specifies the order by which families must be disenrolled from child care and development services when funding levels are reduced. Parents/guardians may appeal such actions pursuant to 5 CCR 18120-18122, but only on the grounds that the factors used to determine the family's disenrollment are incorrect. See section "Rights of Parents/Guardians" below.

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CHILD CARE AND DEVELOPMENT (continued)

When necessary due to a reduction in state reimbursements, families shall be disenrolled from subsidized child care and development services in the following order: (Education Code 8263.3)

1. Families with the highest income in relation to family size shall be disenrolled first.
2. If two or more families have the same income ranking, children without disabilities who have been enrolled in child care services the longest shall be disenrolled first. After all children without disabilities have been disenrolled, children with disabilities shall be disenrolled, with those who have been enrolled in child care services the longest being disenrolled first.
3. Families whose children are receiving child protective services or are at risk of neglect, abuse, or exploitation, regardless of family income, shall be disenrolled last.

Health Examination and Information Immunizations

Note: Education Code 8263 provides that the ~~requires children enrolling in a child care center to obtain a physical examination and evaluation, including immunizations, required of children enrolling in a child care center may be waived if~~ **requires children enrolling in a child care center to obtain a physical examination and evaluation, including immunizations, required of children enrolling in a child care center may be waived if** unless a parent/guardian submits a letter stating that such examination is contrary to the parent/guardian's religious beliefs. However, **with respect to immunization requirements,** Health and Safety Code 120335 eliminated the personal beliefs exemption ~~for immunization requirements~~ unless the parent/guardian ~~files~~ **files** a letter or affidavit prior to January 1, 2016 or a licensed physician indicates that a student should be exempted for medical reasons. An exemption granted for personal beliefs is only effective until the next grade span (i.e., birth through preschool, grades K-6, and grades 7-12). See BP/AR 5141.31 - Immunizations.

~~A physical examination and evaluation, including age appropriate immunizations, shall be required p~~ **Prior to or within six weeks of enrollment, a child enrolling in a child care center shall obtain a physical examination and evaluation and receive age-appropriate immunizations.** (Education Code 8263)

(cf. 5141.3 - Health Examinations)
(cf. 5141.31 - Immunizations)

Note: Education Code 8263 provides that the ~~physical examination and evaluation, including immunizations, required of children enrolling in a child care center may be waived if a parent/guardian submits a letter stating that such examination is contrary to the parent/guardian's religious beliefs. However,~~ Health and Safety Code 120335 eliminated the personal beliefs exemption ~~for immunization requirements~~ unless the parent/guardian ~~files~~ a letter or affidavit prior to January 1, 2016 or a licensed physician indicates that a student should be exempted for medical reasons. An exemption granted for personal beliefs is only effective until the next grade span (i.e., birth through preschool, grades K-6, and grades 7-12). See BP/AR 5141.31 - Immunizations.

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CHILD CARE AND DEVELOPMENT (continued)

The requirement for a physical examination and evaluation shall be waived if a parent/guardian submits a letter stating that such examination is contrary to the parent/guardian's religious beliefs. (Education Code 8263)

~~However,~~ **A child may be exempted from the immunization requirements only if: (Education Code 8263; Health and Safety Code 120335)**

1. A licensed physician indicates that immunization is not safe due to the physical condition or medical circumstances of the child.

Note: Pursuant to Health and Safety Code 120372, a child care center may only accept a medical exemption request that is made by a licensed physician or surgeon on an electronic, standardized, statewide medical exemption certification form developed by the California Department of Public Health and transmitted using the California Immunization Registry. However, Health and Safety Code 120370 requires that a child who has a medical exemption issued prior to January 1, 2020 be allowed to continue enrollment until the next grade span.

A medical exemption shall be submitted using the standardized medical exemption certification form developed by California Department of Public Health and transmitted using the California Immunization Registry. The request shall include, but not be limited to, a description of the medical basis for which the exemption for each individual immunization is sought and whether the medical exemption is permanent or temporary, including the date upon which a temporary medical exemption will expire. A temporary exemption shall not exceed one year. (Health and Safety Code 120372)

2. The parent/guardian submitted a letter or affidavit prior to January 1, 2016 stating that such examination is contrary to the parent/guardian's personal beliefs. An exemption from immunization granted for personal beliefs is effective only until the next grade span (i.e., birth through preschool, grades K-6, and grades 7-12).

If there is good cause to believe that a child is suffering from a recognized contagious or infectious disease, the child shall be temporarily excluded from the child care and development program until it is determined that the child is not suffering from that contagious or infectious disease. (Education Code 8263)

(cf. 5141.22 - Infectious Diseases)

Note: Health and Safety Code 1596.7996, as added by AB 2370 (Ch. 676, Statutes of 2018), requires licensed child care programs to provide parents/guardians of enrolled children with a flyer developed by CDSS in conjunction with the California Department of Public Health, which contains specified information regarding lead exposure and blood testing. The flyer is available on the CDSS web site.

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CHILD CARE AND DEVELOPMENT (continued)

Pursuant to Health and Safety Code 1597.16, as added by AB 2370, a licensed child care center located in a building constructed before January 1, 2010 will be required to have its drinking water tested for lead contamination levels between January 1, 2020 and January 1, 2023, and every five years after the date of the initial test. At that time the child care center must notify parents/guardians of enrolled children of the requirement to test the drinking water and of the test results.

When a child enrolls or reenrolls in a licensed child care program, the center shall provide the child's parent/guardian with written information on the risks and effects of lead exposure, blood lead testing recommendations and requirements, and options for obtaining blood lead testing, including any state or federally funded programs that offer free or discounted tests. (Health and Safety Code 1596.7996)

Attendance

Sign-in and sign-out sheets shall be used daily for all children for attendance accounting purposes. Attendance records shall include verification of excused absences, including the child's name, date(s) of absence, specific reason for absence, and signature of parent/guardian or district representative. (5 CCR 18065, 18066)

Absences shall be excused for the following reasons:

1. Illness or quarantine of the child or of the parent/guardian (Education Code 8208)
2. Family emergency (Education Code 8208)

Note: Pursuant to 5 CCR 18066, districts contracting with CDE to offer child care services are **mandated** to adopt policies delineating circumstances constituting an excused absence for a family emergency. The following paragraph may be revised to reflect district practice.

A family emergency shall be considered to exist when unforeseen circumstances cause the need for immediate action, such as may occur in the event of a natural disaster or when a member of the child's immediate family dies, has an accident, or is required to appear in court.

3. Time spent with a parent/guardian or other relative as required by a court of law (Education Code 8208)
4. Time spent with a parent/guardian or other relative which is clearly in the best interest of the child (Education Code 8208)

Note: 5 CCR 18066 **mandates** a policy that delineates circumstances constituting an excused absence "in the best interest of the child." The following paragraph may be revised to reflect district practice.

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CHILD CARE AND DEVELOPMENT (continued)

An absence shall be considered to be in the best interest of the child when the time is spent with the child's parent/guardian or other relative for reasons deemed justifiable by the program coordinator or site supervisor.

Except for children who are recipients of child protective services or are at risk of abuse or neglect, excused absences in the best interest of the child shall be limited to 10 days during the contract period. (5 CCR 18066)

Note: 5 CCR 18066 mandates that providers adopt a policy governing unexcused absences which may include reasonable limitations, if any. The following paragraph may be revised to reflect district practice.

Any absence due to a reason other than any of those stated above, or without the required verification, shall be considered an unexcused absence. After three unexcused absences during the year, the program coordinator or site supervisor shall notify the child's parent/guardian. Children who continue to have excessive unexcused absences may be removed from the program at the discretion of the program coordinator in order to accommodate other families on the waiting list for admission.

Parents/guardians shall be notified of the policies and procedures related to excused and unexcused absences for child care and development services. (5 CCR 18066)

Rights of Parents/Guardians

Note: The following two paragraphs are for use by districts that operate one or more licensed child care centers, but may be used by license-exempt providers.

At the time a child is accepted into a licensed child care and development center, the child's parent/guardian or authorized representative shall be notified of the rights specified in 22 CCR 101218.1, including, but not limited to, the right to enter and inspect the child care facility and the right to be informed, upon request, of the name and type of association to the center of any adult who has been granted a criminal record exemption. (Health and Safety Code 1596.857; 22 CCR 101218.1)

The written notice of parent/guardian rights also shall be permanently posted within the facility in a location accessible to parents/guardians. Notwithstanding these rights, access to the facility may be denied to an adult whose behavior presents a risk to children present in the facility or to noncustodial parents/guardians when so requested by the responsible parent/guardian. (Health and Safety Code 1596.857)

Note: The remainder of this section is for use by all districts and applies to licensed and unlicensed child care programs.

CHILD CARE AND DEVELOPMENT (continued)

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

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

Records

Note: **CDE State** contracts require the district to submit data on both subsidized and nonsubsidized families served by child care centers. In addition, the district is required to provide monthly reports, **through CDE's online management information system**, regarding any families receiving subsidized services during that month.

The Superintendent or designee shall maintain records of enrollment, attendance, types of families served, income received from all families participating in the district's child care and development program, and any other records required **by CDE under the state contract**.

(cf. 3580 - District Records)

(cf. 5125 - Student Records)

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CSBA Sample Board Policy

Instruction

BP 6142.5(a)

ENVIRONMENTAL EDUCATION

Note: The following optional policy may be revised to reflect district practice. Pursuant to Public Resources Code 71300-71304, the Office of Education and the Environment within the Department of Resources Recycling and Recovery (CalRecycle) has developed "environmental principles and concepts," which have been adopted by the State Board of Education. For further information, see the web site of the California Education and the Environment Initiative.

~~Pursuant to Public Resources Code 71300-71304, the California Office of Education and the Environment, within the state Integrated Waste Management Board, has developed a model curriculum based on environmental education principles which will be incorporated into the state's criteria for textbook adoption and, pursuant to Education Code 33541, into the science curriculum framework adopted by the State Board of Education.~~

~~The following optional policy is consistent with the state's education principles for the environment and may be revised to reflect district practice.~~

The Governing Board recognizes that schools play a crucial role in educating students about the importance of the environment and in preparing them to be stewards of natural resources. The Board believes that students should value the environment, respect all life forms, understand the basic ecological principles which support the planet, and live an ecologically responsible life style. relationship between humans and the natural world and in preparing them to have the skills, knowledge, and principles needed to solve environmental problems. The Board believes that all students should understand ecological systems and the impact of human action on such systems, including, but not limited to, climate change. The district's environmental education program shall promote environmental literacy and shall prepare students to be stewards of natural resources and live an environmentally sustainable lifestyle.

(cf. 6000 - Concepts and Roles)

(cf. 6142.3 - Civic Education)

The district's local control and accountability plan may include local goals and priorities for environmental literacy.

(cf. 0460 - Local Control and Accountability Plan)

Note: Education Code 51210 requires the adopted course of study for grades 1-6 to include instruction on the relations of persons to their human and natural environment, the wise use of natural resources, and science instruction on the place of humans in the ecological systems. In grades 7-12, Education Code 51220 requires study of the relations of persons to their human and natural environment and science instruction that emphasizes the place of humans in ecological systems. See AR 6143 - Courses of Study.

Pursuant to Education Code 51227.3, the environmental principles and concepts must be integrated into the state content standards, curriculum frameworks, and textbook criteria in the subjects of

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ENVIRONMENTAL EDUCATION (continued)

English language arts, science, history-social science, health, and, to the extent practicable, mathematics. To date, the environmental principles and concepts have only been integrated into the science and history-social science curriculum frameworks.

The following optional paragraph reflects the content of the state-adopted environmental principles and concepts.

~~The Superintendent or designee shall develop an environmental education program that is aligned with state academic standards and curriculum frameworks. The Superintendent or designee shall determine how the district's environmental education program will be integrated into the district's science curriculum and other subjects and courses in which the concepts may be explicitly and systematically taught.~~

~~(cf. 6011 - Academic Standards)~~

~~(cf. 6141 - Curriculum Development and Evaluation)~~

~~(cf. 6142.93 - Science Instruction)~~

~~(cf. 6143 - Courses of Study)~~

~~The goal of the district's environmental education program shall be to provide students with an understanding of~~ **The district's environmental education program may be taught across the district curriculum in science, history-social science, English language arts, health, and, to the extent practicable, mathematics. Such instruction shall be aligned with state-adopted standards and curriculum frameworks and may include, but not be limited to,** the interactions and interdependence of human societies and natural systems, people's dependence and influence on natural systems, the ways that natural systems change and how people can benefit and influence that change, the fact that there are no boundaries to prevent matter from flowing between systems, and the fact that decisions affecting resources and natural systems are complex and involve many factors.

~~(cf. 6011 - Academic Standards)~~

~~(cf. 6141 - Curriculum Development and Evaluation)~~

~~(cf. 6142.93 - Science Instruction)~~

~~(cf. 6143 - Courses of Study)~~

Note: Pursuant to Public Resources Code **71300-71304** ~~71300 and 71304~~, ~~the California CalRecycle's Office of Education and the Environment has developed environmental education resources, including a model curriculum programs and successful strategies, to help districts coordinate best practices for environment-based education and environmental science and technology. Further information can be found on the California Integrated Waste Management Board's web site.~~ **California Education and the Environment Initiative's web site.**

~~The Superintendent or designee shall ensure that students have access to high quality instructional materials and opportunities for hands on, real world learning experiences in environmental education both inside and outside the classroom. The district's program shall may also provide for~~ **emphasize a coordination of instructional resources with** active student

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ENVIRONMENTAL EDUCATION (continued)

participation in onsite resource conservation and management programs and the promotion of service learning partnerships. **The Superintendent or designee may collaborate with other local educational agencies and/or community-based organizations to enhance the curriculum and learning experiences provided to students.**

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

(cf. 3511 - Energy and Water Management)

(cf. 3511.1 - Integrated Waste Management)

(cf. 3514 - Environmental Safety)

(cf. 5030 - Student Wellness)

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

(cf. 6153 - School-Sponsored Trips)

The Superintendent or designee shall ensure that environment-based learning experiences are made available on an equitable basis and that the environmental literacy curriculum reflects the linguistic, ethnic, and socioeconomic diversity of California.

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

(cf. 0415 - Equity)

As appropriate, the Superintendent or designee shall provide professional development for teachers in the development and effective implementation of curriculum and activities inside and outside of the classroom that promote environmental literacy.

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

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

~~*(cf. 3511.1 - Integrated Waste Management)*~~

~~*(cf. 3514 - Environmental Safety)*~~

~~*(cf. 5030 - Student Wellness)*~~

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

~~*(cf. 6153 - School Sponsored Trips)*~~

Legal References: (see next page)

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ENVIRONMENTAL EDUCATION (continued)

Legal Reference:

EDUCATION CODE

- 8700-8707 Environmental education
 - 8720-8723 Conservation education service
 - 8760-8773 Outdoor science, conservation, and forestry
 - 33541 Science requirements
 - 37222 John Muir; recognition of his contributions
 - 51210 Areas of study, grades 1-6
 - 51220 Areas of study, grades 7-12
 - 51227.3 Environmental principles and concepts**
 - 51795-51797 School instructional gardens
 - 60041 Ecological systems and their protection
- #### PUBLIC RESOURCES CODE
- 71300-71305 Statewide environmental education

Management Resources:

WEB SITES

- ~~California Environmental Protection Agency, Education and the Environment Initiative:~~
~~<http://www.calopa.ca.gov/Education/EEI>~~
- California Department of Education, Environmental Education and **Environmental Literacy:**
<http://www.cde.ca.gov/pd/ca/sc/oeaintrod.asp>
- California Education and the Environment Initiative:** <https://www.californiaeei.org>
- ~~California Integrated Waste Management Board, School Waste Management Education and Assistance:~~ ~~<http://www.ciwmb.ca.gov/Schools>~~
- California Regional Environmental Education Community: <http://www.creec.org>
- Green Schoolyards America:** <https://www.greenschoolyards.org>
- Green Schoolyards America, National COVID-19 Outdoor Learning Initiative:**
<https://www.greenschoolyards.org/covid-learn-outside>
- North American Association for Environmental Education:**
<https://naaee.org/our-work/programs/eeworks>

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CSBA Sample Administrative Regulation

Instruction

AR 6162.51(a)

STATE ACADEMIC ACHIEVEMENT TESTS

Note: The following administrative regulation reflects requirements of the California Assessment of Student Performance and Progress (CAASPP) (Education Code 60600-60649) and should be revised to reflect the grade levels offered by the district.

The Superintendent or designee shall administer the California Assessment of Student Performance and Progress (CAASPP) to all district students at applicable grade levels, except those students exempted by law.

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

5 CCR 851 clarifies responsibility for the testing of charter school students who attend locally funded charter schools. Pursuant to Education Code 47651, a locally funded charter school is one that receives the state aid portion of its local control funding formula allocation through the district that either authorized the charter or was designated by the State Board of Education (SBE) as the oversight agency, rather than directly from the state.

The students of any charter school that receives its state funding allocation through the district shall be tested in coordination with the testing of district students. In addition, the Superintendent or designee shall arrange for the testing of students in any alternative education program or program conducted off campus, including, but not limited to, non-classroom based programs, continuation schools, independent study, community day schools, county community schools, juvenile court schools, or nonpublic, nonsectarian schools. No test shall be administered in a home or hospital except by a test administrator or test examiner. (5 CCR 851)

(cf. 0420.4 - Charter School Authorization)

(cf. 0420.41 - Charter School Oversight)

(cf. 6158 - Independent Study)

(cf. 6159.2 - Nonpublic, Nonsectarian School and Agency Services for Special Education)

(cf. 6181 - Alternative Schools/Programs of Choice)

(cf. 6183 - Home and Hospital Instruction)

(cf. 6184 - Continuation Education)

(cf. 6185 - Community Day School)

Note: The following paragraph is **optional**. Pursuant to 5 CCR 853, if the district identifies students who are unable to access the computer-based assessments, as required by 5 CCR 857, the district may use a paper and pencil version of the assessment, if available.

On or before July 1 of each year, the Superintendent or designee shall identify any district school(s) with students who are unable to access the computer-based assessment of a CAASPP test and shall report the number of such students to the test contractor. If available, a paper and pencil version of the assessment may be administered to such students. (5 CCR 853, 857)

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STATE ACADEMIC ACHIEVEMENT TESTS (continued)

Note: 5 CCR 857, as amended by Register 2015, No. 48, establishes a deadline of July 1 of each year for designating a district test coordinator.

On or before July 1 of each year, the Superintendent or designee shall designate a district coordinator who shall oversee all matters related to the testing program and serve as the district representative and liaison with the test contractor and the California Department of Education (CDE). The Superintendent or designee shall also designate a coordinator for each test site. The duties of the district and site test coordinators shall include those specified in 5 CCR 857-858. (5 CCR 857-858)

Note: 5 CCR 850, as amended by Register 2015, No. 48, defines "test administrator" as an employee trained to administer the CAASPP achievement tests and "test examiner" as a certificated or licensed employee of a local educational agency trained to administer the California Alternate Assessments (CAA) for students with significant cognitive disabilities.

The Superintendent or designee also shall appoint trained test administrator(s) to administer the CAASPP achievement tests and test examiner(s) to administer the California Alternate Assessments. A test examiner shall be a certificated or licensed employee **or contractor** of the district or county office of education. (5 CCR 850)

(cf. 4112.2 - Certification)

(cf. 4113 - Assignment)

Note: Pursuant to 5 CCR 850, as amended by Register 2015, No. 48, a student's sibling is prohibited from serving as his/her translator or scribe during test administration.

As appropriate, the Superintendent or designee shall assign a specially trained district employee to serve as a test proctor to assist the test examiner; a specially trained district employee, or other person supervised by a district employee, to serve as a translator to translate the test directions into a student's primary language; and a district employee to serve as a scribe to transcribe a student's responses to the format required by the test. A student's parent/guardian or sibling shall not be eligible to be that student's translator or scribe. (5 CCR 850)

All test administrators, test examiners, proctors, translators, scribes, district and site test coordinators, and other persons having access to any of the CAASPP achievement tests and corresponding test materials, assessment technology platform, or tests administered pursuant to Education Code 60640 shall acknowledge the limited purpose of their access to the achievement tests by signing a test security affidavit. In addition, all district and site test coordinators shall sign a test security agreement before receiving any CAASPP achievement tests and corresponding test materials. The test security affidavit and test security agreement shall be those set forth in 5 CCR 859. (5 CCR 850, 859)

STATE ACADEMIC ACHIEVEMENT TESTS (continued)

Tests Included in the State Assessment System

Note: Pursuant to Education Code 60640 and 5 CCR 851.5, ~~as added by Register 2015, No. 48,~~ the CAASPP consists of the required assessments listed in items #1-3 below and optional use of a primary language assessment.

Pursuant to Education Code 60640 and 99300-99301, the CAASPP also includes the Early Assessment Program (EAP) designed to assess the college readiness of students in grade 11 in English language arts and/or mathematics. The EAP is included within the summative assessments listed in item #1 below.

The district shall administer the following CAASPP assessments: (Education Code 60640; 5 CCR 851.5)

1. The ~~CAASPP achievement tests~~ **Smarter Balanced summative assessments** for English language arts and mathematics in grades 3-8 and 11, except that:

(cf. 6142.91 - Reading/Language Arts Instruction)

(cf. 6142.92 - Mathematics Instruction)

- a. Recently arrived English learners, defined pursuant to Education Code 60603 as English learners who are in their first 12 months of attending a school in the United States, shall be exempted from taking the English language arts assessment to the extent allowed by federal law. A recently arrived English learner may be administered the test upon request by ~~his/her~~ **the student's** parent/guardian.

(cf. 6174 - Education for English Learners)

- b. Students with disabilities who are unable to participate in the English language arts and mathematics assessments, even with the resources described in the section "Testing Variations" below, shall be provided an alternate test when designated in their individualized education program (IEP), as provided in item #3 below.

(cf. 6159 - Individualized Education Program)

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

Note: ~~Education Code 60640 provides that the California Standards Tests will be administered in science at grades 5, 8, and 10. When available, the SBE shall adopt an assessment that is aligned with the Next Generation Science Standards, which were adopted by the SBE in September 2013. Pursuant to Education Code 60640, SBE has determined that the California Science Test (CAST), which is aligned with the Next Generation Science Standards, must be administered in grades 5, 8, and once in grades 10-12. According to the CAASPP Online Test Administration Manual, districts can elect to administer the CAST to students in grade 10 or 11. Students in grade 12 who have not yet met the science testing~~

STATE ACADEMIC ACHIEVEMENT TESTS (continued)

requirement will automatically be registered to take the CAST. The California Department of Education (CDE) recommends testing high school students when they are enrolled in their last science course. Item #2 may be revised to reflect district practice.

2. ~~Science assessments~~ **The California Science Test (CAST)** at grades 5, 8, and **once in grades 10-12**

However, students with disabilities who are unable to participate in the ~~science assessments~~ **CAST**, even with the resources described in the "Testing Variations" section below, shall be provided an alternate test when designated in their IEP, as provided in item #3 below.

(cf. 6142.93 - Science Instruction)

Note: Pursuant to 20 USC 1412 and Education Code 60640, students with disabilities must be included in the CAASPP program with accommodations where necessary (see section on "Testing Variations" below), unless they are exempted by their parents/guardians or are eligible to take an alternate assessment.

~~For the English language arts and mathematics assessments, students with significant cognitive disabilities may be administered the CAA. For the science assessment, students with disabilities may take the CAPA or the California Modified Assessment, in accordance with their individualized education program (IEP).~~

3. **The California Alternate Assessments (CAA) in English language arts, mathematics, and science** ~~For students with significant cognitive disabilities who are unable to take the tests specified in items #1-2 above, even with appropriate accommodations or other testing resources, and who have an IEP that designates the use of alternate tests at the applicable grade levels:~~

a. ~~California Alternate Assessment in English language arts and mathematics for students with significant cognitive disabilities~~

b. ~~For the science assessment, either the California Modified Assessment or, for students with significant cognitive disabilities, the California Alternate Performance Assessment~~

Note: The following paragraph is **optional**. In addition to administering the CAASPP achievement tests described in items #1-3 above to English learners, Education Code 60640 authorizes the district to administer a primary language assessment to English learners. ~~in grades 2-11. Education Code 60640 provides that districts may use the Standards Based Test in Spanish (STS) for this purpose until a test is available that is aligned with the Common Core State Standards in English language arts. The SBE is required to adopt such an assessment to be used no later than the 2016-17 school year. Pursuant to 5 CCR 851.5, as amended by Register 2015, No. 48, the successor primary language assessment will be available for students in grade 3-8 and 11. The California Spanish Assessment (CSA) is available to measure competency in Spanish reading/language arts of students in grades 3-8 and high school.~~

STATE ACADEMIC ACHIEVEMENT TESTS (continued)

Pursuant to Education Code 60640, the district will receive a per pupil apportionment from the state for administration of the primary language assessment to English learners.

In addition, the Superintendent or designee may administer ~~a primary language assessment~~ **the California Spanish Assessment (CSA)** to English learners. Administration of this test shall not replace the administration of the above tests, administered in English, to English learners. (Education Code 60640)

Note: The following paragraph is **optional**. Pursuant to Education Code 60640, the district may, at its own expense, administer the ~~STS or successor state assessment~~ **CSA** to students in a dual immersion program who are not limited English proficient or who are redesignated fluent English proficient. If the district chooses to use the primary language assessment for this purpose, it must enter into an agreement with the state testing contractor, subject to the approval of ~~the~~ CDE.

ND The ~~primary language assessment~~ **CSA** also may be used to assess students in a dual language immersion program who are not limited English proficient or who are redesignated fluent English proficient, subject to approval by ~~the California Department of Education (CDE)~~ of an agreement between the district and the state testing contractor. (Education Code 60640)

Note: The following paragraph is optional. Pursuant to Education Code 60642.6, the CAASPP includes optional computer-based interim assessments, available at no cost to districts, that provide teachers and administrators with results that can be used to support teaching and learning and to gauge student progress toward mastery of the skills measured by the summative assessments. The interim assessments were developed for grades 3-8 and high school, but can be administered at any grade level. The timing and frequency of the interim assessments may be determined by the district.

CAASPP also offers formative assessment tools (i.e., assessment tools and processes that are embedded in instruction and used by teachers to receive real-time feedback for purposes of adjusting instruction). Tools for Teachers, available on the Smarter Balanced Assessment Consortium web site, is an online collection of resources aligned with the Common Core State Standards.

ok Throughout the school year, schools may use Smarter Balanced interim assessments and formative assessment tools at any grade level to provide timely feedback regarding students' progress toward mastery of the skills measured by the summative assessments in English language arts and mathematics and to assist teachers in continually adjusting instruction to improve learning. The Superintendent or designee may determine the timing and frequency of the administration of such assessments.

Exemptions

Note: In addition to the exemption of recently arrived English learners from the English language arts assessment (see item #1a in the section "Tests Included in the State Assessment System" above), Education Code 60615 allows students to be exempted from the CAASPP upon written request from their parents/guardians. 5 CCR 852 requires the district to notify parents/guardians regarding this exemption and provides that any exemption will be granted only for the current school year.

STATE ACADEMIC ACHIEVEMENT TESTS (continued)

Districts should be aware of the need to maintain a high student participation level on state assessments. Pursuant to 20 USC 6311, ~~as amended by the Every Student Succeeds Act (P.L. 114 95)~~, states must annually measure the achievement of not less than 95 percent of all students **and of each numerically significant subgroup of students**. ~~The state legislature will need to determine how to factor the participation requirement into the state's school accountability system.~~

Each year the Superintendent or designee shall notify parents/guardians of their child's participation in the CAASPP and of the provisions of Education Code 60615 related to exemptions from testing. (5 CCR 852)

(cf. 5145.6 - Parental Notifications)

~~A parent/guardian~~ **Parents/guardians** may annually submit to the school a written request to excuse ~~his/her~~ **their** child from any or all parts of the CAASPP assessments for the school year, and such a request shall be granted by the Superintendent or designee. However, district employees shall not solicit or encourage any exemption request on behalf of any student or group of students. (Education Code 60615; 5 CCR 852)

If a parent/guardian submits an exemption request after testing has begun, any test(s) completed before the request is submitted will be scored and the results reported to the parent/guardian and included in the student's records. (5 CCR 852)

Testing Period

Note: Education Code 60640 requires the SBE to establish **a testing windows** that allows all schools to administer the CAASPP tests at approximately the same time during the instructional year and takes into account the need to provide make-up days for students who were absent during testing. ~~5 CCR 855, as amended by Register 2015, No. 48, establishes the testing windows specified below beginning in the 2015-16 school year.~~ Within these testing windows, the district may establish its own testing dates.

The following section should be revised to reflect grade levels offered by the district. In addition, districts that do not maintain any schools on a year-round schedule may revise the following section to delete references to schedules based on tracks.

The Superintendent or designee shall establish testing days for district students within the following available testing windows: (5 CCR 855)

1. **Unless otherwise specified in state regulations, a**Assessments ~~in English language arts and mathematics~~ shall be administered between the date on which at least 66 percent of the school's or track's annual instructional days ~~for grades 3-8, or at least 80 percent of the annual instructional days for grade 11,~~ have been completed, **but no earlier than the second Tuesday in January, and the last day of instruction for the regular annual calendar of the school or track, but no later than July 15 or, if July 15 is not a weekday, then the next weekday following July 15**

STATE ACADEMIC ACHIEVEMENT TESTS (continued)

2. All science assessments, including CAPA and CMA, shall be administered during an available testing window of 25 instructional days that includes 12 instructional days before and after completion of 85 percent of the school's or track's annual instructional days. The CAA for science shall be administered annually beginning on a date in September as determined by CDE through the last day of instruction for the regular annual calendar of the school or track, but no later than July 15 or, if July 15 is not a weekday, then the next weekday following July 15.

Note: Item #3 below reflects the available testing window for the CAA effective beginning in the 2016-17 school year, pursuant to 5 CCR 855, as amended by Register 2015, No. 48.

3. Beginning in the 2016-17 school year, the CAA shall be administered during the available testing windows specified in item #1.

Note: **Optional** item 4.3 below is for use by districts that have chosen to administer the **primary language assessment CSA** to English learners as authorized by Education Code 60640; see section "Tests Included in the State Assessment System" above.

- 4.3. The **primary language assessment CSA** shall be administered to English learners within the testing window specified in item #2-1.

Note: Within the available testing windows specified above, the district may designate specific testing dates that will be used within the district. 5 CCR 855, as amended by Register 2015, No. 48, allows the district to designate one selected testing period for each school or track subject to the conditions specified below. If the district does not designate a selected testing period for a school or track, then the available testing windows specified in items #1-2 below above shall be the selected testing period for that school or track.

Within the above testing windows, the Superintendent or designee may designate one testing period for each school or track or, if a school has multiple tracks, a selected testing period for each track. The district shall not exceed six selected testing periods within the available testing window. The testing period shall be no fewer than 25 consecutive instructional days and may be extended up to an additional 10 consecutive instructional days if still within the available testing window set forth in items #1-4.2 above. (5 CCR 855)

Students who are absent during testing shall be provided an opportunity to take the tests within the testing window.

Testing Variations

Note: The following section describes allowable testing resources that may be used during test administration pursuant to 5 CCR 853.5-853.8, 854.1-854.4 as amended by Register 2015, No. 48. For further information, see the CDE's matrix of allowable testing variations, available on its web site.

STATE ACADEMIC ACHIEVEMENT TESTS (continued)

All CAASPP achievement tests and the primary language test shall be administered in accordance with the manuals or other instructions provided by the test contractor or CDE except that, as appropriate, the following testing variations may be used: (5 CCR 850, 853-853.8-854.4)

1. Universal tools specified in 5 CCR 853.5 854.1-854.4 may be used with any student.
2. Designated supports specified in 5 CCR 853.5 and, if an English learner, in 5 CCR 853.7, 854.1-854.4 may be used with a student for whom the need has been indicated by an educator or team of educators, with parent/guardian and student input as appropriate, or for whom the need is specified in the student's IEP or Section 504 plan.
3. Accommodations specified in 5 CCR 853.5 854.1-854.4 may be used with a student with disabilities when included in the student's IEP or Section 504 plan as resources that are regularly used in the classroom for the student's instruction and/or assessment(s). Such accommodations shall be either utilized in the assessment environment or consist of changes in procedures or materials that increase equitable access during the assessment.

Note: 5 CCR 853.8, as added by Register 2015, No. 48, 854.9 authorizes the use of "unlisted resources" (i.e., resources that have not been identified as a universal tool, designated support, or accommodation) with students with disabilities, provided that the resource is designated in the student's IEP or Section 504 plan and the CDE has approved the use of the resource. Pursuant to 5 CCR 853.8-854.9, the district must electronically submit a request to the CDE at least 10 business days prior to the first day of CAASPP testing, and the district will receive a response from the CDE within four business days of submitting the request. The CDE will not approve the use of an unlisted resource that threatens the security of the test or changes the construct being measured, including, but not limited to, those resources specified in 5 CCR 853.8-854.9. The district may nevertheless use a disapproved unlisted resource that changes the construct being measured, but the student will not be counted in the participation rate for state and federal accountability measures.

4. An unlisted resource that has not been specifically identified as an approved universal tool, designated support, or accommodation may be used with a student who has an IEP or Section 504 plan provided that the resource is one that is regularly used in the classroom for instruction and/or assessment and the CDE has approved its use. At least 10 business days prior to the student's first day of CAASPP testing, the district or school site test coordinator may electronically submit a request to the CDE for approval to use that unlisted resource during that year. If the CDE determines that the unlisted resource changes the construct being measured, the unlisted resource may nevertheless be used with the student in order to generate an individual score report even though the student shall not be counted in the participation rate for accountability measures. (5 CCR 853.8 854.9)

STATE ACADEMIC ACHIEVEMENT TESTS (continued)

Note: ~~5 CCR 853.8, as amended by Register 2015, No. 48, authorizes the use of "instructional supports" (i.e., all supports that may be used in daily instruction or assessment, including language and physical supports) during administration of the CAA, as described in the following paragraph.~~

In the administration of the CAA to a student with significant cognitive disabilities, the student may have all instructional supports that may be used in daily instruction or assessment, including language and physical supports, with the exception of any inappropriate test practices listed in test administration manuals. (5 CCR 850, ~~853.6~~ 854.5)

Report of Test Results

Note: Education Code 60641 requires that valid test results for individual students, when available, be reported to the student's parents/guardians, school, and teacher(s). Pursuant to Education Code 60641, it is the Legislature's intent that districts are not precluded from using electronic media formats to provide this report, provided that the format secures the confidentiality of the student and the student's results. In addition, district personnel are not required to prepare individualized explanations of each student's test scores as part of the report described in the following paragraph.

For any state assessments that produce valid individual student results, the Superintendent or designee shall forward or transmit the student's test results to ~~his/her~~ **the student's** parents/guardians within 20 working days from receipt of the results from the test contractor or, if the district receives the results from the contractor after the last day of instruction for the school year, then within the first 20 working days of the next school year. The report shall include a clear explanation of the purpose of the test, the student's score, and its intended use by the district. An individual student's scores shall also be reported to ~~his/her~~ **the** school and teacher(s) and shall be included in ~~his/her~~ **the** student record. (Education Code 60641; 5 CCR 863)

(cf. 5125 - Student Records)

With parent/guardian consent, the Superintendent or designee may release a student's test results to a postsecondary educational institution for the purposes of credit, placement, determination of readiness for college-level coursework, or admission. (Education Code 60641)

The Superintendent or designee shall present districtwide, school-level, and grade-level results to the Governing Board at a regularly scheduled meeting. The Board shall not receive individual students' scores or the relative position of any individual student. (Education Code 49076, 60641)

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CSBA Sample Board Policy

Facilities

BP 7211(a)

DEVELOPER FEES

Note: ~~Developer fees are one method of financing facilities available to the district. As amended by SB 50 (Ch. 407, Statutes of 1998), Government Code 65995 prohibit cities and counties from requiring development fees in excess of the maximum amounts set forth in Education Code 17620 to help fund school facilities. Government Code 65995 and, as amended by AB 127 (Ch. 35, Statutes of 2006), Government Code 65997 essentially repeal, until 2012, the Mira/Hart/Murrietta line of case law which had granted cities or counties the authority to deny development projects based on a determination as to whether school facilities were adequate to meet the demands created by the development. Districts with current Mira agreements should consult legal counsel in order to determine whether that agreement can be "grandfathered," and therefore exempted from the SB 50 requirements.~~

~~See AR 7211 for detailed findings that must be made by the Governing Board prior to the levying of any developer fees. The following policy and regulation are optional.~~

~~The following policy is optional. Education Code 17620-17621 and Government Code 65995-65995.7 provide authority for three levels of developer fees that may be levied by school districts on residential, commercial, and industrial construction to mitigate the impact of increased enrollment on school facilities. Before imposing developer fees, the Governing Board must conduct a fee justification study and comply with other requirements.~~

~~Due to the failure of state bond measure Proposition 13 in March 2020, Government Code 65997 is operative until a new state bond measure is approved. Pursuant to Government Code 65997, public agencies may, on the basis of the inadequacy of school facilities, deny or refuse to approve a "legislative" act but may not require the payment of a fee in excess of that imposed pursuant to Government Code 65995-65995.7. Courts have distinguished between legislative acts (e.g., zoning ordinances) and adjudicative acts (e.g., subdivision approvals, variances, and conditional use permits). Districts with specific questions as to the operation of Government Code 65997 should consult legal counsel.~~

~~Level 1 fees, the basic mitigation fee, may be applied to residential, commercial, and industrial construction projects and must be within the limits established by law and the State Allocation Board (SAB). Level 2 fees apply only to residential construction, and the amount of the fee varies across districts as determined through a school facilities needs analysis. Level 3 fees may be double the amount of Level 2 fees, but may only be collected when SAB certifies that state funds for new school facility construction are not available.~~

~~Pursuant to Education Code 17620, some types of construction may be exempted from the developer fee. Districts should consult with legal counsel as appropriate.~~

In order to finance the construction or reconstruction of school facilities needed to accommodate ~~students coming~~ **increased student enrollment resulting** from new development, the Governing Board may establish, levy, and collect developer fees on residential, commercial, and industrial construction within the district, subject to restrictions specified by law ~~and administrative regulation.~~

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DEVELOPER FEES (continued)**Level 1 Funding Fees: Residential, Commercial and Industrial Construction**

Note: ~~In order to levy or increase developer fees, Government Code 66001 requires that a district develop a Fee Justification Study which justifies the amount of the fee. The State Allocation Board sets the developer fee rates; these rates will be increased For Level 1 fees, Government Code 65995 establishes a maximum amount of fee, which is adjusted for inflation by SAB every two years. In order to levy developer fees, Government Code 66001 requires that the Board conduct a fee justification study which demonstrates a reasonable relationship between residential, commercial, and industrial development in the district and the need for additional school facilities. It is important to note that, in order to increase their rates, Pursuant to Government Code 66001 and 66016, before increasing any fee, requires districts to~~ must update their fee justification study and to satisfy the notice and hearing requirements, as specified below. Education Code 17622 requires separate, special findings when levying fees on spaces enclosed for agricultural purposes.

Courts have held that boards must be able to show that a valid method was used in the fee justification study. In Summerhill Winchester LLC v. Campbell Union School District, the Court of Appeal concluded that a fee justification study must include the following three factors: (1) a projection of the total amount of new housing expected to be built within the district; (2) an estimate of how many students will be generated by the new development; and (3) an estimate of what it will cost to provide the necessary school facilities for the new students. Districts with questions about the adequacy of a fee justification study or how to analyze the reasonableness of a fee in relation to the type of development at issue should consult legal counsel.

Before taking action to establish, increase, or impose Level 1 developer fees, the Governing Board shall conduct a fee justification study which: (Government Code 66001)

1. Identifies the purpose of the fee and the use to which the fee will be put
2. Determines a reasonable relationship between the fee's use and the type of development project for which the fee is imposed
3. Determines a reasonable relationship between the need for the public facility and the type of development project for which the fee is imposed
4. Determines a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributed to the development for which the fee is imposed

Before levying developer fees or prior to increasing an existing fee, the Board shall ~~schedule~~ hold a public hearing. The Superintendent or designee shall mail notice of the time and place of the meeting at which a public hearing shall occur, including a general explanation of the matter to be considered and a statement that the required data are available, at least 14 days prior to the meeting to any interested party who has requested such information. Any written request for mailed notices shall be valid for one year from the date on which it is filed

DEVELOPER FEES (continued)

unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The district may charge a fee reasonably related to the cost of providing these materials. (Government Code 66016)

Information on the anticipated amount of fees, other available funds and funding sources, and the estimated cost of planning, land acquisition, and school construction shall be made available to the public at least 10 days before the hearing. (Government Code 66016)

At the hearing, the Board shall adopt a resolution for the levying of the developer fees. (Government Code 66016)

The resolution shall set forth:

1. The purpose of the fee, **the use to which the fee is to be put**, and the public improvement(s) that the fee will be used to finance (Government Code 66001, 66006)
2. The Board's findings of reasonable relationship which justify the fees pursuant to Government Code 66001
3. **If the district requires payment of the fee at a time earlier than the date of final inspection or the issuance of a certificate of occupancy, ~~The~~ the district's determination of either of the following conditions which allow collection of the fees at the time when building permits are issued:** (Government Code 66007)
 - a. That the fees are to reimburse the district for previous expenditures
 - b. That the fees shall be collected for public improvements or facilities for which an account has been established, funds have been appropriated, and the district has adopted a proposed construction schedule or plan

In the case of any commercial or industrial development, the Board shall make findings on either an individual project basis or on the basis of categories of commercial or industrial development. Those categories may include, but are not limited to, the following uses: office, retail, transportation, communications and utilities, light industrial, heavy industrial, research and development, and warehouse. The Board shall also conduct a study to determine the impact of the increased number of employees anticipated to result from the commercial or industrial development upon the cost of providing school facilities within the district. (Education Code 17621)

DEVELOPER FEES (continued)**Level 2 Funding Fees: Residential Construction**

Note: Government Code 65995.5 allows the Board to impose a fee on residential construction that is higher than the Level 1 fee limit set forth in Government Code 65995 if the district **makes is considered eligible pursuant to Education Code 17071.10-17078.10 and a timely application to SAB for new construction funding under the State Facilities Program for which is made to the State Allocation Board it is determined to be eligible by SAB pursuant to Education Code 17071.10-17071.76.** In addition, Government Code 65995.5 requires the district to adopt a "~~Facility Needs Analysis~~" **facility needs analysis** and to satisfy the cost-saving/revenue-enhancing measures described in that section. The **facility needs analysis** ~~Needs Analysis~~ required by Government Code 65995.6 serves a similar purpose as the ~~Fee Justification Study~~ **fee justification study** detailed above, but specifies different legal requirements, as well as a different approval and adoption process. Government Code 65995.5 clarifies that developer fees may be expended on the costs of performing the needs analysis as well as on the administrative costs associated with collecting the fees.

In order to impose **Level 2** residential construction fees within the limits of Government Code 65995.5, the Board shall, **in addition to fulfilling the requirements above for Level 1 fees, undertake the following:** (Government Code 65995.5)

1. **Make a timely application to the State Allocation Board (SAB) for new construction funding for which it is eligible and be determined to be eligible by SAB**
2. **Conduct and adopt a school facility needs analysis pursuant to Government Code 65995.6**
3. **Satisfy at least two of the requirements set forth in Government Code 65995.5(b)(3)(A-D) (Government Code 65995.5)**

Note: Government Code 65352.2, ~~as added by AB 1367 (Ch. 396, Statutes of 2001)~~, requires the district to provide the notification specified below to the appropriate city or county planning agency. If the parties decide to meet, Government Code 65352.2 specifies issues that may be considered at the meeting.

At least 45 days prior to completion of the school facility needs analysis, the Board shall notify and provide copies of the analysis to the planning commission or agency of the city or county with land use jurisdiction within the district. Upon request of either party, the Board and city or county shall meet within 15 days following notification. (Government Code 65352.2)

(cf. 7131 - Relations with Local Agencies)

The Board shall adopt the school facility needs analysis by resolution at a public hearing. (Government Code 65995.6)

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DEVELOPER FEES (continued)

This analysis ~~may~~ **shall** not be adopted until the analysis, in its final form, has been made available to the public for a period of not less than 30 days. Prior to its adoption, the public shall have the opportunity to review and comment on the analysis and the Board shall respond to written comments it receives regarding the analysis. (Government Code 65995.6)

~~No~~ **Not** less than 30 days prior to the hearing, notice of the time and place of the hearing, including the location and procedure for viewing or requesting a copy of the proposed analysis, shall be published in at least one newspaper of general circulation within the jurisdiction of the district. If there is no paper of general circulation, the notice shall be posted in at least three conspicuous places within the district's jurisdiction not less than 30 days prior to the hearing. (Government Code 65995.6)

In addition, the Superintendent or designee shall mail a copy of the needs analysis not less than 30 days prior to the hearing to any person who has made a written request if the written request was made 45 days prior to the hearing. The district may charge a fee reasonably related to the cost of providing these materials. (Government Code 65995.6)

During the period of public review, the analysis shall be provided to the local agency responsible for land use planning for its review and comment. (Government Code 65995.6)

Note: Government Code 65995.6 provides that if the school facility needs analysis is revised during the period of public review or at the public hearing, the approval process must recommence (e.g., another 30-day review period, published notice, etc.).

The school facility needs analysis may be revised at any time. The revision is subject to the same conditions and requirements applicable to the adoption of the analysis. The existing school building capacity shall be recalculated as part of any revision to the needs analysis. (Government Code 65995.6)

Note: Pursuant to Government Code 65995.6, the fees take effect immediately upon adoption and are effective for only one year. After one year, the district must repeat the adoption process.

The fees authorized by Government Code 65995.6 and ~~Government Code 65995.7~~ shall be adopted by resolution as part of the adoption or revision of the school facilities needs analysis. The fees shall take effect immediately upon adoption of the resolution and may not be effective for more than one year. (Government Code 65995.6)

Level 3 Funding Fees: Residential Construction

Note: Government Code 65995.7 ~~has~~ **authorized**s a district that is eligible to receive the Level 2 funding the authority to levy a still higher fee on residential construction (Level 3 funding) upon a determination by SAB that state funds are no longer available.

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DEVELOPER FEES (continued)

When Level 3 fees are authorized by law and the district qualifies for Level 2 ~~funding fees~~ pursuant to Government Code 65995.5, the Board may assess a fee on residential construction pursuant to ~~the requirements of Government Code 65995.7.~~

~~Pursuant to Government Code 65995.7, the~~The notice and hearing requirements, resolution requirement, and term of effectiveness for Level 3 ~~funding fees~~ shall be the same as the requirements for Level 2 ~~funding fees~~ as specified above. **(Government Code 65995.7)**

Appeals Process for Protests by Developers

Note: ~~In addition to authorizing developer protests in accordance with Government Code 66020 and 66021, Education Code 17621 requires the Board to provide an appeals process for commercial/industrial fees when the district has analyzed the impact of these projects on a categorical rather than individual basis.~~

The Superintendent or designee shall establish an ~~appeals process for the handling of protests by developers.~~ (Education Code 17621)

Use of Fees

Note: Pursuant to Government Code 66006, the district may establish a reasonable annual charge, based on estimated cost, for sending the following notice.

The Board shall review ~~the above~~ information **provided by the Superintendent or designee pursuant to Government Code 66006 regarding each account or fund into which developer fees have been deposited**, at the first regularly scheduled public Board meeting which occurs 15 days after the information is made available to the public. Fifteen-day prior notice of this meeting shall be mailed to any parties filing a written request pursuant to Government Code 66006. **(Government Code 66006)**

Note: Pursuant to Government Code 66001, if the following findings are not made every five years as required, the district may be required to refund the moneys in the account or fund pursuant to Government Code 66006(e).

In addition to discharging its public disclosure duties regarding the levying of developer fees, the Board shall, for the fifth fiscal year after the first deposit into the account or fund and every five years thereafter, make all of the following findings with respect to the portion of the account or fund that remains unexpended, whether committed or uncommitted: **(Government Code 66001)**

1. Identify the purpose to which the fee is to be put
2. Demonstrate a reasonable relationship between the fee and the purpose for which it is charged

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DEVELOPER FEES (continued)

3. Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements originally identified
4. Designate the approximate dates on which the funding referred to in item #3 is expected to be deposited into the appropriate account or fund

Legal Reference:

EDUCATION CODE

17070.10-~~17077.10~~ 17079.30 *Leroy F. Greene School Facilities Act of 1998*

17582 *District deferred maintenance fund*

17620-17626 *Levies against development projects by school districts*

101122 *Schedule for allocation of proceeds from sale of bonds*

GOVERNMENT CODE

6061 *One time notice*

6066 *Two weeks' notice*

65352.2 *Level 2 funding notification requirement*

65864-65869.5 *Development agreements*

65995-65998 *Payment of fees against a development project*

66000-66008 *Fees for development projects*

66016-~~66018.5~~ 66019 *Development project fees Procedures for adopting various fees*

66020-66025 *Protests, legal actions, and audits*

CODE OF REGULATIONS, TITLE 2

1859-1859.106-108 *School facility program*

COURT DECISIONS

Tanimura & Antle Fresh Foods, Inc. v. Salinas Union High School District (2019) 34 Cal. App. 5th 775

Summerhill Winchester LLC v. Campbell Union School District (2018) 30 Cal. App. 5th 545

Cresta Bella, LP v. Poway Unified School District (2013) 218 Cal.App.4th 438

Warmington Old Town Associates (2002) 101 Cal.App.4th 840

Dolan v. City of Tigard (1994) 114 S.Ct. 2309

Garrick Development Company v. Hayward Unified School District (1992) 3 Cal.App.4th 320

Management Resources:

WEB SITES

Department of General Services, Office of Public School Construction: <http://www.opsc.dgs.ca.gov>

<https://www.dgs.ca.gov/OPSC>

CSBA Sample Administrative Regulation

Facilities

AR 7211(a)

DEVELOPER FEES

Note: Government Code 65995 provides authority for three different levels of developer fees to be levied by school districts. Pursuant to Education Code 17620 and Government Code 65995, Level 1 fees for residential, commercial and industrial construction may be assessed as long as the district's Developer Fee Justification Study, as required by Government Code 66001, justifies the amount. Pursuant to Education Code 17620, some types of construction may be exempted. Districts should consult with legal counsel as appropriate.

Level 1 Funding Fees: Residential, Commercial and Industrial Construction

Note: In order to levy or increase developer fees, Government Code 66001 requires that a district develop a Fee Justification Study which justifies the amount of the fee. The State Allocation Board sets the developer fee rates; these rates will be increased every two years. It is important to note that, in order to increase their rates, Government Code 66001 and 66016 requires districts to update their Fee Justification Study and to satisfy the notice and hearing requirements, as specified below. Education Code 17622 requires separate, special findings when levying fees on spaces enclosed for agricultural purposes.

Before taking action to establish, increase or impose developer fees, the Governing Board shall conduct a fee justification study which: (Government Code 66001)

1. Identifies the purpose of the fee and the use to which the fee will be put
2. Determines a reasonable relationship between the fee's use and the type of development project for which the fee is imposed
3. Determines a reasonable relationship between the need for the public facility and the type of development project for which the fee is imposed
4. Determines a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributed to the development for which the fee is imposed

Level 1 Funding Fees: Notice and Hearing Requirements

Before levying developer fees or prior to increasing an existing fee, the Board shall schedule a public hearing. The Superintendent or designee shall mail notice of the time and place of the meeting, including a general explanation of the matter to be considered and a statement that the required data are available, at least 14 days prior to the meeting to any interested party who has requested such information. Any written request for mailed notices shall be

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DEVELOPER FEES (continued)

valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The district may charge a fee reasonably related to the cost of providing these materials. (Government Code 66016)

Information on the anticipated amount of fees, other available funds and funding sources, and the estimated cost of planning, land acquisition and school construction shall be made available to the public at least 10 days before the hearing. (Government Code 66016)

At the hearing, the Board shall adopt a resolution for the levying of the developer fees. (Government Code 66016) The resolution shall set forth:

1. The purpose of the fee and the public improvement(s) that the fee will be used to finance (Government Code 66006)
2. The Board's findings of reasonable relationship which justify the fees pursuant to Government Code 66001
3. The district's determination of either of the following conditions: (Government Code 66007)

Note: In order to collect fees earlier than the date of final inspection or the issuance of a certificate of occupancy, the district must determine either item #a or #b below:

- a. That the fees are to reimburse the district for previous expenditures
- b. That the fees shall be collected for public improvements or facilities for which an account has been established, funds have been appropriated and the district has adopted a proposed construction schedule or plan

Level 2 Funding Fees: Residential Construction

Note: Government Code 65995.5 allows the Board to impose a fee on residential construction that is higher than the Level 1 fee limit set forth in Government Code 65995 if the district is considered eligible pursuant to Education Code 17071.10 17078.10 and a timely application is made to the State Allocation Board. In addition, Government Code 65995.5 requires the district to adopt a "Facility Needs Analysis" and to satisfy the cost saving/revenue enhancing measures described in that section. Government Code 65995.5 clarifies that developer fees may be expended on the costs of performing the needs analysis as well as on the administrative costs associated with collecting the fees.

In order to impose residential construction fees within the limits of Government Code 65995.5, the Board shall: (Government Code 65995.5)

DEVELOPER FEES (continued)

1. ~~Make a timely application to the State Allocation Board for new construction funding for which it is eligible~~

Note: ~~The Needs Analysis required by Government Code 65995.6 serves a similar purpose as the Fee Justification Study detailed above, but specifies different legal requirements, as well as a different approval and adoption process.~~

2. ~~Conduct and adopt a school facility needs analysis pursuant to Government Code 65995.6~~
3. ~~Satisfy at least two of the requirements set forth in Government Code 65995.5(b)(3)(A-D) (Government Code 65995.5)~~

Level 2 Funding Fees: Notice and Hearing Requirements

Note: ~~Government Code 65352.2, as added by AB 1367 (Ch. 396, Statutes of 2001), requires the district to provide the notification specified below to the appropriate city or county planning agency. If the parties decide to meet, Government Code 65352.2 specifies issues that may be considered at the meeting.~~

~~At least 45 days prior to completion of the school facility needs analysis, the Board shall notify and provide copies of the analysis to the planning commission or agency of the city or county with land use jurisdiction within the district. Upon request of either party, the Board and city or county shall meet within 15 days following notification. (Government Code 65352.2)~~

~~(cf. 7131 Relations with Local Agencies)~~

~~The Board shall adopt the school facility needs analysis by resolution at a public hearing. (Government Code 65995.6)~~

Note: ~~Government Code 65995.6 provides that if the school facility needs analysis is revised during the period of public review or at the public hearing, the approval process must recommence (e.g., another 30-day review period, published notice, etc.).~~

~~This analysis may not be adopted until the analysis, in its final form, has been made available to the public for a period of not less than 30 days. Prior to its adoption, the public shall have the opportunity to review and comment on the analysis and the Board shall respond to written comments it receives regarding the analysis. (Government Code 65995.6)~~

~~During the period of public review, the analysis shall be provided to the local agency responsible for land use planning for its review and comment. (Government Code 65995.6)~~

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DEVELOPER FEES (continued)

No less than 30 days prior to the hearing, notice of the time and place of the hearing, including the location and procedure for viewing or requesting a copy of the proposed analysis, shall be published in at least one newspaper of general circulation within the jurisdiction of the district. If there is no paper of general circulation, the notice shall be posted in at least three conspicuous places within the district's jurisdiction not less than 30 days prior to the hearing. (Government Code 65995.6)

In addition, the Superintendent or designee shall mail a copy of the needs analysis not less than 30 days prior to the hearing to any person who has made a written request if the written request was made 45 days prior to the hearing. The district may charge a fee reasonably related to the cost of providing these materials. (Government Code 65995.6)

The school facility needs analysis may be revised at any time. The revision is subject to the same conditions and requirements applicable to the adoption of the analysis. The existing school building capacity shall be recalculated as part of any revision to the needs analysis. (Government Code 65995.6)

Note: Pursuant to Government Code 65995.6, the fees take effect immediately upon adoption and are effective for only one year. After one year, the district must repeat the adoption process.

The fees authorized by Government Code 65995.6 and Government Code 65995.7 shall be adopted by resolution as part of the adoption or revision of the school facilities needs analysis. The fees shall take effect immediately upon adoption of the resolution and may not be effective for more than one year. (Government Code 65995.6)

Level 3 Funding Fees: Residential Construction

Note: Government Code 65995.7 has authorized a district that is eligible to receive the Level 2 funding the authority to levy a still higher fee on residential construction (Level 3 Funding) upon a determination by the State Allocation Board that state funds are no longer available. However, with the passage of the 2002 School Facilities Bond (Proposition 47) and its implementing legislation, AB 16 (Ch. 33, Statutes of 2002), districts are prohibited from levying Level 3 fees until the 2004 primary election.

When Level 3 fees are authorized by law and the district qualifies for Level 2 funding pursuant to Government Code 65995.5, the Board may assess a fee on residential construction pursuant to the requirements of Government Code 65995.7.

Level 3 Funding Fees: Notice and Hearing Requirements

Pursuant to Government Code 65995.7, the notice and hearing requirements, resolution requirement, and term of effectiveness for Level 3 funding shall be the same as the requirements for Level 2 funding as specified above.

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DEVELOPER FEES (continued)

All Developer Funding Fees: Additional Requirements

The district shall send a copy of any **Governing Board** resolution adopting or increasing **Level 1, 2, or 3** developer fees to the city and county, accompanied by all relevant supporting documentation and a map indicating the boundaries of the area subject to the fee. (Education Code 17621)

In cooperation with local governmental agencies issuing building permits, the Superintendent or designee shall establish a means by which all of the following shall be accomplished:

1. The project applicant shall receive a written statement of the amount of the fees and notification that the 90-day approval period during which the applicant may protest has begun. (Government Code 66020)

Note: Item #2 below is **optional** and is intended to ensure that the district will have evidence that the required notification was delivered.

2. The Superintendent or designee shall receive and retain acknowledgment that the above notification was received.
3. Before a permit is issued and upon the payment of the applicable fee or requirement, the Board shall immediately certify that the fee has been paid or that the district has determined that the fee does not apply to the development project. (Education Code 17620)

Developer fees shall be deposited, invested, accounted for, and expended pursuant to Government Code 66006. Developer fees shall be deposited in a separate capital facilities account, except for temporary investments allowed by law, and shall be used only for the purpose for which they were collected. Interest income earned by the capital facilities account shall also be deposited in that account and used only for the purpose for which the fee was originally collected. (Government Code 66006)

For each separate account so established, the Superintendent or designee shall, within 180 days after the last day of each fiscal year, make available to the public **and the Board** the following information for the fiscal year: (Government Code 66006)

1. A brief description of the type of fee in the account or fund
2. The amount of the fee
3. The beginning and ending balance of the account or fund
4. The amount of the fees collected and the interest earned

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DEVELOPER FEES (continued)

5. An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees
6. An identification of an approximate date by which the construction of the public improvement will commence if the district determines that sufficient funds have been collected to complete financing on an incomplete public improvement
7. A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan
8. The amount of refunds made pursuant to Government Code 66001(e) and any allocations made pursuant to Government Code 66001(f)

~~The Board shall review the above information at the first regularly scheduled public Board meeting which occurs 15 days after the information is made available to the public. Fifteen day prior notice of this meeting shall be mailed to any parties filing a written request pursuant to Government Code 66006. (Government Code 66006)~~

~~Note: Pursuant to Government Code 66006, the district may establish a reasonable annual charge, based on estimated cost, for sending the above notice.~~

~~In addition to discharging its public disclosure duties regarding the levying of developer fees, the Board shall, for the fifth fiscal year after the first deposit into the account or fund and every five years thereafter, make all of the following findings with respect to the portion of the account or fund that remains unexpended, whether committed or uncommitted: (Government Code 66001)~~

~~Note: Pursuant to Government Code 66001, if the findings are not made every five years as required, the district may be required to refund the moneys in the account or fund pursuant to Government Code 66006(e).~~

1. ~~Identify the purpose to which the fee is to be put~~
2. ~~Demonstrate a reasonable relationship between the fee and the purpose for which it is charged~~
3. ~~Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements originally identified~~

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DEVELOPER FEES (continued)

~~4. Designate the approximate dates on which the funding referred to in item #3 is expected to be deposited into the appropriate account or fund~~

When sufficient funds have been collected to complete the financing of public improvements but such improvements remain incomplete, the district shall, within 180 days of the date that a determination of sufficient funding was made, either identify an approximate date by which construction will begin or refund the unexpended revenues in accordance with Government Code 66001. (Government Code 66001)

Appeals Process for Protests by Developers

~~Note: Pursuant to Education Code 17621, a developer may protest the imposition of any developer fees listed above in accordance with the requirements in Government Code 66020.~~

The Superintendent or designee shall establish an appeals process for the handling of protests by developers. (Education Code 17621)

Developers of residential, commercial, and industrial projects who claim that the developer fee has been inappropriately levied shall use the following procedures: (Government Code 66020)

1. The developer shall tender any required payment in full or provide satisfactory evidence of arrangements to pay the fee when due or ensure performance of the conditions necessary to meet the requirements of the imposition.
2. The developer shall serve written notice to the Board. ~~This notice~~ **which** shall include:
 - a. A statement that the required payment is tendered or will be tendered when due, or that any conditions which have been imposed are provided for or satisfied, under protest
 - b. A statement informing the Board of the factual elements of the dispute and the legal theory forming the basis for the protest
3. The protest shall be filed at the time of approval or conditional approval of the development or within 90 days after the date of the imposition of the fees.

At the time of the imposition of the fee, the Superintendent or designee shall provide each project applicant written notice that the 90-day period in which the applicant may initiate a protest has begun. The developer may file an action to attack, review, set aside, void, or

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DEVELOPER FEES (continued)

annul the imposition of the fees imposed on the development project within 180 days of delivery of the notice. (Government Code 66020)

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CSBA Sample Board Policy

Philosophy, Goals, Objectives, and Comprehensive Plans

BP 0470(a)

COVID-19 MITIGATION PLAN

Note: The following policy is intended for use during the coronavirus (COVID-19) pandemic and supersedes conflicting provisions in other district policies and administrative regulations, thereby eliminating the need to temporarily revise multiple policies. When the Governing Board determines, consistent with state and local orders from health officials, that the need for this policy no longer exists, the following policy should be removed from the district's policy manual.

Due to the unexpected nature of the pandemic, the evolving circumstances, and rapidly changing **health and safety guidance regarding COVID-19**, this policy has been revised to refer directly to the state resources that serve as both mandatory and recommended guidance to districts during the pandemic. ~~information about the virus, the topics covered in this policy may not be directly addressed in current law. Therefore, the policy presents options and best practices for districts as they reopen school campuses following extended closures due to the COVID-19 pandemic~~ Districts are encouraged to consult with local health officials, staff, students, parents/guardians, neighboring school districts, and the county office of education in comprehensive planning for safe operations ~~following campus reopening~~.

This policy is not intended to serve as or supersede the District's COVID-19 Prevention Program ("CPP") required by the California Division of Occupational Safety and Health (Cal/OSHA), as described below, or the District's Injury and Illness Prevention Program ("IIPP"). Rather, this policy should supplement and support the IIPP. See BP/AR 4157/4257/4357 - Employee Safety.

This policy involves a number of working conditions that are often addressed in collective bargaining agreements and, as such, may be subject to negotiations with employee organizations.

~~Resources that provide additional information, such as applicable state and local guidelines from health officials, school schedules, handwashing instructions, and specific personal protective equipment (PPE) requirements, may be attached as exhibits to augment this policy and should be periodically reviewed and updated as necessary.~~

The following policy establishes actions that will be taken by the district to provide a safe learning and working environment during the coronavirus (COVID-19) pandemic, and shall supersede any conflicting language in existing district policies or administrative regulations until the Governing Board determines that the need for this policy no longer exists. The Board acknowledges that, due to the evolving nature of the pandemic, federal, state, and local orders impacting district operations are subject to change without notice. In the event that any federal, **or** state **law and/or order** or local order may conflict with this policy, the **law or** order shall govern.

~~(cf. 2210 - Administrative Discretion Regarding Board Policy)~~

~~(cf. 5141.22 - Infectious Diseases)~~

~~(cf. 9310 - Board Policies)~~

The Board may also adopt resolutions or take other actions as needed to respond to such orders or provide further direction during the pandemic.

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COVID-19 MITIGATION PLAN (continued)*(cf. 2210 - Administrative Discretion Regarding Board Policy)**(cf. 5141.22 - Infectious Diseases)**(cf. 9310 - Board Policies)*

To limit the impact of the pandemic on the education of district students, the district shall implement learning recovery, social-emotional support, and other measures and strategies designed to keep students learning and engaged in the instructional program.

COVID-19 Safety Plan

Note: Pursuant to Health and Safety Code 120130, the State Public Health Officer has the authority to create mandates for K-12 schools to prevent the spread of a communicable disease. In addition, the California Department of Public Health (CDPH) may adopt and enforce regulations requiring strict or modified isolation or quarantine if necessary for the protection of the public health. Local health officials have similar authority pursuant to Health and Safety Code 120175-120255 to issue orders they deem necessary to control the spread of a communicable disease, subject to the control and regulation of CDPH. Districts are therefore obligated to comply with COVID-19 mitigation requirements from multiple jurisdictional authorities including: (1) the California Department of Public Health (CDPH); (2) Cal/OSHA; and (3) local health authorities.

CDPH's COVID-19 Public Health Guidance for K-12 Schools in California, 2021-22 School Year (updated September 1, 2021) provides updated public health guidance applicable to California schools. The CDPH guidance provides that all students must have access to safe and full in-person instruction and to as much instructional time as possible. The guidance includes both mandatory and recommended practices on a range of topics, including: masking; physical distancing; ventilation; protocols for staying home when sick and getting tested; screening testing; case reporting, contact tracing and investigation; quarantining; isolating when sick with COVID-19; hand hygiene; cleaning; vaccination verification; COVID-19 safety planning transparency; school-based extracurricular activities; supporting students with disabilities or other health care needs; and visitors.

On June 11, 2021, the State Public Health Officer issued an order that requires all individuals to follow the CDPH face mask guidance and any amended guidance for K-12 schools. This order went into effect on June 15, 2021 and does not have an expiration date. In a letter dated August 23, 2021, CDPH emphasized that universal masking indoors is mandatory, that districts have no discretion to opt out or not enforce the mandate, and that districts that do not enforce the mandate will be at significant liability risk.

In addition, on August 11, 2021, the State Public Health Officer issued an order that requires workers and volunteers in school settings serving students in transitional kindergarten through grade 12 to either provide proof of vaccination, as specified by CDPH, or submit to regular testing for COVID-19. Schools are also required to have a plan in place by October 15, 2021 for tracking verified worker vaccination status and records must be made available, upon request, to the local health authority for the purposes of case investigation.

Pursuant to 8 CCR 3205, districts must have a Cal/OSHA COVID-19 prevention program that contains the following elements: (1) a system for communicating with and providing notice to employees; (2) identification and evaluation of COVID-19 hazards; (3) investigation and response to

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COVID-19 MITIGATION PLAN (continued)

COVID-19 cases; (4) procedures for correcting COVID-19 hazards; (5) training and instruction to employees; (6) facecoverings; (7) other engineering controls, administrative controls, and personal protective equipment (PPE); (8) reporting, recordkeeping, and access to the written COVID-19 prevention program; (9) exclusion of COVID-19 cases; and (10) return-to-work criteria.

Pursuant to state and federal law, districts are required to create and post COVID-19 safety plans. Specifically, pursuant to Education Code 32091, districts are required to post a completed COVID-19 safety plan that complies with the health guidance of CDPH and Cal/OSHA on the district's web site home page. In addition, districts receiving Elementary and Secondary School Emergency Relief funds are required to adopt and post a Safe Return to In-Person Instruction and Continuity of Services Plan and review it at least every six months for possible revisions, describing how the district will maintain the health and safety of students, educators and other staff, including the extent to which it has adopted policies, and a description of such policies, on each of the safety recommendations provided by the Centers for Disease Control and Prevention (CDC). A template plan for this purpose is available on the California Department of Education's web site.

Due to the evolving nature of the pandemic, health and safety guidance is subject to change. Districts are strongly encouraged to refer directly to public health orders and guidance and work closely with public health authorities to ensure that COVID-19 mitigation measures stay current.

The Superintendent or designee shall establish, implement, and maintain a COVID-19 safety plan that complies with any mandatory public health guidance of the California Department of Public Health (CDPH), the COVID-19 prevention program ("CPP") consistent with the regulations of the California Division of Occupational Safety and Health, any orders of state or local health authorities, and any other applicable law and/or health order(s). The Superintendent or designee shall ensure, at a minimum, that the COVID-19 safety plan complies with all mandatory guidance and gives priority to recommended practices that are identified as being particularly effective at COVID-19 mitigation. The Superintendent or designee shall regularly review public health guidance to ensure that the district's COVID-19 mitigation strategies are current with public health mandates or recommendations.

The district's COVID-19 safety plan shall be posted on the district's web site.

Note: The following list is optional and may be revised to reflect district practice. CDPH recommends that districts consider certain factors when making decisions regarding COVID-19 mitigation strategies, reflected in Items #1-3 below.

To promote transparency and facilitate decision-making regarding COVID-19 mitigation strategies, the Superintendent or designee shall report to the Board on a regular basis regarding the following:

1. Level of community transmission of COVID-19
2. COVID-19 vaccination coverage in the community and among students and staff

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COVID-19 MITIGATION PLAN (continued)

3. Any local COVID-19 outbreaks or increasing trends

4. Changes to local, state, and/or federal public health guidance, orders, and laws

5. Any revisions to the district's COVID-19 safety plan

Reporting to the Public Health Department

Note: The following section reflects reporting obligations pursuant to Education Code 32090-32091, as added by AB 86 (Ch. 10, Statutes of 2021) and amended by AB 130 (Ch. 44, Statutes of 2021).

Upon learning that a school employee or student who has tested positive for COVID-19 was present on campus while infectious, the Superintendent or designee shall immediately, and in no case later than 24 hours after learning of the positive case, notify the local health officer or the local health officer's representative about the positive case. The notification shall be made even if the individual who tested positive has not provided prior consent to the disclosure of personally identifiable information and shall include all of the following information, if known: (Education Code 32090)

1. Identifying information of the individual who tested positive, including full name, address, telephone number, and date of birth

2. The date of the positive test, the school(s) at which the individual was present, and the date the individual was last onsite at the school(s)

3. The name, address, and telephone number of the person making the report

If a school has two or more outbreaks of COVID-19 and is subject to a safety review by CDPH pursuant to Education Code 32090, the Superintendent or designee shall cooperate fully with the review.

Statewide Instructional Mode Survey

Note: Pursuant to Education Code 32091, as amended by AB 130, districts are required to notify the California Collaborative for Educational Excellence (CCEE) of specified information in a form and adhering to the procedures to be determined by the CCEE.

On or before the second and fourth Monday of each month, the Superintendent or designee shall submit to the California Collaborative for Educational (CCEE) information required under Education Code 32091, in accordance with the form and procedures determined by CCEE.

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COVID-19 MITIGATION PLAN (continued)

Stakeholder Engagement and Community Relations

The district shall solicit input from stakeholders on how to best support students following the learning disruptions of the pandemic through appropriate methods, which may include surveys, community and family meetings, and other methods identified by the Superintendent or designee.

The Superintendent or designee shall collaborate with local health authorities to ensure that parents/guardians are provided with the information needed to ensure that public health guidance is observed in the home as well as in school, such as information about isolation and quarantine requirements, face mask requirements, symptom checks prior to school attendance, and who to contact when students have symptoms and/or were exposed.

The Superintendent or designee shall use a variety of methods to regularly communicate with students, parents/guardians, and the community regarding **community transmission levels**, district operations, school schedules, and steps the district is taking to promote the health and safety of students. In addition, the members of the Board have a responsibility as community leaders to communicate matters of public interest in a manner that is consistent with Board policies and bylaws regarding public statements.

(cf. 1100 - Communication with the Public)

(cf. 1112 - Media Relations)

(cf. 9010 - Public Statements)

The district shall continue to collaborate with local health officials and agencies, community organizations, and other stakeholders to ensure that district operations reflect current recommendations and best practices for COVID-19 mitigation strategies. The Superintendent or designee shall keep informed about resources and services available in the community to assist students and families in need.

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

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

Learning Recovery and Social-Emotional Support

Note: Pursuant to Education Code 43520-43525, as added by AB 86 and amended by AB 130, starting in the 2020-21 school year and continuing into the 2022-23 school year, districts are required to provide academic interventions and student supports to address barriers to learning and accelerate progress to closing learning gaps.

The U.S. Department of Education's Office of Special Education Programs (OSEP) has emphasized that districts are required to fully implement the Individuals with Disabilities Education Act (IDEA) during the COVID-19 pandemic, including but not limited to the requirement to meet child find

COVID-19 MITIGATION PLAN (continued)

obligations. In Return to School Roadmap: Child Find Under Part B of the Individuals with Disabilities Education Act, OSEP encourages districts to reexamine the efficacy of existing child find practices in light of the educational disruptions caused by the COVID-19 pandemic. See BP/AR 6164.4 - Identification and Evaluation of Individuals for Special Education for "child find" procedures.

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

The Superintendent or designee shall develop a plan for assessing students' current academic levels early in the school year to ensure that each student is provided with appropriate opportunities for learning recovery based on need. The plan may include:

1. Use of interim or diagnostic assessments
2. Review of available data from assessments within the California Assessment of Student Performance and Progress
3. Review of attendance data from the 2020-2021 school year
4. Review of prior year grades
5. Discussion of student needs and strengths with parents/guardians and former teachers

(cf. 3553 - Free and Reduced Price Meals)

(cf. 5141.5 - Mental Health)

(cf. 5141.52 - Suicide Prevention)

(cf. 5147 - Dropout Prevention)

(cf. 6120 - Response to Instruction and Intervention)

(cf. 6146.1 - High School Graduation Requirements)

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

(cf. 6146.11 - Alternative Credits Toward Graduation)

(cf. 6159 - Individualized Education Program)

(cf. 6164.5 - Student Success Teams)

(cf. 6173 - Education for Homeless Children)

(cf. 6173.1 - Education for Foster Youth)

(cf. 6174 - Education for English Learners)

(cf. 6184 - Continuation Education)

Note: Pursuant to Education Code 43522, as amended by AB 130, districts that receive Extended Learning Opportunities (ELO) grant funding are required to implement a learning recovery program that provides supplemental instruction, support for social-emotional well-being, and to the maximum extent permissible as specified in U.S. Department of Agriculture guidelines, meals and snacks, to students who are eligible for free or reduced-price meals, English learners, foster youth, homeless students, students with disabilities, students at risk of abuse, neglect, or exploitation, disengaged students, and students who are below grade level, including, but not limited to, those who did not enroll in kindergarten in the 2020-21 school year, credit-deficient students, high school students at risk of not graduating, and other students identified by certificated staff.

COVID-19 MITIGATION PLAN (continued)

The Superintendent or designee shall develop and implement a learning recovery program that, at a minimum, provides supplemental instruction and support for social emotional well-being, and to the maximum extent permissible meals and snacks, to eligible students. (Education Code 43522)

Supplemental Instruction and Support

The district shall provide students with evidence-based supports and interventions in a tiered framework that bases universal, targeted, and intensive supports on students' needs for academic, social-emotional, and other integrated student supports through a program of engaging learning experiences in a positive school climate. (Education Code 43522)

Targeted and intensive supports may include: (Education Code 43522)

1. Extending instructional learning time based on student learning needs including through summer school or intersessional instructional programs
2. Tutoring or other one-on-one or small group learning supports provided by certificated or classified staff
3. Learning recovery programs and materials designed to accelerate student academic proficiency, English language proficiency, or both
4. Integrated student supports to address other barriers to learning, such as:
 - a. The provision of health, counseling, or mental health services
 - b. Access to school meal programs
 - c. Access to before and after school programs
 - d. Programs to address student trauma and social-emotional learning
 - e. Referrals for support for family or student needs
5. Community learning hubs that provide students with access to technology, high-speed internet, and other academic supports

Note: Pursuant to Education Code 51225, as added by AB 104 (Ch. 41, Statutes of 2021), the district is required to provide a student who was enrolled in the student's third or fourth year of high school during the 2020-21 school year and is not on track to graduate in the 2020-21 or 2021-22 school years

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COVID-19 MITIGATION PLAN (continued)

the opportunity to complete the statewide coursework required for graduation pursuant to Education Code 51225.3, which may include, but is not limited to, completion of the coursework through a fifth year of instruction, credit recovery, or other opportunity to complete the required coursework. See BP 6146.1 - High School Graduation Requirements.

6. Supports for credit deficient students to complete graduation or grade promotion requirements and to increase or improve students' college eligibility
7. Additional academic services for students, such as diagnostic, progress monitoring, and benchmark assessments of student learning
8. Other interventions identified by the Superintendent or designee

(cf. 6164.2 - Guidance/Counseling Services)

Note: Pursuant to Education Code 43522, as added by AB 86 and amended by AB 130, funding from ELO grants may be expended for educating school staff regarding strategies, including trauma-informed practices, to engage students and families in addressing students' social-emotional health and academic needs as well as for accelerated learning and effectively addressing learning gaps.

To ensure schoolwide implementation of the district's tiered framework of supports, the Superintendent or designee shall plan staff development that includes: (Education Code 43522)

1. Accelerated learning strategies and effective techniques for closing learning gaps, including training in facilitating quality learning opportunities for all students
2. Strategies, including trauma-informed practices, to engage students and families in addressing students' social-emotional health needs and academic needs

Reengagement for Chronically Absent Students

Note: The U.S. Department of Education (USDOE) recommends that nonpunitive measures be used to reengage students who became chronically absent during the pandemic. See USDOE's ED COVID-19 Handbook, Volume 2: Roadmap to Reopening Safely and Meeting All Students' Needs (August 2021).

The Superintendent or designee shall implement strategies for identifying, locating, and reengaging students who were chronically absent or disengaged during the 2020-21 school year, including students who were kindergarten-age but who did not enroll in kindergarten. Strategies for reengaging students may include:

1. Personal outreach to families, including by staff who are known to families

COVID-19 MITIGATION PLAN (continued)

2. **Door-to-door campaigns**
3. **The use of social media to spread awareness about the implementation of COVID-19 mitigation strategies**
4. **Welcoming and supporting students who experienced chronic absenteeism due to the COVID-19 pandemic or who are returning to school after a long absence**

Student Absence and Attendance

The Board recognizes that COVID-19 will continue to impact the attendance of students. The Superintendent or designee shall notify students and parents/guardians of expectations regarding school attendance. Such notification shall direct any student who contracts the virus or is subject to a quarantine order to stay home in accordance with state and local health orders.

(cf. 5113.1 - Chronic Absence and Truancy)
(cf. 5113.11 - Attendance Supervision)

Note: Pursuant to Education Code 51745, as amended by AB 130, for the 2021-22 school year all districts are required to offer independent study to meet the educational needs of students. See BP 6158 - Independent Study and 3516.5 - Emergency Schedules.

The Superintendent or designee shall ensure continuity of instruction for students who may be under a quarantine order to stay home, by offering such students independent study or other instructional delivery channels that allows the student to continue to participate in the instructional program to the greatest extent possible.

Nondiscrimination

The Board prohibits discrimination based on actual or perceived medical condition or disability status. (Government Code 11135)

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

Individual students and staff shall not be identified as being COVID-positive, nor shall students be shamed, treated differently, or denied access to a free and appropriate public education because of their COVID-19 status or medical condition. Staff shall not disclose confidential or privileged information, including the medical history or health information of students and staff **except as allowed by law**. (Education Code 49450)

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

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COVID-19 MITIGATION PLAN (continued)

The Superintendent or designee shall investigate any reports of harassment, intimidation, and bullying targeted at any student based on **their medical condition or** COVID status, exposure, or high-risk status.

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 5131.2 - Bullying)

(cf. 5145.3 - Nondiscrimination/Harassment)

Note: Stay-at-home orders, restrictions on social gatherings, and PPE requirements and their impact on the opening and closing of school campuses will vary based on local conditions. CSBA strongly recommends that districts consult state and local health officials for guidance on decisions regarding the opening and closing of school campuses.

The Board recognizes that students and staff have the right to a safe campus that protects their physical and psychological health and well-being. School campuses shall only be open when deemed safe for in-person instruction. The Board's decision to reopen school campuses for classes, before or after school programs, child care centers, and/or preschool programs shall be made in consultation with state and local health officials, the county office of education, and neighboring school districts. The district shall evaluate its capacity to implement safety precautions and to conduct full or partial school operations, and shall consider student, parent/guardian, and community input.

(cf. 0400 - Comprehensive Plans)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

Prior to the return to on-campus teaching and learning, the Superintendent or designee shall provide to students, parents/guardians, and staff current information about COVID-19, including its symptoms, how it is transmitted, how to prevent transmission, the current recommendations from the state and local departments of public health, and any other information and/or resources to prepare for a safe return to on-campus teaching and learning. The Superintendent or designee shall also provide information on the processes and protocols the district will follow to minimize the health risks associated with COVID-19, including, but not limited to, physically separating individuals (social distancing), limits on large gatherings, the provision of personal protective equipment (PPE) such as masks and gloves, and the sanitization of facilities.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

(cf. 6020 - Parent Involvement)

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COVID-19 MITIGATION PLAN (continued)

Student Support

The Board recognizes that the consequences of the COVID-19 pandemic, including fear for one's safety, the economic crisis, the loss of school based relationships, and disruptions in student learning, impact all students but may have a disproportionate effect on the youngest students, students with disabilities, those students most vulnerable to basic needs insecurity or child abuse and neglect, and other at risk students.

(cf. 0415 - Equity)

As school campuses reopen, staff shall provide a caring and nurturing educational environment for students. The district may provide instruction on social emotional well-being to all students, including information on how to deal with stress and anxiety in healthy ways and the importance of emotional well being for academic success.

(cf. 6142.8 - Comprehensive Health Education)

Staff shall pay careful attention to students' increased mental health concerns. Counseling, other support services, and/or referrals to other agencies shall be available to assist students in dealing with the social and emotional effects of COVID-19, such as stress, anxiety, depression, grief, social isolation, and post traumatic stress disorder.

(cf. 5141.5 - Mental Health)

(cf. 5141.52 - Suicide Prevention)

(cf. 6164.2 - Guidance/Counseling Services)

(cf. 6164.5 - Student Success Teams)

As needed, the district may provide referrals of students and families to basic needs assistance or social services, and may assess students for eligibility for the free and reduced-price meal program or assistance under the McKinney-Vento Homeless Assistance Act.

(cf. 6173 - Education for Homeless Children)

The Superintendent or designee shall ensure that staff understand their obligations as mandated reporters to report suspected child abuse or neglect, regardless of whether the student is on campus or participating in distance learning.

(cf. 5141.4 - Child Abuse Prevention and Reporting)

The Superintendent or designee may provide information to staff and parents/guardians regarding how to provide mental health support to students. The Superintendent or designee may also provide counseling to staff who are experiencing emotional difficulties as a result of COVID-19.

COVID-19 MITIGATION PLAN (continued)

Instruction/Schedules

Note: Until COVID-19 is no longer a concern, schools may offer instruction through one of three prevailing approaches: (1) return to full on-campus instruction with social distancing/PPE requirements and modified schedules, (2) continue exclusively with distance learning, or (3) use a hybrid approach that incorporates both on-campus instruction and distance learning. To accomplish any approach that uses on-campus instruction while maintaining social distancing may require the implementation of staggered schedules, such as having half the students on campus one week followed by the other half the following week, having grades 1-3 on campus on Monday and Wednesday and grades 4-6 on Tuesday and Thursday, or teaching elementary students on campus while secondary students use distance learning.

The following section reflects a hybrid approach, which may be the most practical for the majority of districts, and should be revised to reflect district practice.

The district shall offer a combination of on-campus instruction and distance learning to meet the needs of all students.

(cf. 6157 - Distance Learning)

(cf. 6158 - Independent Study)

The Superintendent or designee shall work with school principals, teachers, other staff, students, and parents/guardians to recommend to the Board a schedule of on-campus instruction for each school. If all students cannot attend on-campus instruction for the entire school day due to space limitations as a result of social distancing requirements, the Superintendent or designee shall consider arrangements for rotating groups of students, such as on a daily or weekly basis, and/or shall provide on-campus instruction to students with the greatest need for in-person supervision.

(cf. 6111 - School Calendar)

(cf. 6112 - School Day)

Priority for on-campus instruction shall be given to the lowest performing students, students with disabilities, elementary level students, students at risk of child abuse and neglect, homeless students, foster youth, and English learners. To the extent practicable, the district shall also consider the needs of essential workers, as designated in the Governor's executive orders, for child care during normal school hours.

(cf. 6173.1 - Education for Foster Youth)

(cf. 6174 - Education for English Learners)

On-campus instruction may be prioritized for subjects that are difficult to deliver through distance learning, such as laboratory science, art, or career technical education.

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COVID-19 MITIGATION PLAN (continued)

For distance learning, lessons may be delivered through live video sessions, pre recorded lectures, or other technology based distance learning platforms and/or the district may supplement on campus instruction with home assignments. As much as possible, distance learning shall be provided through small group synchronous learning.

Appropriate training shall be provided to teachers and other instructional staff involved in distance learning, including training on how to use any technology or platform approved for distance learning by the school and opportunities for the sharing of best practices among instructional staff. Available training resources may also be provided to students and parents/guardians when necessary.

Evaluation of Academic Progress Following Campus Closure

Note: Pursuant to the Governor's Executive Order N 30-20, administration of the California Assessment of Student Performance and Progress was waived in spring 2020 due to the COVID-19 pandemic. Districts will need to use other measures to evaluate students' academic progress during that period of campus closure.

Upon return to on campus instruction following an extended campus closure, the Superintendent or designee shall evaluate the impact of the campus closure on students' academic progress. Such evaluation may:

1. Address student specific needs arising from the transition back into on campus instruction
2. Consider whether or not a student has experienced a regression of skills and/or lack of progress
3. If regression and/or a lack of progress is present, identify opportunities for recovery, including supplemental educational services and/or new or different support services

(cf. 6179 - Supplemental Instruction)

For students with disabilities, the evaluation of academic progress shall also be used to determine whether an additional or revised individualized education program (IEP) or Section 504 plan is needed for the student to be academically successful when returning to on campus instruction. The Superintendent or designee may prioritize urgent student need in scheduling initial and triennial assessments and annual IEP meetings. The Superintendent or designee shall ensure district compliance with all procedural timelines for IEPs and Section 504 plans as required, unless amended by executive order.

(cf. 6159 - Individualized Education Program)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

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

COVID-19 MITIGATION PLAN (continued)

Grading

Note: The district may select or revise any of the items below to reflect district practice. The California Department of Education's (CDE) FAQs on Grading and Graduation Requirements, available on its web site, includes an appendix on Distance Learning Grading Guidance for Teachers which contains a non-exhaustive list of options for assigning final grades for spring 2020 for courses interrupted by COVID-19 and the resulting school closures. Those options are only applicable to final semester grades and may not necessarily apply to shorter periods of campus closure. Grading policies for the 2020-21 school year may be dependent on the date that campuses reopen and/or whether campuses need to be reclosed for an extended period at any time during the year.

Also see CSBA's Sample School Board Resolution on Grading During Emergency School Closures.

For each grading period, student progress shall be reported in accordance with BP/AR 5121—Grades/Evaluation of Student Achievement. However, in the event that school campuses are closed for an extended period of time during any grading period, the Board may, upon recommendation by the Superintendent or designee, adopt one or more alternative grading policies which may vary by grade level or type of course. Options for such grading include, but are not limited to:

1. Assignment of final grades based on the student's grades when the campus shutdown occurred, with opportunities to increase the final grade based on progress through distance learning or other assignments and assessments
2. Assignment of pass/no pass grades for all courses
3. Grading based on students' understanding of applicable course content through assessments, projects, portfolios, or other appropriate means

(cf. 5121—Grades/Evaluation of Student Achievement)

Health Screening of Students

Note: The following optional paragraph reflects recommendations in the Centers for Disease Control and Prevention's (CDC) Interim Guidance for Schools and Day Camps to conduct temperature checks and/or visual checks of students before they enter the school. CDC recommends that persons who have a fever of 100.4 degrees or above or exhibit other signs of illness not be admitted to the facility.

Temperature checks may also be conducted before students board a school bus. If not practical, districts should implement social distancing on school buses as provided in the section "Social Distancing" below and may require students to wear PPE on the bus as provided in the section "Personal Protective Equipment and Hygiene Practices" below.

COVID-19 MITIGATION PLAN (continued)

To the extent feasible, students shall be screened for COVID-19 symptoms before boarding a school bus and/or upon arrival at school each day. The Superintendent or designee shall work with local health officials to determine the appropriate means of screening, which may include temperature checks with a no-touch thermometer.

If the screening indicates a fever or other COVID-19 symptoms, or if the student exhibits symptoms at any time during the school day, the student shall be placed in a supervised isolation area until the student's parent/guardian is contacted and the student can be transported home or to a health care facility. School staff may provide the parent/guardian with referrals to school or community health centers for further testing.

(cf. 5141—Health Care and Emergencies)

(cf. 5141.3—Health Examinations)

(cf. 5141.6—School Health Services)

Student Absence and Attendance

The Board recognizes that COVID-19 will continue to impact the attendance of students following the reopening of school campuses. The Superintendent or designee shall notify students and parents/guardians of expectations regarding school attendance. Such notification shall direct any student who contracts the virus or lives with someone who has been diagnosed with COVID-19 to stay home in accordance with state and local health directives so as to curtail the spread of the disease.

Students who are infected with COVID-19 shall be excluded from on-campus instruction until a medical provider states in writing that the student is no longer contagious. (Education Code 49451; Health and Safety Code 120230; 5 CCR 202)

Students who are identified as being in a high risk population for serious complications from COVID-19 because of a medical condition may request assessment and accommodations under Section 504 and/or an alternative instructional method that allows the student to continue receiving instruction off campus.

Note: Pursuant to Education Code 48205, student absences due to illness or quarantine are considered excused absences. 5 CCR 306 authorizes the school to require a satisfactory explanation from a student's parent/guardian whenever the student is absent. Pursuant to 5 CCR 421, the Board may adopt policy or a resolution establishing reasonable methods for verifying student absences, and absences due to illness or quarantine may be verified by a school or public health nurse, attendance supervisor, physician, principal, teacher, or other qualified district employee assigned to make such verification. See AR 5113—Absences and Excuses for verification methods authorized by the district.

When a student is absent, the student's parent/guardian shall notify the school of the reason for the absence. A physician's verification of a student's illness or quarantine may be submitted, but is not required.

COVID-19 MITIGATION PLAN (continued)

(cf. 5113—Absences and Excuses)

If a student would otherwise be required to attend on-campus instruction but is kept home by the parents/guardians due to concerns for the welfare of their child, the principal or designee shall work with the student and parent/guardian to find alternative means of instruction, which may include distance or blended learning, independent study, printed class assignments, or other reasonable means.

(cf. 6154—Homework/Makeup Work)

Note: Pursuant to the Governor's Executive Order N 26 20, districts are not penalized for failure to offer regular school days when campuses are closed due to COVID-19. Although districts are not required to record daily attendance for apportionment purposes when campuses are closed, CDE's FAQs for 2019 Novel Coronavirus encourage districts to track participation and engagement in distance learning at such times. As campuses reopen, districts should follow state guidance, when issued, pertaining to attendance accounting.

The Superintendent or designee shall maintain enrollment and student attendance data, including the participation of students in distance learning, and shall report data in accordance with state requirements.

The district employee designated as the attendance supervisor pursuant to Education Code 48240 shall track patterns of student absence throughout the district and regularly report such information to the Superintendent. When a student who is participating in distance learning repeatedly fails to check in with the teacher when required, the teacher and/or attendance supervisor shall attempt to contact the student or parent/guardian to resolve the issues leading to the absence.

(cf. 5113.1—Chronic Absence and Truancy)

(cf. 5113.11—Attendance Supervision)

Social Distancing

Note: Public health officials from the California Department of Public Health (CDPH), CDC, and World Health Organization recommend social distancing to help stop or slow the spread of COVID-19. Social distancing requires creating physical space between individuals and minimizing the size and number of gatherings as much as possible. It is generally recommended that space between individuals be at least six feet whenever possible.

In order to maintain a campus environment that allows for social distancing, the district shall assess the capacity of school facilities, including classrooms, cafeterias, multi purpose rooms, gyms, and outdoor areas, and determine the means by which the facilities can best be utilized considering space and time alternatives. To the extent reasonably possible, the district may:

1. Within classrooms, space desks at least six feet apart and position them in a way that limits students facing each other

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COVID-19 MITIGATION PLAN (continued)

2. Stagger students in areas of high traffic, such as when students are using lockers, lining up for class, or passing between classes
3. Mark six foot boundaries within classrooms, common areas, outdoor spaces, and places where students are likely to gather so that students and staff are more readily aware of and can more easily abide by social distancing requirements
4. Utilize restroom stalls and sinks in a manner that allows for social distancing, such as limiting the number of students and/or staff who may use the restroom at a time, blocking off every other stall or sink from use, and/or marking six foot boundaries
5. Minimize the mixing of students from different classrooms in common spaces, such as in cafeterias and libraries
6. Conduct recess and physical education classes in a manner that allows for social distancing and minimizes the use of physical education equipment

Note: Item #7 is for use by districts that provide transportation for students. CDC's Interim Guidance for Schools and Day Camps presents examples of bus seating arrangements that may be established to meet the six foot social distancing objectives, such as (1) seating one student to a bench on both sides of the bus, skipping every other row, and (2) seating one student to a bench, alternating rows on each side to create a zigzag pattern. Seats that must be left vacant should be marked or blocked.

7. Assess the capacity of school buses and develop a plan for bus routes and bus seating consistent with social distancing objectives

(cf. 3540 Transportation)
(cf. 3543 Transportation Safety and Emergencies)

8. Encourage students to walk, bicycle, or travel by private vehicle to reduce the number of students traveling on school buses. Schools may provide designated areas with proper distancing for bicycles to be stored during the school day, and may mark spaces for private vehicle drop off and pick up zones.

(cf. 5142.2 Safe Routes to School Program)

Note: CDPH Guidance for the Prevention of COVID-19 Transmission for Gathering, issued March 16, 2020, states that gatherings that bring together people in a single room or single space at the same time, such as school sporting events, should be postponed or canceled until further guidance is released by CDPH. The Governor's Resilience Roadmap issued in spring 2020 establishes four stages for gradually reopening businesses and activities, with large gatherings generally withheld until stage 4.

Large gatherings, such as assemblies, rallies, field trips, extracurricular activities, and athletic events, shall be suspended until the Board determines, consistent with guidance from state

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COVID-19 MITIGATION PLAN (continued)

and local health officials, that it is safe to resume such activities. The Superintendent or designee may grant an exception if an activity can be arranged to take place in phases or per class, or modified in a manner that would keep participants from violating social distancing recommendations. When deciding whether an activity may resume, the Superintendent or designee may consider the size of the group that participates, the extent to which the students and other attendees have physical contact, whether the activity can be modified to avoid physical contact, if shared equipment is required for the activity, and if social distancing can be maintained.

(cf. 6145 – Extracurricular and Co-curricular Activities)

(cf. 6145.2 – Athletic Competition)

(cf. 6153 – School Sponsored Trips)

Personal Protective Equipment and Hygiene Practices

Note: CDC's Considerations for Schools reinforces the value of using cloth face coverings to protect oneself and others, but recognizes that wearing face coverings in all day settings such as school may be challenging for students, particularly younger students. CDC advises that face coverings be worn as feasible, but especially when social distancing is difficult.

It is also recommended that all staff should use cloth face coverings and that food service workers and other staff who are in routine contact with the public should wear gloves. However, requiring staff to use such equipment may be subject to collective bargaining. Districts are encouraged to review their collective bargaining agreements and applicable memoranda of understanding and consult with legal counsel before requiring staff to use facial coverings.

The Board encourages students, staff, and visitors to wear PPE while on school campuses or school buses, especially in high traffic areas and/or when social distancing is not possible. If the use of PPE in schools is required by state or local health officials, the district shall provide PPE to students and staff who do not bring their own personal PPE. Students and staff shall be provided instruction in the proper use, removal, disposal, and cleaning of PPE.

Note: The following paragraph reflects a recommendation in CDC's Considerations for Schools and may be revised to reflect district practice.

Face coverings shall not be required for children younger than two years, or for anyone who has trouble breathing or is incapacitated or otherwise unable to remove the covering without assistance. Reasonable accommodations shall be made for anyone who is unable to wear a face covering for medical reasons.

The Board also encourages students and staff to practice good hygiene, such as appropriate covering of coughs and sneezes and regular hand washing of at least 20 seconds, including before eating and after blowing one's nose, coughing, or sneezing. The district shall provide adequate time and opportunity for students to wash hands, and shall make hand sanitizer

COVID-19 MITIGATION PLAN (continued)

available in areas where handwashing is less accessible. Signage regarding healthy hygiene practices and how to stop the spread of COVID-19 may be posted in and around school facilities.

Sanitization of Facilities and Equipment

School facilities, school buses, and shared equipment such as desks, tables, sports/playground equipment, computers, door handles, light switches, and other frequently used equipment and supplies shall be cleaned and disinfected daily with appropriate cleaning agents. Disinfectants and cleaning agents shall be stored properly and in a manner not accessible to students.

(cf. 35.10 – Green School Operations)

(cf. 35.14.1 – Hazardous Substances)

(cf. 4157/4257/4357 – Employee Safety)

The Superintendent or designee shall ensure that ventilation systems are operating properly and that air flow and ventilation within district facilities is increased, to the extent possible, by opening windows and doors and using fans and air conditioning. Garbage shall be removed daily and disposed of safely.

Food Services

The Superintendent or designee shall ensure that students have access to clean drinking water other than through a drinking fountain, and food which is procured, stored, and served in a manner that reduces the likelihood of COVID-19 transmission and follows state and national guidelines for nutrition.

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

For meals that are consumed on school grounds, the Superintendent or designee shall ensure that students will be able to maintain proper social distancing while eating. In order to do so, the Superintendent or designee may consider the consumption of meals in classrooms, gyms, the outdoors, and/or other district grounds.

Meal service shall also be available to students participating in distance learning, which may include and/or entirely consist of a "grab and go" service or delivery.

Due to the changing financial circumstances of many families as a result of COVID-19, the Superintendent or designee shall regularly provide information to students and parents/guardians regarding the free and reduced-price meal program, eligibility, and how to apply for the program.

(cf. 3553 – Free and Reduced Price Meals)

COVID-19 MITIGATION PLAN (continued)**Staff**

Note: The following section may be subject to negotiations with employee organizations.

Prior to reopening campuses, the Superintendent or designee shall review staff assignments and, upon request, may reassign employees to reduce exposure to the virus, especially for high-risk staff. When feasible for the position, employees may be granted a remote work assignment.

(cf. 4030 – Nondiscrimination in Employment)

(cf. 4113 – Assignment)

(cf. 4113.4/4213.4/4313.4 – Temporary Modified/Light Duty Assignment)

(cf. 4113.5/4213.5/4313.5 – Working Remotely)

Note: The Governor's Executive Order N 26-20 requires that districts continue to pay employees even if campuses close temporarily due to COVID 19. Furthermore, according to Office of Management and Budget Memorandum M 20 17, during extraordinary circumstances such as a pandemic which interrupts district operations, employees paid with federal grant funds can continue to be paid out of federal grant funds as long as other similarly situated employees paid with nonfederal funds are continuing to get compensated. See BP 4151/4251/4351 – Employee Compensation.

In the event that employees are unable to perform their duties due to partial or full closure of campuses, the Board shall compensate employees as permitted by law.

(cf. 4151/4251/4351 – Employee Compensation)

Any employee who contracts the virus, shows symptoms of possible infection, or is caring for someone who has been diagnosed with the virus shall self-quarantine for the period of time recommended by health authorities in order to prevent the spread of the disease to students or other staff.

Note: Education Code 44978 and 45191 and Labor Code 245 249 establish minimum sick leave entitlements for district employees; see AR 4161.1/4361.1 – Personal Illness/Injury Leave and AR 4261.1 – Personal Illness/Injury Leave. If an employee continues to be absent for up to five months after exhausting all available sick leave, the employee may be entitled to differential pay in accordance with Education Code 44977, 44983, and 45196. In addition, an employee may use leave granted by the Family and Medical Leave Act (FMLA) (29 USC 2601-2654) or California Family Rights Act (Government Code 12945.1-12945.2) for the employee's own serious health condition or to care for a child, spouse, or parent/guardian with a serious health condition; see AR 4161.8/4261.8/4361.8 – Family Care and Medical Leave.

An employee may use personal illness and injury leave and/or family care and medical leave, as applicable, if the employee is unable to work or telework because the employee is ill or needs to take care of a spouse, parent/guardian, or child with COVID 19 or other serious health condition. (Education Code 44978, 45191; Government Code 12945.1-12945.2; Labor Code 245 249; 29 USC 2601-2654)

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COVID-19 MITIGATION PLAN (continued)

(cf. 4161.1/4361.1 – Personal Illness/Injury Leave)

(cf. 4161.8/4261.8/4361.8 – Family Care and Medical Leave)

(cf. 4261.1 – Personal Illness/Injury Leave)

Note: The remainder of this section reflects provisions for expanded leave granted by the federal Families First Coronavirus Response Act (P.L. 116-127).

29 USC 2601 provides up to 80 hours of paid sick leave for eligible employees for the reasons specified in items #1-6 below. Eligible employees are entitled to their regular rate of pay for leave taken pursuant to items #1-3 (up to \$511 per day and \$5,110 in total) or two-thirds their regular rate of pay for leave taken pursuant to items #4-6 (up to \$200 per day or \$2,000 in total). The district must not require an employee to use other paid leave before the employee uses the paid sick leave granted under this Act.

Until December 31, 2020, an eligible employee may take paid sick leave for up to 80 hours, or the number of hours that a part-time employee works on average over a two-week period, if the employee is unable to work or telework because the employee is: (29 USC 2601)

1. Subject to a federal, state, or local quarantine or isolation order related to COVID-19
2. Advised by a health care provider to self-quarantine due to concerns related to COVID-19
3. Experiencing symptoms of COVID-19 and seeking a medical diagnosis
4. Caring for an individual who is subject to a federal, state, or local quarantine or isolation order or has been advised by a health care provider to self-quarantine
5. Caring for the employee's child whose school or child care provider is closed or unavailable for reasons related to COVID-19
6. Experiencing any other substantially similar condition specified by the U.S. Department of Health and Human Services

Employees shall be paid their regular rate of pay for leave taken pursuant to items #1-3 above, or two-thirds their regular rate of pay for leave taken pursuant to items #4-6 above, within the limits specified in law. (29 USC 2601)

Note: Leave granted to an employee who needs to care for a child whose school or child care provider is closed due to COVID-19 (item #5 above) may be extended pursuant to 29 USC 2620. Employees must be restored to their position following such leave, unless the district has fewer than 25 employees and specified conditions are met.

For the purpose specified in item #5 above, eligible employees who have been employed by the district for at least 30 calendar days shall be granted extended leave for up to 12 work

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COVID-19 MITIGATION PLAN (continued)

weeks upon request. The first 10 days of such leave shall be unpaid unless the employee uses accrued vacation leave, personal leave, sick leave, or paid sick leave granted pursuant to 29 USC 2601. After the first 10 days, the district shall pay not less than two thirds of the employee's regular pay for the number of hours per week the employee normally works, with a maximum of \$200 per day and \$10,000 for the total period. Eligibility for extended leave for this purpose is subject to the employee's eligibility for leave pursuant to the Family and Medical Leave Act. (29 USC 2601, 2620)

Note: The following notice is available on the web site of the U.S. Department of Labor.

The district shall post, in conspicuous places where employee notices are customarily posted, a notice prepared by the U.S. Department of Labor regarding the requirements of 29 USC 2601 and 2620. (29 USC 2601)

Follow-Up with Infected Persons/Contact Tracing

The Superintendent or designee shall work with county health officials to track confirmed cases of students and staff with COVID-19, including, but not limited to, following up with students, their parents/guardians, and staff who exhibit symptoms while at school and those who report an absence or miss work due to illness. The Superintendent or designee shall report confirmed cases to local health authorities.

Note: The following optional paragraph reflects a recommendation in CDC's Interim Guidance for Schools and Day Camps pertaining to contact tracing.

If a student, family member of a student, or staff member has tested positive for COVID-19, the district shall assist local health officials in conducting contact tracing to identify potentially exposed individuals and ask them to self-quarantine, which may include not participating in on-campus instruction. While maintaining the privacy of the infected person, the district shall inform other students and staff with whom the infected person may have had contact in school.

Nondiscrimination

The Board prohibits discrimination based on actual or perceived medical condition or disability status. (Government Code 11135)

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

Individual students and staff shall not be identified as being COVID positive, nor shall students be shamed, treated differently, or denied access to a free and appropriate public

COVID-19 MITIGATION PLAN (continued)

~~education because of their COVID-19 status or medical condition. Staff shall not disclose confidential or privileged information, including the medical history or health information of students and staff. (Education Code 49450)~~

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

~~The Superintendent or designee shall investigate any reports of harassment, intimidation, and bullying targeted at any student based on COVID status, exposure, or high risk status.~~

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

~~(cf. 5131.2—Bullying)~~

~~(cf. 5145.3—Nondiscrimination/Harassment)~~

Community Relations

~~The Superintendent or designee shall use a variety of methods to regularly communicate with students, parents/guardians, and the community regarding district operations, school schedules, and steps the district is taking to promote the health and safety of students. In addition, the members of the Board have a responsibility as community leaders to communicate matters of public interest in a manner that is consistent with Board policies and bylaws regarding public statements.~~

~~(cf. 1100—Communication with the Public)~~

~~(cf. 1112—Media Relations)~~

~~(cf. 9010—Public Statements)~~

~~The district shall continue to collaborate with local health officials and agencies, community organizations, and other stakeholders to ensure that district operations reflect current recommendations and best practices for keeping students, staff, and visitors safe during the COVID-19 state of emergency. The Superintendent or designee shall keep informed about resources and services available in the community to assist students and families in need.~~

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

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

~~While the Board recognizes the rights of parents/guardians to participate in the education of their children and the critical importance of parental involvement in the educational process, all visitors and volunteers are encouraged to respect guidelines regarding social distancing and large gatherings. School visitors and volunteers shall be limited in number and expected to observe all district protocols for COVID-19. The Superintendent or designee may place signage around the school advising that visitors and volunteers may be required to use PPE while on school sites and interacting with school personnel, and may keep a supply of such equipment available for their use.~~

COVID-19 MITIGATION PLAN (continued)

(cf. 1240 – Volunteer Assistance)

(cf. 1250 – Visitors/Outsiders)

Use of school facilities by persons or organizations for community purposes involving large gatherings shall be suspended until the Board determines, consistent with guidance from state and local health officials, that it is safe to resume such activities. The Superintendent or designee may only grant an exception if the number of participants in the activity will be limited and the person or organization follows the processes and protocols established by the district to minimize the health risks associated with COVID-19.

(cf. 1330 – Use of School Facilities)

Potential Re closure of Campus

Note: The following section reflects CDC's Interim Guidance for Administrators of U.S. K-12 Schools and Child Care Programs to Plan, Prepare, and Respond to Coronavirus Disease 2019 (COVID-19), which describes appropriate mitigation strategies based on the level of community transmission of COVID-19 and the presence of COVID-19 cases within a school. Such mitigation strategies may include closing campuses when the district determines, in consultation with state and local health officials, that keeping campuses open presents a risk to students, staff, and the community.

The district shall monitor student and staff absences and data provided by local health officials to determine if there is a risk of resurgence of COVID-19 and a need to re close school campuses for the protection of students, staff, and the community. The Superintendent or designee shall develop plans and procedures for alternative methods of operations to the extent possible in the event that re closure becomes necessary.

If any person diagnosed with COVID-19 is known to have been in district building(s), the Superintendent or designee shall immediately notify local health officials to determine a course of action. The building should be closed until cleaning and disinfecting of the building can be completed and the district can consult with local health officials to determine, based on up to date information about the specific cases in the community, whether an extended closure is needed to stop or slow further spread of COVID-19.

If local health officials report that there has been no community transmission of COVID-19, or minimal to moderate transmission in the community, school campuses may not necessarily be closed, but the district shall continue to take all preventative measures described in this policy.

If local health officials report substantial community transmission of COVID-19, campus closures of more than two weeks may be necessary, and the Superintendent or designee shall cancel group activities and events during that period. Campuses shall not reopen until recommended by local health officials.

Legal Reference: (see next page)

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COVID-19 MITIGATION PLAN (continued)

Legal Reference:

EDUCATION CODE

32090-32095 COVID-19 reporting and public health requirements

43520-43525 In-person instruction and expanded learning opportunities grants

44978 Sick leave for certificated employees

45191 Leave of absence for illness and injury, classified employees

48205 Excused absences

48213 Prior parent notification of exclusion; exemption

48240 Supervisors of attendance

49451 Exemption from physical exam; exclusion from attendance

GOVERNMENT CODE

11135 Nondiscrimination in programs or activities funded by state

54950-54963 The Brown Act

12945.1-12945.2 California Family Rights Act

HEALTH AND SAFETY CODE

120175-120255 Functions and duties of local health officers

120230 Exclusion from attendance

120275 Violations of quarantine order

131080 Advice to and control of local health authorities

LABOR CODE

245-249 Healthy Workplaces, Healthy Families Act of 2014

CODE OF REGULATIONS, TITLE 2

11087-11098 California Family Rights Act

CODE OF REGULATIONS, TITLE 5

202 Exclusion from attendance

306 Explanation of absence

420-421 Record of verification of absence due to illness and other causes

CODE OF REGULATIONS, TITLE 8

3205 COVID-19 prevention

420-421 Record of verification of absence due to illness and other causes

UNITED STATES CODE, TITLE 29

2601-2654 Family and Medical Leave Act of 1993, as amended, especially:

2601 Paid sick leave

2620 Public health emergency leave

UNITED STATES CODE, TITLE 42

1760 Note National School Lunch program waivers addressing COVID-19

CODE OF FEDERAL REGULATIONS, TITLE 29

825.100-825.702 Family and Medical Leave Act of 1993

Management Resources: (see next page)

COVID-19 MITIGATION PLAN (continued)*Management Resources:***CSBA PUBLICATIONS***Sample School Board Resolution on Grading During Emergency School Closures****The Resource Guide: Turning Crisis into Opportunity, Delegate Assembly Report, May 2021******Understanding and Addressing Disruptions to Learning During the COVID-19 Pandemic, May 2021*****CALIFORNIA COLLABORATION FOR EDUCATIONAL EXCELLENCE PUBLICATIONS*****Statewide Instructional Mode Survey Frequently Asked Questions (FAQs), September 14, 2021*****CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS*****Safe Return to In-Person Instruction and Continuity of Services Plan Template****FAQs for 2019 Novel Coronavirus**FAQs on Grading and Graduation Requirements***CALIFORNIA DEPARTMENT OF PUBLIC HEALTH PUBLICATIONS*****COVID-19 Public Health Guidance for K-12 Schools in California, 2021-22 School Year, September 1, 2021******Requirement for Universal Masking Indoors at K-12 Schools, August 23, 2021******State Public Health Officer Order of August 11, 2021******State Public Health Officer Order of June 11, 2021*****CALIFORNIA DIVISION OF OCCUPATIONAL SAFETY AND HEALTH PUBLICATIONS*****COVID-19 Prevention Emergency Temporary Standards - Fact Sheets, Model Written Program and Other Resources******CDPH Guidance for the Prevention of COVID-19 Transmission for Gathering, March 16, 2020******School Guidance on Novel Coronavirus or COVID-19, March 7, 2020*****CALIFORNIANS TOGETHER PUBLICATIONS*****Teaching and Learning During Uncertain Times: A Review of Learning Continuity Plans*****CENTERS FOR DISEASE CONTROL AND PREVENTION PUBLICATIONS*****Guidance for COVID-19 Prevention in K-12 Schools, August 5, 2021****Considerations for Schools, rev. May 19, 2020**Interim Guidance for Schools and Day Camps, May 2020**Interim Guidance for Administrators of U.S. K-12 Schools and Child Care Programs to Plan, Prepare, and Respond to Coronavirus Disease 2019 (COVID-19), March 25, 2020***INSTITUTE OF EDUCATION SCIENCES PUBLICATIONS*****Addressing Trauma in Educational Settings, Module 1: Impacts and Symptoms of Trauma and Relevant Strategies to Support Students, Webinar, November 2020*****NATIONAL CENTER FOR LEARNING DISABILITIES PUBLICATIONS*****Promising Practices to Accelerate Learning for Students with Disabilities During COVID-19 and Beyond*****NATIONAL SCHOOL PUBLIC RELATIONS ASSOCIATION PUBLICATIONS*****Coronavirus Communications Crisis for Public Schools guide*****OFFICE OF MANAGEMENT AND BUDGET PUBLICATIONS*****Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by the Novel Coronavirus (COVID-19) Due to Loss of Operations, Memorandum M-20-17, March 19, 2020*****U.S. DEPARTMENT OF LABOR POSTERS*****Employee Rights: Paid Sick Leave and Expanded Family and Medical Leave Under the Families First Coronavirus Response Act*****POLICY ANALYSIS FOR CALIFORNIA EDUCATION (PACE) PUBLICATIONS*****Evidence-Based Practices for Assessing Students' Social and Emotional Well-Being, February 2021***

COVID-19 MITIGATION PLAN (continued)

Management Resources continued:

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Confronting COVID-19-Related Harassment in Schools, August 2021

ED COVID-19 Handbook, Volume 1: Strategies for Safely Reopening Elementary and Secondary Schools, August 2021

ED COVID-19 Handbook, Volume 2: Roadmap to Reopening Safely and Meeting All Students' Needs, August 2021

Return to School Roadmap: Child Find Under Part B of the Individuals with Disabilities Education Act, August 2021

Long COVID under Section 504 and the IDEA: A Resource to Support Children, Students, Educators, Schools, Service Providers, and Families, July 2021

WEB SITES

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

California Collaborative for Educational Excellence: <https://ccee-ca.org>

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

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

Centers for Disease Control and Prevention: <https://www.cdc.gov/coronavirus/2019-ncov>

California Division of Occupational Safety and Health: <https://www.dir.ca.gov/dosh>

California Interscholastic Federation: <https://cifstate.org/covid-19/index>

Office of the Governor: <https://www.gov.ca.gov>

Office of Management and Budget: <https://www.whitehouse.gov/omb>

State of California Safe Schools for All Hub: <https://schools.covid19.ca.gov>

U.S. Department of Labor: <https://www.dol.gov>

World Health Organization: <https://www.who.int>

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CSBA Sample Board Policy

Business and Noninstructional Operations

BP 3516.5(a)

EMERGENCY SCHEDULES

In order to provide for the safety of students and staff, the Governing Board authorizes the Superintendent or designee to close a school site, change the regular school day schedule, or take any necessary action when hazardous environmental or weather conditions or other emergencies warrant.

(cf. 0450 - Comprehensive Safety Plan)

(cf. 4157/4257/4357 - Employee Safety)

(cf. 5142 - Safety)

(cf. 6112 - School Day)

Note: ~~Education Code 41420 requires every district to have at least 175 days of instruction to receive full average daily attendance (ADA) reimbursement. However, pursuant~~ Pursuant to Education Code 41422 and 46392, a district may apply to the Superintendent of Public Instruction **to obtain apportionment credit for days and minutes lost due to emergency closure and material decreases in attendance due to emergency events** when one or more schools are prevented from meeting this minimum requirement because of such as a fire, flood, impassable roads, epidemic, earthquake, **imminence of a major safety hazard, strike involving transportation services to students provided by a nonschool entity, or other "extraordinary condition"** so that it may receive full **average daily attendance ADA apportionment reimbursement.**

When an emergency condition causes a school closure, reduction in attendance, or change in schedule pursuant to Education Code 41422 or 46392, thereby preventing the district from complying with the minimum number of instructional days or minutes required by law, the Superintendent or designee shall complete and submit to the Superintendent of Public Instruction (SPI) the necessary forms **and/or affidavits** for obtaining approval of **apportionment credit for** the days of the closure, reduction in attendance, or change in schedule. The Superintendent or designee shall submit other relevant district records as may be required.

(cf. 3580 - District Records)

(cf. 6111 - School Calendar)

Note: Education Code 46393, as added by AB 130 (Ch. 44, Statutes of 2021), requires districts submitting affidavits regarding emergency events occurring after September 1, 2021 to certify that **the district has a plan for offering independent study to impacted students.**

For school closures due to emergency events occurring after September 1, 2021, the Superintendent or designee shall develop a plan for offering independent study within 10 days of school closure to any student impacted by the emergency condition. The plan shall also address the establishment, within a reasonable time, of independent study master agreements as specified in BP 6158 - Independent Study. The plan shall

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EMERGENCY SCHEDULES (continued)

require reopening in person as soon as possible once allowable under the direction from the city or county health officer. The Superintendent or designee shall certify that the district has a plan for independent study in the affidavit submitted to the SPI pursuant to Education Code 46392. (Education Code 46393)

(cf. 6158 - Independent Study)

Note: Vehicle Code 34501.6 mandates the Governing Board of any district that provides student transportation to adopt procedures that limit the home-to-school operation of school buses when atmospheric conditions reduce visibility to 200 feet or less; see AR 3543 - Transportation Safety and Emergencies for language implementing this mandate. The following **optional** paragraph may be revised to reflect district practice.

The Superintendent or designee shall establish a system for informing students and parents/guardians when school buses are not operating as scheduled, the school day schedule is changed, or the school is closed. The district's notification system shall include, but is not limited to, notifying local television and radio stations, posting on district web site(s), sending email and text messages, and/or making telephone calls.

(cf. 1112 - Media Relations)

(cf. 1113 - District and School Web Sites)

(cf. 3542 - School Bus Drivers)

(cf. 3543 - Transportation Safety and Emergencies)

Whenever the school day schedule changes after students have arrived at school, the Superintendent or designee shall ensure that students are supervised in accordance with the procedures specified in the district's emergency and disaster preparedness plan.

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

The Superintendent or designee may provide a means to make up lost instructional time later during the year. Students and parents/guardians shall receive timely **advanced** notice **in advance** of any resulting changes in the school calendar or school day schedule.

Legal Reference: (see next page)

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EMERGENCY SCHEDULES (continued)

Legal Reference:

EDUCATION CODE

41420 Required length of school term

41422 Schools not maintained for 175 days

46010 Total days of attendance

46100-~~46192~~ 46208 Attendance; maximum credit; minimum day

46390 Calculation of ADA in emergency

46391 Lost or destroyed ADA records

46392 Decreased attendance in emergency situation

46393 Certification of plan for independent study

VEHICLE CODE

34501.6 School buses; reduced visibility

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION CORRESPONDENCE

90-01 Average Daily Attendance Credit During Periods of Emergency, February 10, 2005

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Frequently Asked Questions - Form J-13A

WEB SITES

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

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CSBA Sample Board Policy

Certificated Personnel

BP 4131(a)

STAFF DEVELOPMENT

Note: Staff development is not one of the enumerated items within the scope of collective bargaining pursuant to Government Code 3543.2. However, the Public Employment Relations Board (PERB) has found that some aspects of staff development may be negotiable if they are related to an enumerated subject of bargaining, such as working hours, wages, or other enumerated terms or conditions of employment; see (United Faculty of Contra Costa Community College District v. Contra Costa Community College District). Because the terms "staff development" and "training" are not always clear, their negotiability, in the absence of an agreement, may be determined by PERB on a case-by-case basis.

The following paragraph has been expanded to emphasize the importance of student well-being and related professional development in the area of social-emotional development and learning. Social-emotional learning is a strategy utilized to improve school climate, which benefits all students including students at higher risk of harassment. See Items #4 and 7 below regarding diverse student populations and school climate, respectively.

The Governing Board believes that, in order to maximize student learning, ~~and~~ achievement, **and well-being**, certificated staff members must be continuously learning and improving **relevant** ~~their~~ skills. The Superintendent or designee shall develop a program of ongoing professional development which includes opportunities for teachers to enhance their instructional and classroom management skills, ~~and~~ become informed about changes in pedagogy and subject matter, **and strengthen practices related to social-emotional development and learning**.

(cf. 6111 - School Calendar)

Note: Education Code 52060-52077 require districts to develop a local control and accountability plan (LCAP) which includes goals aligned with state and local priorities, specific actions aligned to meet those goals, and a budget aligned to fund those specific actions; see BP/AR 0460 - Local Control and Accountability Plan. The district's staff development program should be aligned with its priorities and goals as outlined in the LCAP and other applicable district and school plans.

The Superintendent or designee shall involve teachers, site and district administrators, and others, as appropriate, **when creating, reviewing, and amending** ~~in the development of~~ the district's staff development program. ~~He/she~~ **The Superintendent or designee** shall ensure that the district's staff development program is aligned with district priorities for student **learning**, achievement **and well-being**, school improvement objectives, the local control and accountability plan, and other district and school plans.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

(cf. 0420 - School Plans/Site Councils)

(cf. 0460 - Local Control and Accountability Plan)

Note: Items #1-11 below are **optional** and may be revised to reflect district practice.

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STAFF DEVELOPMENT (continued)

The district's staff development program shall assist certificated staff in developing knowledge and skills, including, but not limited to:

1. Mastery of subject-matter knowledge, including current state and district academic standards

(cf. 6011 - Academic Standards)
(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)
(cf. 6142.2 - World/~~Foreign~~ Language Instruction)
(cf. 6142.3 - Civic Education)
(cf. 6142.5 - Environmental Education)
(cf. 6142.6 - Visual and Performing Arts Education)
(cf. 6142.7 - Physical Education and Activity)
(cf. 6142.8 - Comprehensive Health Education)
(cf. 6142.91 - Reading/Language Arts Instruction)
(cf. 6142.92 - Mathematics Instruction)
(cf. 6142.93 - Science Instruction)
(cf. 6142.94 - History-Social Science Instruction)

2. Use of effective, subject-specific teaching methods, strategies, and skills

Note: The State Board of Education's California Digital Learning Integration and Standards Guidance, adopted pursuant to SB 98 (Ch. 24, Statutes of 2020), provides recommendations for staff development regarding technology-based learning. It encompasses curriculum and instructional guidance for mathematics, English language arts, and English language development, including a framework for addressing critical standards, formative and diagnostic assessment, recommended aggregate time for instruction and independent work by grade, and guidance on embedding social-emotional supports for students into technology-based learning curriculum. Although this guidance was written in response to COVID-19, it is intended to be used as a resource for the re-envisioning of education and digital teaching and learning.

Education Code 51745-51749.6, as amended by AB 130 (Ch. 44, Statutes of 2021), contain specified requirements for districts offering technology-based instruction pursuant to an independent study program. See BP/AR 6158 - Independent Study.

3. Use of technologies to enhance instruction **and learning, including face-to-face, remote, or hybrid instruction**

(cf. 0440 - District Technology Plan)
(cf. 4040 - Employee Use of Technology)
(cf. 4113.5/4213.5/4313.5 - Working Remotely)
(cf. 6158 - Independent Study)
(cf. 6163.4 - Student Use of Technology)

Note: Pursuant to Education Code 218, the California Department of Education (CDE) has developed and/or updated resources, available on its web site, for use in schools serving students in grades 7-12 for in-service training for the support of lesbian, gay, bisexual, transgender, queer, and questioning (LGBTQ) students, and strategies to increase support for LGBTQ students which

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STAFF DEVELOPMENT (continued)

improve overall school climate. Pursuant to Education Code 218, districts that serve students in grades 7-12 are encouraged to use such resources to provide training at least once every two years to teachers and other certificated staff.

4. Sensitivity to and ability to meet the needs of diverse student populations, including, but not limited to, students with characteristics specified in Education Code 200 and/or 220, Government Code 11135, and/or Penal Code 422.55 of various racial and ethnic groups, students with disabilities, English learners, economically disadvantaged students, foster youth, gifted and talented students, and at risk students

(cf. 0410 - Nondiscrimination/Harassment)

(cf. 0415 - Equity)

(cf. 4112.22 - Staff Teaching English Learners)

(cf. 4112.23 - Special Education Staff)

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

(cf. 5147 - Dropout Prevention)

(cf. 6141.5 - Advanced Placement)

(cf. 6171 - Title I Programs)

(cf. 6172 - Gifted and Talented Student Program)

(cf. 6173 - Education for Homeless Children)

(cf. 6173.1 - Education for Foster Youth)

(cf. 6174 - Education for English Learners)

(cf. 6175 - Migrant Education Program)

5. Understanding of how academic and career technical instruction can be integrated and implemented to increase student learning

(cf. 6178 - Career Technical Education)

6. Knowledge of strategies that encourage parents/guardians to participate fully and effectively in their children's education

(cf. 1240 - Volunteer Assistance)

(cf. 5020 - Parent Rights and Responsibilities)

(cf. 6020 - Parent Involvement)

7. Effective classroom management skills and strategies for establishing a climate that promotes respect, fairness, acceptance, tolerance, and civility and discipline, including conflict resolution, and hatred prevention, and positive behavioral interventions and supports

(cf. 1313 - Civility)

(cf. 5131 - Conduct)

(cf. 5131.2 - Bullying)

(cf. 5137 - Positive School Climate)

(cf. 5138 - Conflict Resolution/Peer Mediation)

(cf. 5144 - Discipline)

STAFF DEVELOPMENT (continued)

(cf. 5145.9 - Hate-Motivated Behavior)

8. Ability to relate to students, understand their various stages of growth and development, and motivate them to learn
9. Ability to interpret and use data and assessment results to guide instruction

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

(cf. 6162.5 - Student Assessment)

Note: The following paragraph has been expanded to include social-emotional learning and trauma-informed practices.

The Collaborative for Academic, Social, and Emotional Learning describes social-emotional learning as, "the process through which all young people and adults acquire and apply the knowledge, skills, and attitudes to develop healthy identities, manage emotions and achieve personal and collective goals, feel and show empathy for others, establish and maintain supportive relationships, and make responsible and caring decisions."

Trauma-informed practices include recognizing and responding appropriately to students who have experienced trauma in order to minimize disruption to learning, academic achievement, and physical and emotional well-being.

10. Knowledge of topics related to student **mental and physical** health, safety, and welfare, **which may include social-emotional learning and trauma-informed practices**

(cf. 0450 - Comprehensive Safety Plan)

(cf. 5030 - Student Wellness)

(cf. 5131.6 - Alcohol and Other Drugs)

(cf. 5131.63 - Steroids)

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

(cf. 5141.22 - Infectious Diseases)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

(cf. 5141.5 - Mental Health)

(cf. 5141.52 - Suicide Prevention)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

11. Knowledge of topics related to employee health, safety, and security

(cf. 3514.1 - Hazardous Substances)

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

(cf. 4119.12 - Title IX Sexual Harassment Complaint Procedures)

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

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STAFF DEVELOPMENT (continued)

(cf. 4119.42/4219.42/4319.42- Exposure Control Plan for Bloodborne Pathogens)
(cf. 4119.43/4219.43/4319.43 - Universal Precautions)
(cf. 4157/4257/4357 - Employee Safety)
(cf. 4158/4258/4358 - Employee Security)

Note: The following **optional** paragraph may be revised to reflect district practice. Education Code 44277, encourages districts to establish individualized professional growth programs for teachers and other educators based on a needs assessment and to evaluate such programs based on specified criteria. Districts may assist teachers with preliminary credentials to meet the qualifications required for a professional clear credential, and are required to provide support and guidance to teachers participating in internship programs (Education Code 44325-44328, 44450-44468, and 44830.3) and teachers who possess a short-term staff permit (5 CCR 80021), a provisional internship permit (5 CCR 80021.1), or an emergency permit (Education Code 44300; 5 CCR 80023-80026.6); see AR 4112.2 - Certification and AR 4112.21 - Interns.

The Superintendent or designee shall, in conjunction with teachers, interns, and administrators, as appropriate, develop an individualized program of professional growth to increase competence, performance, and effectiveness in teaching and classroom management and, as necessary, to assist them in meeting state or federal requirements to be fully qualified for their positions.

(cf. 4112.2 - Certification)
(cf. 4112.21 - Interns)
(cf. 4131.1 - Teacher Support and Guidance)

Note: Pursuant to Education Code 44277, as amended by SB 1060 (Ch. 199, Statutes of 2014), acceptable professional learning activities must meet specified criteria.

Professional learning opportunities offered by the district shall be evaluated based on the criteria specified in Education Code 44277. Such opportunities may be part of a coherent plan that combines school activities within a school, including lesson study or co-teaching, and external learning opportunities that are related to academic subjects taught, provide time to meet and work with other teachers, and support instruction and student learning. Learning activities may include, but are not limited to, mentoring projects for new teachers, extra support for teachers to improve practice, and collaboration time for teachers to develop new instructional lessons, select or develop common formative assessments, or analyze student data. (Education Code 44277)

The district's staff evaluation process may be used to recommend additional individualized staff development for individual employees.

(cf. 4115 - Evaluation/Supervision)

The Board may budget funds for actual and reasonable expenses incurred by staff who participate in staff development activities.

(cf. 3100 - Budget)

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STAFF DEVELOPMENT (continued)*(cf. 3350 - Travel Expenses)*

The Superintendent or designee shall provide a means for continual evaluation of the benefit of staff development activities to both staff and students and shall regularly report to the Board regarding the effectiveness of the staff development program. Based on the Superintendent's report, the Board may revise the program as necessary to ensure that the staff development program supports the district's priorities for student achievement **and well-being**.

*(cf. 0500 - Accountability)**Legal Reference:*EDUCATION CODE**200 Educational equity****218 Lesbian, gay, bisexual, transgender, queer, and questioning student resources****220 Prohibition of discrimination**

44032 Travel expense payment

44259.5 Standards for teacher preparation

44277 Professional growth programs for individual teachers

44300 Emergency permits

44325-44328 District interns

44450-44468 University internship program

44570-44578 Inservice training, secondary education

44830.3 District interns

45028 Salary schedule and exceptions

48980 Notification of parents/guardians; schedule of minimum days

51745-51749.6 Independent study

52060-52077 Local control and accountability plan

56240-56245 Staff development; service to persons with disabilities

99200-~~99204~~ ~~99206~~ Subject matter projectsGOVERNMENT CODE

3543.2 Scope of representation of employee organization

11135 DiscriminationPENAL CODE**422.55 Hate crime**CODE OF REGULATIONS, TITLE 5

13025-13044 Professional development and program improvement

80021 Short-term staff permit

80021.1 Provisional internship permit

80023-80026.6 Emergency permits

UNITED STATES CODE, TITLE 20**1681-1688 Discrimination based on sex or blindness, Title IX****6601-6692 6702 Preparing, Training, and Recruiting High Quality Teachers and Principals***Legal Reference continued: (see next page)*

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STAFF DEVELOPMENT (continued)

Legal Reference: (continued)

UNITED STATES CODE TITLE 29

794 Rehabilitation Act of 1973, Section 504

UNITED STATES CODE TITLE 42

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

12101-12213 Americans with Disabilities Act

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

United Faculty of Contra Costa Community College District v. Contra Costa Community College District, (1990) PERB Order Dec. No. 804, 14 PERC P21-085

Management Resources:

CSBA PUBLICATIONS

Governing to the Core: Professional Development for Common Core, Governance Brief, May 2013

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

California Digital Learning Integration and Standards Guidance, June 2021

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

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

California Standards for the Teaching Profession (CSTP), 2009

WEB SITES

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

California Department of Education, Professional Learning: <http://www.cde.ca.gov/pd>

California Department of Education, Supporting LGBTQ+ Students:

<https://www.cde.ca.gov/pd/ee/supportlgbtq.asp>

California Subject Matter Projects: <http://csmp.ucop.edu>

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

Commission on Teacher Credentialing: <http://www.ctc.ca.gov>

Public Employment Relations Board: <https://perb.ca.gov>

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CSBA Sample Board Policy

Instruction

BP 6120(a)

RESPONSE TO INSTRUCTION AND INTERVENTION

Note: **The following policy is optional and should be modified to reflect district practice.**

"Response to instruction and intervention" (RTI²) is a strategy of organizing instruction and support resources in the general education program to help improve learning and behavioral outcomes close the achievement gaps for all students, including students at risk, students with disabilities, and English learners. It allows for, based on individual student needs, early identification, intensive instruction and intervention, and progress monitoring for students who are struggling academically and/or behaviorally. In this strategy, a student who is suspected of having a learning disability or who is showing academic delays is provided intensive instruction and intervention for a specified period of time before the educational problems increase in intensity and special education seems the only viable option. During this period, the student's academic progress is frequently measured to see if the interventions are sufficient to help the student catch up with his/her peers. If the student fails to show significant progress, this failure to "respond to intervention" can be viewed as evidence of a specific learning disability, thus qualifying the student for evaluation of the need for special education services.

Multi-Tiered System of Supports (MTSS) is described by the California Department of Education (CDE) as an integrated, comprehensive framework for districts that focuses on common core state standards, core instruction, differentiated and student-centered learning, individualized student needs, and the alignment of supports necessary for academic, behavioral, and social success. MTSS is connected to the eight state priorities in the local control and accountability plan, and encompasses inclusive academic instruction as reflected in the California state standards and frameworks, RtI², behavior instruction such as positive behavioral interventions and supports and restorative practices, and social-emotional learning. Districts that have an established MTSS may integrate the RtI² system into such framework.

The California Department of Education (CDE) has expanded the term RTI to "response to instruction and intervention" (RtI²) to include the full spectrum of instruction to meet the academic and behavioral needs of students and as a method to reduce the disproportionate representation of certain subpopulations of students identified as needing special education. RtI² is consistent with the identification of students under the Individuals with Disabilities Education Act (20 USC 1400-1482). According to the CDE, RtI² integrates resources from general education, categorical programs, and special education into a comprehensive system of core instruction and interventions to benefit every student. As part of the state's Quality Assurance Process, the CDE will examine whether districts have a disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification.

The following policy is optional and should be modified to reflect district practice.

The Governing Board desires to **improve learning and behavioral outcomes for all students by providing** ~~provide~~ a high-quality, data-driven educational program **that** ~~to~~ meets the learning and behavioral needs of each student and ~~to help~~ **reduces** disparities in achievement among subgroups of students. Students who are not making academic progress pursuant to district measures of performance **and/or are struggling behaviorally** shall receive intensive instruction and intervention supports designed to meet ~~their~~ individual learning needs, **with progress monitored.**

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RESPONSE TO INSTRUCTION AND INTERVENTION (continued)*(cf. 0000 - Vision)**(cf. 0200 - Goals for the School District)**(cf. 0415 - Equity)**(cf. 0460 - Local Control and Accountability Plan)**(cf. 6000 - Concepts and Roles)**(cf. 6011 - Academic Standards)*

The Superintendent or designee shall convene a team **of that may include, as appropriate, staff with knowledge of curriculum and instruction, student services, special education, and instructional and behavioral support,** certificated personnel, other district staff, and parents/guardians **as appropriate,** to assist in designing the district's Response to Instruction and Intervention (RtI²) system, based on an examination of indicators of district and schoolwide student achievement **and social-emotional well-being.**

*(cf. 0500 - Accountability)**(cf. 4115 - Evaluation/Supervision)**(cf. 5123 - Promotion/Acceleration/Retention)**(cf. 5147 - Dropout Prevention)**(cf. 6164.2 - Guidance/Counseling Services)**(cf. 6171 - Title I Programs)**(cf. 6174 - Education for English Learners)**(cf. 6179 - Supplemental Instruction)*

The district's RtI² system shall include instructional strategies and interventions with demonstrated effectiveness and **shall** be aligned with the district curriculum and assessments. **The Superintendent or designee may conduct ongoing screening to determine student needs, analyze data, identify interventions for students not making adequate academic progress, monitor the effectiveness of the interventions, and adjust interventions according to efficacy.**

*(cf. 6141 - Curriculum Development and Evaluation)**(cf. 6142.91 - Reading/Language Arts Instruction)**(cf. 6142.92 6142.93 - Mathematics Instruction)**(cf. 6162.5 - Student Assessment)**(cf. 6162.51 - State Academic Achievement Tests)**(cf. 6190 - Evaluation of the Instructional Program)*

Note: The CDE has identified core components of the RtI² model. The remainder of this policy reflects these core components and should be modified to reflect district practice.

The district's RtI² system shall include research-based, standards-based, culturally relevant instruction for students in the general education program; universal screening and continuous classroom monitoring to determine students' needs and to identify those students who are not making progress; criteria for determining the types and levels of interventions to be provided; and subsequent monitoring of student progress to determine the effectiveness of the intervention and to make changes as needed.

RESPONSE TO INSTRUCTION AND INTERVENTION (continued)

Note: The CDE has identified ten core components of the RtI² model, reflected below in Item #s 1-10. CDE's web site contains resources for each listed component. The remainder of this policy reflects these core components and should be modified to reflect district practice.

Additionally, the districts RtI² system shall provide for:

1. High-quality classroom instruction

2. High expectations

(cf. 6173 - Education for Homeless Children)

(cf. 6173.1 - Education for Foster Youth)

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

3. Assessments and data collection

4. Problem-solving systems approach

5. Research-based interventions

6. Positive behavioral support

7. Fidelity of program implementation

8. Staff development and collaboration, which may include training in the use of assessments, data analysis, research-based instructional practices and strategies and emphasize a collaborative approach of professional learning communities among teachers within and across grade spans

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

9. Parent/guardian and family involvement, including collaboration and engagement

The Superintendent or designee Staff shall ensure that parents/guardians are involved at all stages of the instructional, and intervention, and progress monitoring process. Parents/guardians shall be kept informed of their child's progress and provided information regarding the services that have and will be provided, the strategies being used to increase the student's rate of learning, the supports provided to improve behavioral difficulties, and information about the performance data that has and will be collected.

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RESPONSE TO INSTRUCTION AND INTERVENTION (continued)*(cf. 5020 - Parent Rights and Responsibilities)**(cf. 6020 - Parent Involvement)*

Note: RtI² is consistent with the identification of students under the Individuals with Disabilities Education Act (20 USC 1400-1482). can be viewed as evidence of a specific learning disability, thus qualifying the student for evaluation of the need for special education services.

RtI² may reduce referrals for special education, including a reduction in the disproportionate representation of certain subpopulations of students identified as needing special education. As part of the state's Quality Assurance Process, the CDE will examine whether districts have a disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification.

However, the U.S. Department of Education's Office of Special Education Programs Memorandum 11-07 states that districts have an obligation to ensure that evaluations of students suspected of having learning disabilities are not delayed or denied due to implementation of response to intervention (RTI) strategies. Additionally, in M.M. v. Lafayette School District, the Ninth Circuit Court of Appeals held that the district violated the Individuals with Disabilities Education Act procedural requirements by failing to ensure that RTI data was documented and carefully considered by the entire individualized education program team, and failing to provide the parents with the RTI data, resulting in the parents being unable to give informed consent for both the initial evaluation and the special education services, even when the district did not use the RTI data to determine eligibility. See AR 6164.4 - Identification and Evaluation of Individuals for Special Education.

10. Consideration of further evaluation utilizing RtI² data

When data from the RtI² system indicate that a student may have a specific learning disability, the RtI² system may be utilized as one component when considering student may be referred the referral of a student for evaluation for special education or other services

*(cf. 6159 - Individualized Education Program)**(cf. 6159.4 - Behavioral Interventions for Special Education Students)**(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)**(cf. 6164.5 - Student Success Teams)**(cf. 6164.6 - Identification and Education Evaluation Under Section 504)*

The district shall provide staff development to teachers regarding the use of assessments, data analysis, and research based instructional practices and strategies. In addition, the district's RtI² system shall emphasize a collaborative approach of professional learning communities among teachers within and across grade spans.

*(cf. 4131 - Staff Development)**(cf. 4331 - Staff Development)*

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RESPONSE TO INSTRUCTION AND INTERVENTION (continued)

Staff shall ensure that parents/guardians are involved at all stages of the instructional and intervention process. Parents/guardians shall be kept informed of their child's progress and provided information regarding the services that will be provided, the strategies being used to increase the student's rate of learning, and information about the performance data that will be collected.

~~(cf. 5020 – Parent Rights and Responsibilities)~~
~~(cf. 6020 – Parent Involvement)~~

Legal Reference:

EDUCATION CODE

56329 Assessment, written notice to parent
56333-56338 Eligibility for specific learning disabilities
56500-56509 Procedural safeguards

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act, especially:

1416 Monitoring, technical assistance, and enforcement

CODE OF FEDERAL REGULATIONS, TITLE 34

300.301-300.11 Evaluations, reevaluations, and additional procedures for identifying children with specific learning disabilities

~~300.307 Specific learning disabilities~~

~~300.309 Determining the existence of specific learning disabilities~~

~~300.311 Specific documentation for eligibility determination~~

COURT DECISIONS

M.M. v. Lafayette School District (9th Cir. 2014) 767 F.3d 842

Management Resources:

CSBA PUBLICATIONS

Best Practices in Special Education, Governance Brief, May 2019

CALIFORNIA DEPARTMENT OF EDUCATION CORRESPONDENCE

~~Response to Instruction and Intervention, 2008~~

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Disproportionality Calculation Methodologies

NATIONAL COUNCIL ON DISABILITY PUBLICATIONS

IDEA Series: Every Student Succeeds Act and Students with Disabilities, February 2018

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Return to School Roadmap: Child Find Under Part B of the Individuals with Disabilities Education Act, August 2021

A Response to Intervention (RTI) Process Cannot Be Used to Delay-Deny an Evaluation for Eligibility under the Individuals with Disabilities Education Act (IDEA): Memorandum 11-07, January 2011

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RESPONSE TO INSTRUCTION AND INTERVENTION (continued)

Management Resources: (continued)

WEB SITES

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

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

National Center for Learning Disabilities RTI Action Network: <http://www.rtinetwork.org>

National Council on Disability: <https://ncd.gov>

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

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Policy Reference UPDATE Service

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CSBA Sample Board Policy

NO
HS policy

Instruction

BP 6146.1(a)

HIGH SCHOOL GRADUATION REQUIREMENTS

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

The Governing Board desires to prepare all students to successfully complete the high school course of study and obtain a diploma that represents their educational achievement and increases their opportunities for postsecondary education and employment.

(cf. 5127 - Graduation Ceremonies and Activities)
(cf. 5147 - Dropout Prevention)
(cf. 6011 - Academic Standards)
(cf. 6143 - Courses of Study)
(cf. 6146.3 - Reciprocity of Academic Credit)

Course Requirements

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

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

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

1. Three courses in English (Education Code 51225.3)

(cf. 6142.91 - Reading/Language Arts Instruction)

2. Two courses in mathematics (Education Code 51225.3)

Students shall complete at least one mathematics course that meets the state academic content standards for Algebra I or Mathematics I. Students may complete such coursework prior to grade 9 provided that they also complete two mathematics courses in grades 9-12. (Education Code 51224.5)

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

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HIGH SCHOOL GRADUATION REQUIREMENTS (continued)

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

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

(cf. 6142.92 - Mathematics Instruction)
(cf. 6152.1 - Placement in Mathematics Courses)

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

(cf. 6142.93 - Science Instruction)

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

(cf. 6142.3 - Civic Education)
(cf. 6142.94 - History-Social Science Instruction)

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

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

5. One course in visual or performing arts, world language, or career technical education (CTE). For purposes of this requirement, a course in American Sign Language shall be deemed a course in world language. (Education Code 51225.3)

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HIGH SCHOOL GRADUATION REQUIREMENTS (continued)

To be counted towards meeting graduation requirements, a CTE course shall be aligned to the CTE model curriculum standards and framework adopted by the State Board of Education. (Education Code 51225.3)

- (cf. 6142.2 - World Language Instruction)*
- (cf. 6142.6 - Visual and Performing Arts Education)*
- (cf. 6178 - Career Technical Education)*
- (cf. 6178.2 - Regional Occupational Center/Program)*

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

(cf. 6142.7 - Physical Education and Activity)

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

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

Pursuant to Education Code 51230, if the district requires the completion of community service hours for high school graduation, the district may provide a student with credit towards that requirement for completion of a course in community emergency response training. However, if the district chooses to offer credit for the completion of such a course, the Board is still obligated to notify parents/guardians, students, teachers, and the public of information specified in Education Code 51225.3.

- (cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)*
- (cf. 6142.4 - Service Learning/Community Service Classes)*
- (cf. 6142.8 - Comprehensive Health Education)*

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

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HIGH SCHOOL GRADUATION REQUIREMENTS (continued)

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

(cf. 6146.11 - Alternative Credits Toward Graduation)

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

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

Exemptions from District-Adopted Graduation Requirements

Note: Education Code 51225.1 requires the district to exempt from any district-adopted graduation requirements that are in addition to the state requirements specified in Education Code 51225.3 a foster youth, homeless student, former juvenile court school student, child of a military family, or migrant student who transfers into the district or between district high schools any time after completing the second year of high school, or an immigrant student who is in the third or fourth year of high school and is participating in a newcomer program (i.e., a program designed to meet the academic and transitional needs of newly arrived immigrant students that has as a primary objective the development of English language proficiency). This exemption does not apply if the Superintendent or designee makes a finding that the student is reasonably able to complete the requirements in time to graduate by the end of the fourth year of high school. Also see AR 6173 - Education for Homeless Children, AR 6173.1 - Education for Foster Youth, AR 6173.2 - Education of Children of Military Families, AR 6173.3 - Education for Juvenile Court School Students, and AR 6175 - Migrant Education Program.

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

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

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

District students are required to complete graduation course requirements specified above, including the requirements imposed by Education Code 51225.3 and those adopted by the Board. However, a foster youth, homeless student, former juvenile court school student, child of a military family, or migrant student who transfers into the district or between district schools any time after completing the second year of high school, or a newly arrived immigrant student who is in the third or fourth year of high school and is participating in a

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HIGH SCHOOL GRADUATION REQUIREMENTS (continued)

newcomer program, shall be exempted from any graduation requirements adopted by the Board that are in addition to statewide course requirements. This exemption shall not apply if the Superintendent or designee makes a finding that the student is reasonably able to complete the requirements in time to graduate by the end of the fourth year of high school.

Within 30 days of the transfer **into a school** or of the commencement of participation in a newcomer program, as applicable, the Superintendent or designee shall notify any eligible student of the availability of the exemption and whether the student qualifies for it. (Education Code 51225.1)

(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 5145.6 - Parental Notifications)
(cf. 6173 - Education for Homeless Children)
(cf. 6173.1 - Education for Foster Youth)
(cf. 6173.2 - Education of Children of Military Families)
(cf. 6173.3 - Education for Juvenile Court School Students)
(cf. 6175 - Migrant Education Program)

Note: Pursuant to Education Code 51225, as added by AB 104 (Ch. 41, Statutes of 2021), the district is required to exempt a student from district graduation requirements if the student was in the third or fourth year of high school during the 2020-21 school year and is not on track to graduate in four years.

If during the 2020-21 school year a student was in the third or fourth year of high school and is not on track to graduate in four years, the district shall exempt the student from any local graduation requirements adopted by the Board that are in addition to statewide course requirements specified in Education Code 51225.3. (Education Code 51225)

Additional Opportunities to Complete Required Coursework

Note: Pursuant to Education Code 51225, as added by AB 104, the district is required to provide a student who was enrolled in the student's third or fourth year of high school during the 2020-21 school year and is not on track to graduate in the 2020-21 or 2021-22 school years the opportunity to complete the statewide coursework required for graduation pursuant to Education Code 51225.3, as described below.

The Superintendent or designee shall provide a student who was enrolled in the third or fourth year of high school during the 2020-21 school year and is not on track to graduate in the 2020-21 or 2021-22 school years the opportunity to complete the statewide coursework required for graduation, which may include, but is not limited to, completion of the coursework through a fifth year of instruction, credit recovery, or other opportunity to complete the required coursework. (Education Code 51225)

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HIGH SCHOOL GRADUATION REQUIREMENTS (continued)

Retroactive Diplomas

Any student who completed grade 12 in the 2003-04 through 2014-15 school year and met all applicable graduation requirements other than the passage of the high school exit examination shall be granted a high school diploma. (Education Code 51413)

Note: Items #1-4 below are **optional** and may be revised to reflect district practice.

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

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

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

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

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

Deceased former students who satisfy these conditions may be granted a retroactive diploma to be received by their next of kin.

3. Are veterans who entered the military service of the United States while in grade 12 and who had satisfactorily completed the first half of the work required for grade 12 in a district school

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HIGH SCHOOL GRADUATION REQUIREMENTS (continued)

Note: Education Code 51430, as amended by AB 1350 (Ch. 66, Statutes of 2020), authorizes districts to award a retroactive diploma under the circumstances described in item #4 below.

4. Were in their senior year of high school during the 2019-20 school year, were in good academic standing and on track to graduate at the end of the 2019-20 school year as of March 1, 2020, and were unable to complete the statewide graduation requirements as a result of the COVID-19 crisis

Honorary Diplomas

Note: The following **optional** section reflects the Board's authority to confer honorary high school diplomas pursuant to Education Code 51225.5 and may be revised to reflect district practice.

The Board may grant an honorary high school diploma to: (Education Code 51225.5)

1. An international exchange student who has not completed the course of study ordinarily required for graduation and who is returning to the student's home country following the completion of one academic school year in the district

(cf. 6145.6 - International Exchange)

2. A student who is terminally ill

The honorary diploma shall be clearly distinguishable from the regular diploma of graduation awarded by the district. (Education Code 51225.5)

Legal Reference: (see next page)

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HIGH SCHOOL GRADUATION REQUIREMENTS (continued)

Legal Reference:

EDUCATION CODE

- 47612 Enrollment in charter school
- 48200 Compulsory attendance
- 48204.4 Parents/guardians departing California against their will
- 48412 Certificate of proficiency
- 48430 Continuation education schools and classes
- 48645.5 Acceptance of coursework
- 48980 Required notification at beginning of term
- 49701 Interstate Compact on Educational Opportunity for Military Children
- 51224 Skills and knowledge required for adult life
- 51224.5 Algebra instruction
- 51225 2020-21 exemption from graduation requirements**
- 51225.1 Exemption from district graduation requirements
- 51225.2 Student in foster care defined; acceptance of coursework, credits, retaking of course
- 51225.3 High school graduation
- 51225.35 Mathematics course requirements; computer science
- 51225.36 Instruction in sexual harassment and violence; districts that require health education for graduation
- 51225.5 Honorary diplomas
- 51225.6 Compression-only cardiopulmonary resuscitation
- 51228 Graduation requirements
- 51230 Credit for community emergency response training
- 51240-51246 Exemptions from requirements
- 51250-51251 Assistance to military dependents
- 51410-51413 Diplomas
- 51420-51427 High school equivalency certificates
- 51430 Retroactive high school diplomas
- 51440 Retroactive high school diplomas
- 51450-51455 Golden State Seal Merit Diploma
- 51745 Independent study restrictions
- 56390-56392 Recognition for educational achievement, special education
- 66204 Certification of high school courses as meeting university admissions criteria
- 67386 Student safety; affirmative consent standard
- CODE OF REGULATIONS, TITLE 5
- 1600-1651 Graduation of students from grade 12 and credit toward graduation
- 4600-4670 Uniform complaint procedures
- COURT DECISIONS
- O'Connell v. Superior Court (Valenzuela), (2006) 141 Cal.App.4th 1452

Management Resources:

WEB SITES

- CSBA: <http://www.csba.org>
- California Department of Education, High School: <http://www.cde.ca.gov/ci/g/hs>
- University of California, List of Approved a-g Courses:
<http://www.universityofcalifornia.edu/admissions/freshman/requirements>
<https://admission.universityofcalifornia.edu/admission-requirements/freshman-requirements>

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CSBA Sample Administrative Regulation

Instruction

AR 6146.1(a)

HIGH SCHOOL GRADUATION REQUIREMENTS

Note: The following administrative regulation is **optional** and should be modified to reflect district practice.

Notifications

Note: Districts are encouraged to provide notice to students, parents/guardians, and the public regarding the exemptions from graduation requirements and credit recovery opportunities pursuant to Education Code 51225, as added by AB 104 (Ch. 41, Statutes of 2021); see the accompanying Board policy.

Requirements for graduation, ~~and~~ specified alternative means for completing the prescribed course of study, **and information about the availability of exemptions from local graduation requirements and/or credit recovery options available pursuant to Education Code 51225** shall be made available to students, parents/guardians, and the public. (~~Education Code 51225.3~~)

Within 30 days of the transfer into a school by a foster youth, homeless student, former juvenile court school student, child of a military family, migrant student, or a newly arrived immigrant student, the Superintendent or designee shall notify any eligible student of the availability of the exemption from local graduation requirements under Education Code 51225.1 and whether the student qualifies for it. (Education Code 51225.1)

(cf. 6145.6 - International Exchange)

(cf. 6146.11 - Alternative Credits Toward Graduation)

~~*(cf. 6145.6 - International Exchange)*~~

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

Note: The following **optional** paragraph is for use by any district that has elected to allow students to complete a career technical education course as an alternative to the visual or performing arts or foreign language course requirement for high school graduation pursuant to Education Code 51225.3, **as amended by AB 1330 (Ch. 621, Statutes of 2011)**; see accompanying Board policy.

In the annual notification sent to parents/guardians pursuant to Education Code 48980, the Superintendent or designee shall include the following: (Education Code 48980)

1. Information about district high school graduation requirements and how each requirement satisfies or does not satisfy the subject matter requirements for admission to the California State University and the University of California

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HIGH SCHOOL GRADUATION REQUIREMENTS (continued)

2. A complete list of career technical education courses offered by the district that satisfy the subject matter requirements for admission to the California State University and the University of California, and which of the specific college admission requirements these courses satisfy

(cf. 5145.6 - Parental Notifications)

(cf. 6143 - Courses of Study)

(cf. 6178 - Career Technical Education)

(cf. 6178.2 - Regional Occupational Center/Program)

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CSBA Sample Board Policy

Instruction

BP 6164.4(a)

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION

Note: **If the Special Education Local Plan Area (SELPA) in which the district participates maintains a policy on this topic, then the following policy and administrative regulation may be deleted and/or modified for consistency with the SELPA's procedures. Districts that delete and/or modify this policy should consult legal counsel as appropriate.**

Education Code 56300 and 34 CFR 300.111 require each district, SELPA, or county office of education to actively seek out all residents from birth to age 21 (~~not "through" age 21~~) who have disabilities as defined by Education Code 56026. The district, SELPA, or county office is also required to include a "child find" process to identify children with disabilities placed by their parents/guardians in private schools; see BP/AR 6164.41 - Children with Disabilities Enrolled by Their Parents in Private Schools.

Pursuant to Education Code 56320.1, ~~Identification—identification~~, evaluation, assessment, and instructional planning procedures for children younger than age 3 must conform with Education Code 56425-56432 and the California Early Intervention Services Act (Government Code 95000-95029). Pursuant to Government Code 95014, ~~The~~ the California Department of Education and local education agencies are responsible for providing early intervention services to infants and toddlers who have visual, hearing, or severe orthopedic impairments; the Department of Developmental Services and its regional centers must provide services to all other eligible children in this age group. ~~The law~~ Government Code 95014 also requires regional centers and local education agencies to coordinate family service plans for infants and toddlers and their families. Education Code 56441.11 sets forth eligibility criteria for preschool children ages 3-5.

The Governing Board recognizes the need to actively seek out and evaluate district residents from birth to age 21 who have disabilities in order to provide them with appropriate educational opportunities in accordance with state and federal law.

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

(cf. 6164.41 - Children with Disabilities Enrolled by Their Parents in Private School)

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

Note: Education Code 56301 **mandates** that districts, SELPAs, or county offices have policies and procedures for a continuous "child find" system which addresses the relationships among identification, screening, referral, evaluation, planning, implementation, review, and triennial assessment.

The U.S. Department of Education's Office of Special Education Programs (OSEP) has emphasized that districts are required to fully implement the Individuals with Disabilities Education Act (IDEA) during the COVID-19 pandemic, including the requirement to meet child find obligations. In the Return to School Roadmap: Child Find Under Part B of the Individuals with Disabilities Education Act, OSEP encourages districts to reexamine the efficacy of existing child find practices in light of the educational disruptions caused by the COVID-19 pandemic.

Pursuant to Education Code 56302.5, the term "assessment" as used in state law has the same meaning as "evaluation" provided in 20 USC 1414, the federal **IDEA** ~~Individuals with Disabilities Education Act (IDEA)~~ and accompanying federal regulations. The following policy and administrative regulation use the terms interchangeably.

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IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

The Superintendent or designee shall establish a comprehensive **child find** system that includes procedures for the identification, screening, referral, ~~and regular assessment~~, and triennial assessment of individuals eligible for special education, as well as procedures for the planning, implementation, and review of the special education and related services provided to such individuals. (Education Code 56301)

The district's identification procedures shall include **systematic** methods for utilizing referrals from parents/guardians, teachers, **agencies**, appropriate professionals, and **others other members of the public**, and shall be coordinated with school site procedures for referral of students whose needs cannot be met with modifications to the regular instructional program. (Education Code 56302)

Note: Education Code 56301 **mandates** policy ensuring the following notification. See the accompanying administrative regulation for specific notification requirements.

The Superintendent or designee shall notify parents/guardians, in writing, of their rights related to identification, referral, assessment, instructional planning, implementation, and review, including the right to consent to any assessment concerning their child. In addition, the Superintendent or designee shall notify parents/guardians of procedures for initiating a referral for assessment to identify individuals **for special education services** ~~who need special education services~~. (Education Code 56301)

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

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

~~(cf. 4112.23 - Special Education Staff)~~

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

~~(cf. 5145.6 - Parental Notifications)~~

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

~~(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)~~

~~(cf. 6159.2 - Nonpublic, Nonsectarian School and Agency Services for Special Education)~~

~~(cf. 6159.3 - Appointment of Surrogate Parent for Special Education Students)~~

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

Legal Reference: (see next page)

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

Legal Reference:

EDUCATION CODE

44265.5 Professional preparation for teachers of impaired students

56000-56885 Special education programs, especially:

56043 Timelines affecting special education programs

56195.8 Adoption of policies

56300-~~56304~~56305 Identification of individuals with disabilities

56320-~~56331~~56330 Assessment

56333-56338 Eligibility criteria for specific learning disabilities

56340-56347 Instructional planning and individualized education program

56381 Reassessment of students

56425-56432 Early education for individuals with disabilities

56441.11 Eligibility criteria, children ages 3-5

56445 Transition to grade school; reassessment

56500-56509 Procedural safeguards

GOVERNMENT CODE

95000-95029.5 California Early Intervention Services Act

CODE OF REGULATIONS, TITLE 5

3021-3029 Identification, referral and assessment

3030-3031 Eligibility criteria

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act of 1974

1400-1482 Individuals with Disabilities Education Act, especially:

1412 State eligibility

1415 Procedural safeguards

CODE OF FEDERAL REGULATIONS, TITLE 34

104.35 Evaluation and placement

104.36 Procedural safeguards

300.1-300.818 Individuals with Disabilities Education Act, especially:

300.301-300.306 Evaluations and reevaluations

300.323 When IEPs must be in effect

300.502 Independent educational evaluation

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Timothy O. v. Paso Robles Unified School District (9th Cir. 2016) 822 F.3d 1105

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Management Resources: (see next page)

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Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

California Practitioners' Guide for Educating English Learners with Disabilities, 2019

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Return to School Roadmap: Child Find Under Part B of the Individuals with Disabilities Education Act, August 2021

Long COVID under Section 504 and the IDEA: A Resource to Support Children, Students, Educators, Schools, Service Providers, and Families, July 2021

A Response to Intervention (RTI) Process Cannot Be Used to Delay-Deny an Evaluation for Eligibility under the Individuals with Disabilities Education Act (IDEA): Memorandum 11-07, January 2011

WEB SITES

California Department of Education, Special Education: <http://www.cde.ca.gov/sp/se>

U.S. Department of Education, Office of Special Education Programs:

<http://www.ed.gov/about/offices/list/osers/osep>

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CSBA Sample Administrative Regulation

Instruction

AR 6164.4(a)

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION

Referrals for Special Education Services

Note: Pursuant to Education Code 56303, a student should be referred for special education instruction and services only after the resources of the regular education program such as Response to Instruction and Intervention (RtI²) strategies have been considered and, where appropriate, utilized. However, the U.S. Department of Education's Office of Special Education Programs (OSEP) Memorandum 11-07 emphasizes that districts have an obligation to ensure that evaluations of children suspected of having a disability are not delayed or denied because of the implementation of response to intervention strategies.

In the Return to School Roadmap: Child Find Under Part B of the Individuals with Disabilities Education Act, OSEP encourages districts to reexamine the efficacy of existing child find practices and initiate new activities in light of the educational disruptions caused by the COVID-19 pandemic, including through additional screenings; efforts to increase awareness about special education supports and the effects of the COVID-19 pandemic on students' academic performance and social-emotional, behavioral, and mental health needs; public awareness campaigns about developmental screenings in settings frequented by families such as health departments, physician's offices, public parks, amusement parks, shopping malls, and children's stores; social media campaigns on multiple online platforms; partnering with stakeholders such as parent-teacher organizations; and holding screening events in the community.

Additionally, OSEP emphasizes that students who are experiencing long-term COVID-19 effects must be referred for special education evaluation if their symptoms (such as fatigue, mood changes, or difficulty concentrating) are adversely impacting their ability to participate and learn in the general curriculum.

The obligation of a district to refer a student for special education evaluation is a fact-specific determination that must be made on a case-by-case basis.

The Superintendent or designee shall ensure that the district's child find process includes the collection of data and, at reasonable intervals, the screening of such data to determine if students are making adequate progress, as appropriate.

A student shall be referred for special education instruction and services only after the resources of the regular education program have been considered and used where appropriate. (Education Code 56303)

However, the district shall ensure that evaluations of children suspected of having a disability are not delayed or denied because of the implementation of response to intervention strategies.

(cf. 6120 - Response to Instruction and Intervention)
(cf. 6164.5 - Student Success Teams)

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IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

Note: Pursuant to 34 CFR 300.301, a parent/guardian or district may request an initial evaluation to determine if a student is a student with a disability. OSEP Memorandum 11-07 emphasizes that if a parent/guardian requests an evaluation, and the district agrees with the parent/guardian that the student may be eligible for special education and related services, the district must evaluate the child. If the district does not suspect that the child has a disability and denies the request for an initial evaluation, the district must provide written notice to the parent/guardian, pursuant to 34 CFR 300.503, explaining the basis for such decision.

A parent/guardian or the district may initiate a request for an initial evaluation to determine if the student is a student with a disability. (34 CFR 300.301)

When a verbal referral is made, staff shall offer assistance to the individual to make the request in writing and shall assist the individual if the individual requests such assistance. (5 CCR 3021)

All referrals from school staff ~~for special education and related services for an initial evaluation~~ shall include a brief reason for the referral and description of the regular program resources that were considered and/or modified for use with the student ~~and their effect and, when appropriate, the results of intervention.~~ This documentation shall not delay the timelines for completing the assessment plan or assessment. (5 CCR 3021)

Initial Evaluation for Special Education Services

Before the initial provision of special education and related services to a student with a disability, the district shall conduct a full and individual initial evaluation of the student. (Education Code 56320; 34 CFR 300.301)

Upon receipt of a referral of any student for special education and related services, a proposed evaluation plan shall be developed within 15 **calendar** days, not counting days between the student's regular school sessions or terms or **calendar** days of school vacation in excess of five school days, unless the parent/guardian agrees, in writing, to an extension. If the referral is made within 10 days or less prior to the end of the student's regular school year or term, the proposed evaluation plan shall be developed within 10 days after the beginning of the next regular school year or term. (Education Code 56043, 56321)

The proposed evaluation plan shall meet all of the following requirements: (Education Code 56321)

1. Be in a language easily understood by the general public

Note: 34 CFR 300.29 defines "native language" as the language normally used by the individual ~~and, for a child, the language regularly used in the home environment.~~

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IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

2. Be provided in the native language of the parent/guardian or other mode of communication used by the parent/guardian unless it is clearly not feasible
3. Explain the types of evaluation to be conducted
4. State that no individualized education program (IEP) will result from the evaluation without parent/guardian consent

(cf. 6159 - Individualized Education Program)

A copy of the notice of a parent/guardian's rights and procedural safeguards shall be attached to the evaluation plan. (Education Code 56321)

The proposed written evaluation plan shall include a description of recent assessments conducted, including available independent assessments and assessment information requested by the parent/guardian to be considered, as well as information indicating the student's primary language and the student's primary language proficiency as determined by Education Code section 52164.1. (5 CCR 3022)

Note: 34 CFR 300.504 requires the district to provide parents/guardians with written notice prior to conducting the initial evaluation. For contents of the prior written notice, see AR 6159.1 - Procedural Safeguards and Complaints for Special Education.

Education Code 56329 clarifies the factors to consider when making a determination of eligibility (Item #2 below) and specifies circumstances in which a parent/guardian may be entitled to an independent educational evaluation (IEE) (Items #4 and #5 below).

Before conducting an initial evaluation, the district shall provide the parent/guardian with prior written notice in accordance with 34 CFR 300.503. In addition, as part of the evaluation plan, the parent/guardian shall receive written notice that includes all of the following information: (Education Code 56329; 34 CFR 300.304, **300.502**, 300.504)

1. Upon completion of the administration of tests and other evaluation materials, an IEP team meeting that includes the parent/guardian or the parent/guardian's representative shall be scheduled pursuant to Education Code 56341. At this meeting, the team shall determine whether or not the student is a student with disabilities, as defined in Education Code 56026, and shall discuss the evaluation, the educational recommendations, and the reasons for the recommendations.
2. When making a determination of eligibility for special education, the district shall not determine that the student is disabled if the primary factor for such determination is lack of appropriate instruction in reading, including the essential components of

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

reading instruction as defined in 20 USC 6368, lack of appropriate instruction in mathematics, or limited English proficiency, **if the student does not otherwise meet the eligibility criteria under 34 CFR 300.8.**

3. A copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent/guardian.
4. If the parent/guardian disagrees with an evaluation obtained by the district, the parent/guardian has the right to obtain, at public expense, an independent educational evaluation (IEE) of the student from qualified specialists, in accordance with 34 CFR 300.502. The parent/guardian is entitled to only one such evaluation at public expense each time the district conducts an assessment with which the parent/guardian disagrees.

If the district observed the student in conducting its evaluation, or if its evaluation procedures make it permissible to have in-class observation of the student, an equivalent opportunity shall apply to the IEE. This equivalent opportunity shall apply to the student's current placement and setting as well as observation of the district's proposed placement and setting, if any, regardless of whether the IEE is initiated before or after the filing of a due process hearing proceeding.

5. The district may initiate a due process hearing pursuant to Education Code 56500-56508 to show that its evaluation is appropriate. If the final decision resulting from the due process hearing is that the evaluation is appropriate, the parent/guardian maintains the right for an IEE, but not at public expense.

If the parent/guardian obtains an IEE at private expense, the results of the IEE shall be considered by the district with respect to the provision of a free appropriate public education (FAPE) to the student, and may be presented as evidence at a due process hearing regarding the student. If the district observed the student in conducting its evaluation, or if its evaluation procedures make it permissible to have in-class observation of a student, an equivalent opportunity shall apply to an IEE of the student in the student's current educational placement and setting and in any educational placement and setting proposed by the district, regardless of whether the IEE is initiated before or after the filing of a due process hearing.

6. If the parent/guardian proposes a publicly financed placement of the student in a nonpublic school, the district shall have an opportunity to observe the proposed placement and, if the student has already been unilaterally placed in the nonpublic school by the student's parent/guardian, the student in that proposed placement. Any such observation shall only be of the student who is the subject of the observation and

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

shall not include the observation or evaluation of any other student in the proposed placement unless that other student's parent/guardian consents to the observation or evaluation. The results of any observation or evaluation of another student in violation of Education Code 56329(d) shall be inadmissible in any due process or judicial proceeding regarding FAPE of that other student.

(cf. 5145.6 - Parental Notifications)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

(cf. 6164.41 - Children with Disabilities Enrolled by their Parents in Private School)

Parent/Guardian Consent for Evaluations

Note: Pursuant to Education Code 56321 and 34 CFR 300.300-300.301 and Education Code 56344, the district must first obtain informed parent/guardian consent before conducting (1) an initial evaluation to determine if the student is a student with a disability or (2) a reevaluation to determine if the student continues to be a student with a disability. See AR 6159 - Individualized Education Program for language regarding parent/guardian consent for the provision of special education services, including the right to revoke such consent.

In M.M. v. Lafayette School District, the Ninth Circuit Court of Appeals concluded that the district had a procedural duty to provide the parents with their child's response to instruction (RTI) data when the district sought to obtain their informed consent for the initial evaluation. The district's failure to provide the parents with the RTI data as part of the initial evaluation resulted not only in a procedural violation but also a substantive violation of the Individuals with Disabilities Education Act since the failure prevented the parents from meaningfully participating in the IEP process.

Upon receiving the proposed evaluation plan, the parent/guardian shall have at least 15 days to decide whether to consent to the initial evaluation. The district shall not interpret parent/guardian consent for initial evaluation as consent for initial placement or initial provision of special education services. (Education Code 56321; 34 CFR 300.300)

Informed parental consent means that the parent/guardian: (Education Code 56021.1; 34 CFR 300.9)

1. Has been fully informed, in the parent/guardian's native language or other mode of communication, of all information relevant to the activity for which consent is sought
2. Understands and agrees, in writing, to the carrying out of the activity for which parent/guardian consent is sought and the consent describes that activity and lists the records (if any) that will be released and to whom
3. Understands that the granting of consent is voluntary on the parent/guardian's part and may be revoked at any time

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

4. Understands that if the parent/guardian revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked). **The district is not required to amend the education records of a student to remove any reference to the student's receipt of special education and services if the student's parent/guardian submits a written revocation of consent after the initial provision of special education and related services to the student.**

The district shall make reasonable efforts to obtain the informed consent of the parent/guardian for an initial evaluation or reevaluation of a student. (Education Code 56321; 34 CFR 300.300, 300.322)

Note: It is recommended that the district maintain a record of its attempts to obtain consent, as provided in Items #1-3 below.

The district shall maintain a record of its attempts to obtain consent, **including which may include:** (Education Code 56321, 56341.5; 34 CFR 300.300, 300.322)

1. Detailed records of telephone calls made or attempted and the results of those calls
2. Copies of correspondence sent to the parent/guardian and any responses received
3. Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits

Note: Education Code 56321 and 34 CFR 300.300 and ~~Education Code 56321~~ provide that if a parent/guardian refuses to consent to an evaluation, the district may, but is not required to, utilize the due process procedures to pursue the evaluation. However, if the district declines to pursue the evaluation, the district ~~shall have satisfied~~ **does not violate its **child find** obligations under state and federal law.**

If a parent/guardian refuses to consent to the initial evaluation or fails to respond to a request to provide consent, the district may, but is not required to, pursue an evaluation by utilizing the procedural safeguards, including the mediation and due process procedures pursuant to 20 USC 1415 and 34 CFR 300.506-300.516. (Education Code 56321; 34 CFR 300.300)

For a student who is a ward of the state and not residing with the student's parent/guardian, **the district shall make reasonable efforts to obtain the informed consent from the parent of the student for an initial evaluation to determine whether the student is a student with a disability.** The district may conduct an initial evaluation without obtaining informed consent if any of the following situations exists: (Education Code 56321.1; 20 USC 1414; 34 CFR 300.300)

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IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

1. Despite reasonable efforts to do so, the district cannot discover the whereabouts of the parent/guardian of the student.
2. The rights of the parent/guardian of the student have been terminated in accordance with **state California** law.
3. The rights of the parent/guardian to make educational decisions have been subrogated by a judge in accordance with **state California** law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the student.

(cf. 6159.3 - Appointment of Surrogate Parent for Special Education Students)

The district need not obtain parent/guardian consent before reviewing existing data as part of an evaluation or **reevaluation, or before** administering a test or other evaluation that is administered to all students, unless consent is required from the parents/guardians of all students. (Education Code 56321; 34 CFR 300.300)

Conduct of the Evaluation

Within 60 calendar days of receiving parental consent for the initial assessment of a student, not counting days between the student's regular school sessions, terms, or days of school vacation in excess of five schooldays, a determination whether the student is eligible for special education and the educational needs of the student shall be made, an IEP team meeting shall occur, and an IEP shall be developed, unless the parent/guardian agrees in writing to an extension, pursuant to Education Code 56344. If the 60-day time is interrupted by a student school vacation, the 60-day time shall recommence on the date that student schooldays reconvene and a meeting to develop an IEP for the student shall be conducted within 30 days of a determination that the student needs special education and related services. (Education Code 56043, 56344)

However, when a referral has been made for a student 30 days or less prior to the end of the regular school year, an IEP required as a result of an assessment of the student shall be developed within 30 days after the commencement of the subsequent regular school year. The district shall complete the determination as to whether the student is a student with a disability, conduct the initial evaluation to determine the student's educational needs, and develop an IEP within 60 days of receiving informed parent/guardian consent for the evaluation. (Education Code 56043, 56344; 34 CFR 300.300, 300.301,; 300.323)

The evaluation shall be conducted by qualified personnel who are competent to perform the assessment as determined by the district. (Education Code 56320, 56322)

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IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

In addition, evaluations and reevaluations shall be administered by qualified personnel who are competent in the oral or sign language skills and written skills of the student's primary language or mode of communication and have a knowledge and understanding of the cultural and ethnic background of the student. If it is clearly not feasible to do so, an interpreter shall be used, and the assessment report shall document this condition and note that the validity of the assessment may have been affected. The normal process of second-language acquisition, as well as manifestations of dialect and sociolinguistic variance shall not be diagnosed as a disabling condition. (5 CCR 3023)

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services. **(Education Code 56321; 20 USC 1414; 34 CFR 300.302)**

In conducting the evaluation, the district shall use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student. The district shall also use any information provided by the parent/guardian that may assist the district in making the determination as to whether the student is a student with a disability and, if so, the necessary components of the student's IEP when the IEP is developed, including information related to enabling the student to be involved in and to progress in the general education curriculum. (34 CFR 300.304)

The district's evaluation shall not use any single measure or assessment as the sole criterion for determining whether a student is a student with a disability and for determining the appropriate educational program for the student. The assessment shall use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors. (34 CFR 300.304)

The district shall also ensure that assessments and other evaluation materials provide relevant information that assists in determining the student's educational needs and are: (Education Code 56320; 34 CFR 300.304)

1. Selected and administered so as not to be discriminatory on a racial, cultural, or sexual basis
2. Provided and administered in the **student's native language or other mode of communication** and **in the** form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer
3. Used for the purposes for which the assessments or measures are valid and reliable

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

4. Administered by trained and knowledgeable personnel **except that individually administered tests of intellectual or emotional functioning shall be administered by a credentialed school psychologist**
5. Administered in accordance with any instructions provided by the producer of the assessments
6. Tailored to assess specific areas of educational need and not merely designed to provide a single general intelligence quotient
7. If administered to a student with impaired sensory, manual, or speaking skills, selected and administered to best ensure that the results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, **rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).**

Students shall be assessed in all areas related to the suspected disability, including, if appropriate, health and development, vision (including low vision), hearing, motor abilities, language function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, and social and emotional status. When appropriate, a developmental history shall be obtained. **For students with residual vision, a low vision assessment shall be provided in accordance with guidelines established pursuant to Education Code 56136.** The district shall ensure that the evaluation is sufficiently comprehensive to identify all of the student's special education and related service needs, whether or not commonly linked to the disability category in which the student has been classified. (Education Code 56320; 34 CFR 300.304)

As part of the initial evaluation and any reevaluation, the IEP team and other qualified professionals shall, if appropriate, review existing evaluation data on the student, including evaluations and information provided by the parents/guardians, current classroom-based local or state assessments and classroom-based observations, and observations by teachers and related services providers. On the basis of that review and input from the student's parent/guardian, the team shall identify what additional data, if any, are needed to determine: (Education Code 56381; 34 CFR 300.305)

1. Whether the student is a student with a disability, or in the case of a reevaluation, whether the student continues to have a disability, and the educational needs of the student
2. The present levels of academic achievement and related developmental needs of the student

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

3. Whether the student needs, or continues to need, special education and related services
4. Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the student's IEP and to participate, as appropriate, in the general education curriculum

If a student has transferred from another district in the same school year or leaves this district, the district shall coordinate with the student's prior or subsequent district as necessary and as expeditiously as possible to ensure prompt completion of full evaluations. (34 CFR 300.304)

Evaluation Report

The personnel who evaluate the student shall prepare a written report of the results of each evaluation. The report shall include, but not be limited to, the following: (Education Code 56327)

1. Whether the student may need special education and related services
2. The basis for making the determination
3. The relevant behavior noted during the observation of the student in an appropriate setting
4. The relationship of that behavior to the student's academic and social functioning
5. The educationally relevant health, developmental, and medical findings, if any
6. For students with learning disabilities, whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services
7. A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate
8. The need for specialized services, materials, and equipment for students with low incidence disabilities, consistent with Education Code 56136

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IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

Eligibility Determination

Note: The following section contains procedures for determining a student's eligibility for special education and related services. **Education Code 56334-56338 and 34 CFR 300.307-300.311** and ~~Education Code 56333-56338~~ provide additional procedures for conducting the evaluation and making the determination for eligibility of a student with specific learning disabilities.

Upon completion of the administration of assessments and other evaluation measures, a group of qualified professionals and the parent/guardian shall determine whether the student is a student with a disability **as defined in 5 CCR 3030 and 34 CFR 300.8** and, if so, the student's educational needs. In interpreting the data, the group shall draw information from a variety of sources, including aptitude and achievement tests, parent/guardian input, and teacher recommendations, as well as information about the student's physical condition, social or cultural background, and adaptive behavior. The group shall ensure that the information obtained from these sources is documented and carefully considered. (34 CFR 300.306)

~~The personnel who evaluate the student shall prepare a written report of the results of each evaluation. The report shall include, but not be limited to, the following: (Education Code 56327)~~

- ~~1. Whether the student may need special education and related services~~
- ~~2. The basis for making the determination~~
- ~~3. The relevant behavior noted during the observation of the student in an appropriate setting~~
- ~~4. The relationship of that behavior to the student's academic and social functioning~~
- ~~5. The educationally relevant health, developmental, and medical findings, if any~~
- ~~6. For students with learning disabilities, whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services~~
- ~~7. A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate~~
- ~~8. The need for specialized services, materials, and equipment for students with low incidence disabilities, consistent with Education Code 56136~~

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

Note: Education Code 56329 requires districts to provide notice about specific factors in making the determination of eligibility as part of the district's evaluation plan. See section above entitled "Initial Evaluation for Special Education Services."

When making a determination of eligibility for special education and related services, the district shall not determine that a student is disabled if the primary factor for such determination is a lack of appropriate instruction in reading, including the essential components of reading instruction pursuant to 20 USC 6368, lack of instruction in mathematics, limited English proficiency, or that the student does not otherwise meet the eligibility criteria. (Education Code 56329; 34 CFR 300.306)

The normal process of second-language acquisition, as well as manifestations of dialect and sociolinguistic variance, shall not be diagnosed as a disabling condition. (5 CCR 3023)

~~If a determination is made that a student has a disability and needs special education and related services, an IEP shall be developed within a total time not to exceed 60 days, not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days, from the date of the receipt of the parent/guardian's consent for evaluation, unless the parent/guardian agrees, in writing, to an extension. (Education Code 56043; 34 CFR 300.306)~~

Independent Educational Evaluation

Note: 34 CFR 300.502 requires the district to provide parents/guardians, upon request **for an IEE**, information about where an IEE may be obtained and the district's criteria for the evaluation, including the location of the evaluation, qualifications of the examiner, and timelines for obtaining the evaluation. These criteria must be the same as the criteria that the district uses for district-initiated evaluations. In addition, Education Code 56329 requires districts to provide notice about parent/guardian rights to an IEE as part of the proposed evaluation plan; see section above entitled "Initial Evaluation for Special Education Services." Districts may wish to modify the following section to include specific criteria developed by the district or special education local plan area, as appropriate.

An independent educational evaluation is defined as an evaluation conducted by a qualified examiner who is not employed by the district. (34 CFR 300.502)

Public expense means that the district either pays for the full cost of the IEE or ensures that the evaluation is otherwise provided at no cost to the parent/guardian. (34 CFR 300.502)

The parents/guardians of a student with a disability have the right to obtain an IEE at public expense under the same criteria, **including the location of the evaluation and the qualifications of the examiner**, that the district uses for a district-initiated evaluation. (Education Code 56329-34 CFR 300.502)

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

~~An independent educational evaluation is an evaluation conducted by a qualified examiner who is not employed by the district. Public expense means the district either pays for the full cost of the IEE or ensures that the evaluation is otherwise provided at no cost to the parent/guardian. (Education Code 56329; 34 CFR 300.502)~~

The parent/guardian is entitled to only one IEE at public expense each time the district conducts an evaluation with which the parent/guardian disagrees. (Education Code 56329; 34 CFR 300.502)

If a parent/guardian has requested an IEE, the district may ask for the reason that the parent/guardian objects to the district's evaluation. However, the parent/guardian is not required to provide ~~the reason to the district~~ **an explanation and the district may not unreasonably delay either providing the IEE at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation.** (34 CFR 300.502)

Upon receiving the request for an IEE, the district shall, without unnecessary delay, either: (34 CFR 300.502)

1. File a due process complaint to request a hearing to show that its evaluation is appropriate
2. Ensure that an IEE is provided at public expense, unless the district ~~can later demonstrate~~ **demonstrates** at a hearing that the evaluation obtained by the parent/guardian did not satisfy the district's criteria

If a due process hearing decision determines that the district's evaluation is appropriate, then the parent/guardian may obtain an IEE but not at public expense. (**Education Code 56329;** 34 CFR 300.502)

- In any decision made with respect to providing FAPE to a student with a disability, the result of any IEE obtained by the student's parent/guardian shall be considered by the district if it meets district criteria. Any such result also may be presented as evidence at a hearing on a due process complaint. (**Education Code 56329;** 34 CFR 300.502)

Reevaluation

A reevaluation shall be conducted when the district determines that the educational or related service needs of the student, including improved academic achievement and functional performance, warrant a reevaluation or if the student's parent/guardian or teacher requests

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IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

reevaluation. Such reevaluations shall occur every three years, unless the parent/guardian and district agree in writing that a reevaluation is unnecessary. A reevaluation may not occur more than once a year, unless the parent/guardian and the district agree otherwise. (Education Code 56043, 56381; 34 CFR 300.303)

The district shall ensure that any reevaluations of the student are conducted in accordance with the evaluation procedures pursuant to 34 CFR 300.304-300.311. (34 CFR 300.303)

Note: The following paragraph is for use by districts that offer grades K-1.

Before entering kindergarten or first grade, **as the case may be**, children with disabilities who are in a preschool program shall be reevaluated to determine if they still need special education and services. IEP teams shall identify a means of monitoring the continued success of children who are determined to be eligible for less intensive special education programs ~~to ensure that gains made are not lost by a rapid removal of individualized programs and supports for these children.~~ (Education Code 56445)

(cf. 5148.3 - Preschool/Early Childhood Education)

(3/09 11/10) 9/21

MS

CSBA Sample Board Policy

Instruction

BP 6164.41(a)

CHILDREN WITH DISABILITIES ENROLLED BY THEIR PARENTS IN PRIVATE SCHOOL

Note: If the Special Education Local Plan Area (SELPA) in which the district participates maintains a policy on this topic, then the following policy and administrative regulation may be deleted and/or modified for consistency with the SELPA's procedures. **Districts that delete and/or modify this policy should consult legal counsel as appropriate.**

Pursuant to **Education Code 56171 and** 20 USC 1412(a)(3) ~~and Education Code 56171~~, districts, county offices of education, or SELPAs, as appropriate, are required to locate, identify, and evaluate all children with disabilities enrolled by their parents/guardians in private schools, including religious schools. ~~As amended by 71 Fed. Reg. 156, 34 CFR 300.131~~ **and 34 CFR 300.134 requires require** the district, after a timely and meaningful consultation with private school representatives, to conduct a thorough "child find" process to determine the number of ~~parentally placed~~ **parentally-placed** children with disabilities attending private schools located in the district, including those residing outside of the district or in another state. ~~Previously, the Individuals with Disabilities Education Act (IDEA) assigned the responsibility for "child find" to the district where the child resided. However, with these amendments,~~ **Pursuant to 34 CFR 300.131**, the responsibility for "child find" is that of the district where the private school is located.

Education Code 56301 mandates that districts, county offices of education, or SELPAs, as appropriate, have policies and procedures to locate, identify, and evaluate all children with disabilities enrolled by their parents/guardians in private schools, including religious schools. See BP/AR 6164.4 - Identification and Evaluation of Individuals for Special Education for language regarding "child find" procedures for other district residents.

The Analysis of Comments to the federal regulations, 71 Fed. Reg. 156, pg. 46593, lists examples of "child find" activities such as distributing informational brochures, providing regular public service announcements, staffing exhibits at health fairs and other community activities, and creating direct liaisons with private schools. ~~The following paragraph~~ **This policy may be modified to reflect the specific child find activities that the district will undertake.**

The requirements of this policy and administrative regulation do not apply to those situations in which a district has placed a student with a disability in a private school as a means of fulfilling the district's obligations to provide a free appropriate public education (FAPE) or when the parent/guardian has made a unilateral placement of the student in a private school because the provision of FAPE by the district is an issue. See BP/AR 6159.2 - Nonpublic, Nonsectarian School and Agency Services for Special Education.

The Governing Board recognizes its obligations under **state and** ~~federal and state law~~ to **locate, identify, evaluate,** and provide equitable services to children voluntarily enrolled by their parents/guardians in private schools located within the district.

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

~~Note: Education Code 56301 mandates that districts, county offices of education, or SELPAs, as appropriate, have policies and procedures to locate, identify, and evaluate all children with disabilities enrolled by their parents/guardians in private schools, including religious schools. See BP/AR 6164.4 - Identification and Evaluation of Individuals for Special Education for language regarding "child find" procedures for other district residents.~~

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**CHILDREN WITH DISABILITIES ENROLLED BY THEIR PARENTS IN
PRIVATE SCHOOL (continued)**

The Analysis of Comments to the federal regulations, 71 Fed. Reg. 156, pg. 46593, lists examples of "child find" activities such as distributing informational brochures, providing regular public service announcements, staffing exhibits at health fairs and other community activities, and creating direct liaisons with private schools. The following paragraph may be modified to reflect the specific child find activities that the district will undertake.

The Superintendent or designee shall ensure that activities to locate, identify, and evaluate children with disabilities enrolled by their parents/guardians in private schools within the district are comparable to activities undertaken for individuals with disabilities aged three to 22 in public schools within the district. (**Education Code 56171**; 34 CFR 300.131; ~~Education Code 56171~~)

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

Note: Pursuant to 34 CFR 300.132 and 300.133, a district must spend a "proportionate share" of federal funds on ~~parentally placed~~ **parentally-placed** private school children with disabilities. See the accompanying administrative regulation. However, the law is unclear as to the district's obligation to provide services to such children if the district's proportionate share of federal funds has been expended before the end of the school year or if an identified student's needs do not fall within the types of services agreed to in the consultation process with private school representatives. Legal counsel should be consulted as appropriate.

The Superintendent or designee shall develop a budget for the provision of services to children with disabilities enrolled by their parents/**guardians** in private school based on the proportionate share of federal funds received and the number of eligible children, including the possibility of mid-year enrollees, and the types of services to be provided.

Legal Reference: (see next page)

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CHILDREN WITH DISABILITIES ENROLLED BY THEIR PARENTS IN PRIVATE SCHOOL (continued)

Legal Reference:

EDUCATION CODE

56000 Education for individuals with exceptional needs

56020-56035 Definitions

56170-56177 Children in private schools

56195.8 Adoption of policies for programs and services

56300-56385 Identification and referral, assessment

56500-56509 Procedural safeguards, including due process rights

56600-56606 Evaluation, audits and information

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act

1400-1482 Individuals with Disabilities Education Act, **especially:**

1412 State eligibility

UNITED STATES CODE, TITLE 29

794 Section 504 of the Rehabilitation Act

CODE OF FEDERAL REGULATIONS, TITLE 34

300.1-300.818 Assistance to states for the education of students with disabilities, especially:

300.130-~~300.140~~ **300.144** Children with disabilities enrolled by their parents in private schools

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

COURT DECISIONS

Agostini v. Felton, (1997) 521 U.S. 203, ~~117 S.Ct. 1997~~

Management Resources:

U.S. UNITED STATES DEPARTMENT OF EDUCATION PUBLICATIONS

Return to School Roadmap: Child Find Under Part B of the Individuals with Disabilities Education Act, August 2021

Long COVID under Section 504 and the IDEA: A Resource to Support Children, Students, Educators, Schools, Service Providers, and Families, July 2021

A Response to Intervention (RTI) Process Cannot Be Used to Delay-Deny an Evaluation for Eligibility under the Individuals with Disabilities Education Act (IDEA): Memorandum 11-07, January 2011

Questions and Answers on Serving Children with Disabilities Placed by Their Parents ~~at~~ in Private Schools, April 2011 ~~March 2006~~

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

WEB SITES

California Department of Education, Special Education: <http://www.cde.ca.gov/sp/se>

U.S. Department of Education, Office of Special Education and Rehabilitative Services:

<http://www.ed.gov/about/offices/list/osers/osep>

<http://www.ed.gov/about/offices/list/osers>

(3/07) 9/21

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CSBA Sample

Administrative Regulation

Instruction

AR 6164.41(a)

CHILDREN WITH DISABILITIES ENROLLED BY THEIR PARENTS IN PRIVATE SCHOOL

Definitions

Note: 34 CFR 300.131 requires the district to conduct a thorough "child find" process to determine the number of ~~parentally placed~~ **parentally-placed** children with disabilities attending private schools located in the district. The requirements of this administrative regulation do not apply to those situations in which a district has placed a student with a disability in a private school as a means of fulfilling the district's obligations to provide a free appropriate public education (FAPE) or when the parent/guardian has made a unilateral placement of the student in a private school when the provision of FAPE is an issue. See BP/AR 6159.2 - Nonpublic, Nonsectarian School and Agency Services for Special Education.

~~Parentally placed~~ **Parentally-placed** private school children with disabilities means children with disabilities who are voluntarily enrolled by their parents/guardians in a private school or facility within district boundaries, including children who are attending a private school or facility within district boundaries but who reside in another district or state. (34 CFR 300.130, 300.131)

Private school or facility means a private full-time day school, including a religious school, located within district boundaries, that has filed an affidavit with the California Department of Education pursuant to Education Code 33190 and is registered in the California Private School Directory.

Consultation with Private School Representatives

The Superintendent or designee shall consult with all private school representatives and representatives of parents/guardians of ~~parentally placed~~ **parentally-placed** private school children with disabilities during the design and development of equitable services for the children. In order to ensure a meaningful and timely consultation, the consultation shall include: **(Education Code 56301; 20 USC 1412(a)(3)-20 USC 1412(a)(10)(A)(iii); 34 CFR 300.134; Education Code 56301)**

1. The child find process and how ~~parentally placed~~ **parentally-placed** private school children suspected of having a disability can participate equitably

Note: **In the Return to School Roadmap: Child Find Under Part B of the Individuals with Disabilities Education Act**, the U.S. Department of Education (USDOE) lists the following as examples of practices for keeping parents/guardians, teachers, and private school officials informed of the child find process: holding professional development sessions for private school teachers on Individuals with Disabilities Education Act's evaluation and reevaluation requirements; posting flyers in private school facilities to inform stakeholders of the availability of child find; and facilitating round table discussion with community members.

CHILDREN WITH DISABILITIES ENROLLED BY THEIR PARENTS IN PRIVATE SCHOOL (continued)

2. **The manner in which** How parents/guardians, teachers, and private school officials will be informed of the child find process

Note: Pursuant to 34 CFR 300.132 and 300.133, a district must spend a "proportionate share" of federal funds on ~~parentally placed~~ **parentally-placed** private school children with disabilities. "Proportionate share" is a calculation based on the total number of eligible students in the district that are enrolled in both public and private schools, based on the formula detailed in 34 CFR 300.133.

3. The determination of the proportionate share of federal funds available to serve ~~parentally placed~~ **parentally-placed** private school children with disabilities and how this share is calculated
4. How the consultation process **among district staff, private school officials, and representatives of parents of parentally-placed private school children with disabilities** will operate throughout the school year to ensure that identified children can meaningfully participate in equitable services
5. ~~How~~ **The provision of equitable special education and related services including how**, when, and by whom **such** services will be provided including a discussion about the types of services, alternate service delivery mechanisms, how services will be apportioned if funds are insufficient to serve all of the identified children, and how and when those decisions will be made
6. In the event that the district and private school disagree on the provision of or the types of services, how the district will provide the private school officials with a written explanation of the reasons that the district chose to not provide the services

Note: **20 USC 1412 and** 34 CFR 300.136 ~~specifies~~ **specify** that a private school official may file a complaint with the California Department of Education (CDE) if ~~he/she~~ **the official** believes that the district did not engage in meaningful, timely consultation or did not give due consideration to the views of the private school official. The district must forward appropriate documentation to the CDE or, if necessary, to the ~~U.S. Department of Education (USDOE)~~ **USDOE**.

When meaningful and timely consultation has occurred, the district shall obtain a written affirmation signed by the representatives of participating private schools. If the private school representatives do not provide the affirmation within a reasonable period of time, the district shall forward documentation of the consultation process to the California Department of Education. (**Education Code 56172; 20 USC 1412; 34 CFR 300.135; Education Code 56172**)

After the consultation has occurred, the district shall ensure an annual count of the number of ~~parentally placed~~ **parentally-placed** children with disabilities attending private schools

CHILDREN WITH DISABILITIES ENROLLED BY THEIR PARENTS IN PRIVATE SCHOOL (continued)

located within the district. This count shall be conducted between October 1 and December 1 each year and shall be used to determine the amount the district must spend on providing equitable services to the children in the subsequent fiscal year. (34 CFR 300.133)

Provision of Services

Note: Pursuant to 34 CFR 300.137, a ~~parentally placed~~ **parentally-placed** private school child has no individual right to receive the special education services that ~~he/she~~ would have **been** received in the public school. Rather, the public school must meet with private school officials and representatives of private school children with disabilities to decide how to spend the money on all of the identified children.

A child with a disability ~~parentally placed~~ **parentally-placed** in a private school has no individual right to receive some or all of the special education and related services that ~~he/she~~ would **have been** received if enrolled in public school. Such a child may receive a different amount of services than students with disabilities in public schools. (34 CFR 300.137, 300.138)

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

Note: The Analysis of Comments to the federal regulations, 71 Fed. Reg. 156, pg. 46592, **makes clear clarifies** that the law (20 USC 1412 and 34 CFR 300.131 ~~and 20 USC 1412~~) requires the district where the private school is located, not the district where the child resides, to conduct individual evaluations and subsequent reevaluations of children for purposes of determining the provision of equitable services. **However, the Analysis of Comments to the federal regulations acknowledges that a district of residence could be required to evaluate a child even if it is not the district where the private school is located if the parent requests such an evaluation for purposes of having a program of FAPE made available to the child by the district of residence.**

In its Questions and Answers on Serving Children with Disabilities Placed by their Parents in Private School, USDOE has emphasized that districts may not require a private school to implement a response to intervention (RTI) process before evaluating parentally-placed private school children.

The district shall evaluate all identified ~~parentally placed~~ **parentally-placed** private school children with disabilities for purposes of considering them for equitable services. This evaluation shall be conducted in accordance with the timelines and procedures for evaluating public school students with disabilities pursuant to 34 CFR 300.300-300.311 **and as specified in BP/AR 6164.4 - Identification and Evaluation of Individuals for Special Education**, including **obtaining parent/guardian consent and** providing the parent/guardian with a copy of the procedural safeguards notice. (34 CFR 300.131, 300.504)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

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

CHILDREN WITH DISABILITIES ENROLLED BY THEIR PARENTS IN PRIVATE SCHOOL (continued)

Note: According to the Analysis of Comments, 71 Fed. Reg. 156, pg. 46593, if after an evaluation, the district where the private school is located determines that the child needs special education and related services, it would be the responsibility of the district where the child resides to make FAPE available. According to ~~the~~ USDOE's ~~in~~ Questions and Answers on Serving Children with Disabilities Placed by Their Parents ~~at in~~ Private Schools, if the parent/guardian makes clear ~~his/her~~ ~~the~~ intention to keep the child enrolled in private school, then the district of residence need not make FAPE available to the child nor develop an individualized education program (IEP). In such a case, it is recommended that the district obtain written confirmation of that intention from the parent/guardian, as specified below.

If the child resides in the district and is eligible for an individualized education program (IEP), the district shall make a free appropriate public education (FAPE) available to the child. However, the district ~~shall not~~ **is not required to** develop an IEP if the parent/guardian makes clear ~~his/her~~ ~~the~~ intention to keep the child enrolled in private school. In such situations, the district shall obtain written certification confirming the parent/guardian's intention to keep ~~his/her~~ ~~the~~ child enrolled in private school, including the fact that ~~he/she~~ ~~the~~ **parent/guardian** is not interested in the development of an IEP or the district's offer of FAPE. If the parent/guardian does not provide confirmation in writing, the district shall obtain oral confirmation of the parent/guardian's intention and confirm the conversation in writing.

~~In order to ensure that each child entitled to special education and related services from the district receives an offer of a free appropriate public education (FAPE), the district where the child resides shall develop an individualized education program (IEP) for each identified child who attends a private school located in the district and who resides in the district.~~

~~However, the district shall not develop an IEP if the parent/guardian makes clear his/her intention to keep the child enrolled in private school. In such situations, the district shall obtain written certification confirming the parent/guardian's intention to keep his/her child enrolled in private school, including the fact that he/she is not interested in the development of an IEP or the district's offer of FAPE. If the parent/guardian does not provide confirmation in writing, the district shall obtain oral confirmation of the parent/guardian's intention and confirm the conversation in writing.~~

Note: In the Analysis of Comments, 71 Fed. Reg. 156, pg. 46593, ~~the~~ USDOE acknowledges there may be a situation where two different districts are evaluating the same child, although for different purposes. 34 CFR 300.622 requires parent/guardian consent for the release of information about ~~parentally placed~~ **parentally-placed** private school children.

If the child resides in a different district, then this district and the district of residence shall work together to ensure that the parent/guardian receives an offer of FAPE in accordance with law.

CHILDREN WITH DISABILITIES ENROLLED BY THEIR PARENTS IN PRIVATE SCHOOL (continued)

Note: 34 CFR 300.138 requires the district to develop an individual services plan (ISP) for each identified child that describes the specific equitable services that will be provided by the district, as agreed to by the district and private school representatives during the consultation process. According to the USDOE's in Questions and Answers on Serving Children with Disabilities Placed by Their Parents at-in Private Schools, the individual services plan (ISP) will be more limited than an IEP developed for public school children.

The district shall develop and implement an individual services plan (ISP) for each identified private school child with a disability enrolled by their parents/guardians in a private school within the district's boundaries an individual services plan (ISP) that describes the equitable services that the district will provide, as agreed to determined by the district after and private school representatives during the consultation process with private school representatives. (34 CFR 300.138)

Note: The Analysis of Comments to the federal regulations, 71 Fed. Reg. 156, pg. 46592-46593 clarifies that the ISP must, to the extent appropriate, meet the IEP content, development, review, and revision requirements described in 20 USC 1414.

The ISP shall be developed, reviewed, and revised consistent with 20 USC 1414 34 CFR 300.121-300.324. A representative of the private school shall be invited to attend each ISP team meeting. If the representative cannot attend the meeting, the district shall use other methods to ensure the representative's participation, including individual or conference calls. (34 CFR 300.137, 300.138)

(cf. 6159 - Individualized Education Program)

Note: 34 CFR 300.142 details how federal funds may be used by the district to pay for the personnel services described below.

The district may provide services on the private school premises, including a religious school, to the extent consistent with law. The services shall be provided by personnel meeting the same standards as personnel providing services in the public school except that private elementary school and secondary school teachers who are providing equitable services to parentally-placed private school children with disabilities do not have to meet the special education teacher qualification requirements specified in 34 CFR 300.156. The personnel shall either be district employees or contractors of the district. (34 CFR 300.138, 300.139)

The district shall offer transportation to the child if services are provided on a site other than the child's school and the ISP team determines that transportation is necessary for the child to benefit from or participate in the services provided in the ISP. Depending on the timing of the services, the district shall provide transportation from the child's school or home to the service site and from the service site to the child's school or home. (34 CFR 300.139)

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**CHILDREN WITH DISABILITIES ENROLLED BY THEIR PARENTS IN
PRIVATE SCHOOL (continued)**

The district may place equipment and supplies in a private school for the period of time necessary to provide the services pursuant to the ISP. All such equipment shall remain the property of the district and must be able to be removed without **remodeling or** causing damage to the private school. The district shall remove the equipment when no longer required by the child, when the child no longer attends the private school, or when removal is necessary to prevent unauthorized use. (34 CFR 300.144)

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MS

CSBA Sample Board Policy

Instruction

BP 6164.5(a)

STUDENT SUCCESS TEAMS

Note: The following optional policy should be revised to reflect district practice. Utilization of the student success team (SST) process is not required by state or federal law. As such, this Board policy reflects best practices rather than legal requirements.

The "student success team" (SST), formerly called "student study team," is an early intervention process that brings together the student, parents/guardians, **certificated and classified staff, teachers and administrators, and/or the student, as appropriate**, to identify student needs and develop an improvement plan to address those needs. Student success teams are a key component of the special education program and the drop-out prevention programs; however, the California Department of Education encourages making this process available to all students in all schools. The following optional policy should be revised to reflect district practice.

The Governing Board encourages the collaboration of parents/guardians, **certificated and classified staff** ~~teachers, resource personnel~~, administrators, and/or the students, **as appropriate**, in evaluating the strengths and needs of students having academic, attendance, **social, emotional**, or behavioral difficulties and in identifying strategies and programs that may assist ~~such the students~~ **in maximizing their potential**. The Superintendent or designee shall establish student success teams (SST) as needed to address individual students' needs.

(cf. 5113.1 - Chronic Absence and Truancy)

(cf. 5147 - Dropout Prevention)

(cf. 6159 - Individualized Education Program)

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

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

The Superintendent or designee shall establish **and maintain** a process for initiating the referrals of students to ~~the SSTs student success team~~, **which may include referral by district staff, parents/guardians, and/or agency representatives**. The Superintendent or designee may also establish and maintain a process for responding to SST referrals, **which may include a determination by the district as to whether an SST shall be convened for an individual student**.

Each SST may collect and analyze relevant student data, as appropriate. The SST may also review the student's educational history, work samples, strengths and areas for growth, and identify available resources and strategies.

(cf. 5022 - Student and Family Privacy Rights)

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

(cf. 5125 - Student Records)

(cf. 5141.6 - School Health Services)

(cf. 6162.5 - Student Assessment)

(cf. 6162.51 - State Academic Achievement Tests)

(cf. 6164.2 - Guidance/Counseling Services)

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STUDENT SUCCESS TEAMS (continued)

Each **SST student success team** shall develop **a plan to support the student which incorporates** intervention strategies ~~to assist the student~~. Such strategies may include changes in program placement or instructional methods, recommendation of supplemental educational services, parent involvement strategies, **social, emotional and/or** behavioral interventions, discipline, referrals to other agencies or resources, and/or other appropriate interventions.

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

(cf. 5123 - Promotion/Acceleration/Retention)

(cf. 5141.3 - Health Examinations)

(cf. 5141.5 - Mental Health)

~~*(cf. 5141.6 - School Health Services)*~~

(cf. 5144 - Discipline)

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

(cf. 6020 - Parent Involvement)

(cf. 6120 - Response to Instruction and Intervention)

(cf. 6158 - Independent Study)

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

(cf. 6159.4 - Behavioral Interventions for Special Education Students)

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

(cf. 6171 - Title I Programs)

(cf. 6172 - Gifted and Talented Student Program)

(cf. 6173 - Education for Homeless Children)

(cf. 6173.1 - Education for Foster Youth)

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

(cf. 6174 - Education for English Learners)

(cf. 6175 - Migrant Education Program)

(cf. 6176 - Weekend/Saturday Classes)

(cf. 6177 - Summer Learning Programs)

(cf. 6178 - Career Technical Education)

(cf. 6178.1 - Work-Based Learning)

(cf. 6179 - Supplemental Instruction)

(cf. 6181 - Alternative Schools/Programs of Choice)

(cf. 6183 - Home and Hospital Instruction)

(cf. 6184 - Continuation Education)

(cf. 6185 - Community Day School)

The **SST student success team** shall monitor the student's progress, evaluate the extent to which the recommended strategies have been implemented, **make adjustments to the plan**, and develop additional interventions as needed.

Note: Pursuant to Education Code 56303, a student should be referred for special education instruction and services only after the resources of the regular education program have been considered and, where appropriate, utilized. However, the U.S. Department of Education's Office of Special Education Programs Memorandum 11-07 emphasizes that districts have an obligation to ensure that evaluations of students suspected of having a disability are not delayed or denied because of the implementation of response to intervention strategies, such as the SST process.

STUDENT SUCCESS TEAMS (continued)

The SST process shall not delay or deny a referral for evaluation for eligibility for special education, as may be required under state or federal law.

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

Note: Districts that have established multi-tiered systems of support (MTSS) may integrate SSTs into such frameworks. The California Department of Education describes MTSS as an integrated, comprehensive framework for districts that focuses on common core state standards, core instruction, differentiated and student-centered learning, individualized student needs, and the alignment of systems necessary for academic, behavioral, and social success. MTSS is connected to the eight state priorities in the local control and accountability plan, and encompasses inclusive academic instruction as reflected in the California state standards and frameworks, response to instruction and intervention, behavior instruction such as positive behavioral interventions and supports and restorative practices, and social-emotional learning.

The following paragraph is optional and should be deleted by districts that do not have an established MTSS.

The Superintendent or designee may integrate SSTs into the district's multi-tiered system of support, including identification of students who need additional support, the level(s) of support, appropriate interventions, monitoring of progress, and whether the goal of intervention has been met.

(cf. 0460 - Local Control and Accountability Plan)

To strengthen the effectiveness of SSTs, the Superintendent or designee may provide staff development in the identification of students who may need additional support, implementation of measurable and targeted interventions, and monitoring of progress and goal attainment.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

Legal Reference: (see next page)

MB

STUDENT SUCCESS TEAMS (continued)

Legal Reference:

EDUCATION CODE

8800-8807 *Healthy Start support services for children*

48260-48273 *Truancy*

48400-48454 *Continuation education*

49600-49604 *Educational counseling*

51745-~~51749.6~~~~51749.3~~ *Independent study programs*

52060-52077 *Local control and accountability plan*

54400-54425 *Programs for disadvantaged children*

54440-54445 *Migrant children*

56300-56305 *Identification and referral*

WELFARE AND INSTITUTIONS CODE

4343-4352.5 *Primary interventions program, mental health*

18986.40-18986.46 *Interagency children's services*

Management Resources:

CSBA PUBLICATIONS

Best Practices in Special Education, Governance Brief, May 2019

CDE PUBLICATIONS

~~SB 65 School Based Pupil Motivation and Maintenance Program Guidelines (2000-01 Edition), 2000~~

~~Student Success Teams: Supporting Teachers in General Education, 1997~~

CALIFORNIA DROPOUT PREVENTION NETWORK PUBLICATIONS

~~SST: Student Success Teams, 2000~~

U.S DEPARTMENT OF EDUCATION PUBLICATIONS

Return to School Roadmap: Child Find Under Part B of the Individuals with Disabilities Education Act, August 2021

A Response to Intervention (RTI) Process Cannot Be Used to Delay-Deny an Evaluation for Eligibility under the Individuals with Disabilities Education Act (IDEA): Memorandum 11-07,

January 2011

WEB SITES

California Department of Education, **multi-tiered systems of support: <http://www.cde.ca.gov/ci/cr/ri/http://www.cde.ca.gov/spbranch/ssp>**

California Dropout Prevention Network: <http://www.edualliance.org/edpn>

National Dropout Prevention Center: <http://www.dropoutprevention.org>

U.S Department of Education, Office of Special Education Programs:

<https://www2.ed.gov/about/offices/list/osers/osep>

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CSBA Sample Administrative Regulation

Instruction

AR 6164.5(a)

STUDENT SUCCESS TEAMS

Note: The following optional administrative regulation maybe revised to reflect district practice.

Utilization of the Student Success Team (SST) process is not required by state or federal law. As such, this administrative regulation reflects best practices rather than legal requirements.

Team Membership

Members of individual student success teams (SST) may include:

1. The principal or designee
2. One or more of the student's classroom teachers or former teachers
3. The student's parents/guardians
4. The student if appropriate
5. **School Counselor(s)**
6. Resource personnel or specialists, such as a school counselor, psychologist, nurse, outreach consultant, special education resource person, ~~categorically funded staff person~~, department chairperson, speech and language specialist, reading specialist, social worker, probation officer, community resource representative, mental health worker, and/or other person(s) relevant to the student's situation, as determined by the district

The makeup of each individual SST is at the district's discretion, and may not include participation from individuals in each of the categories listed above.

Team Responsibilities

Note: The Superintendent or designee may appoint a districtwide or schoolwide SST coordinator to coordinate SST meetings and related activities.

The principal or designee shall:

1. Schedule meetings and establish meeting procedures
2. Contact parents/guardians and other team members regarding team meetings

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STUDENT SUCCESS TEAMS (continued)

3. Consult with appropriate school **staff, including teachers and/or** district resource personnel
4. Arrange for observation of the student **in the problem situation as needed**
5. Collect any additional background information necessary to inform team members about the student's strengths and needs, **such as relevant student data, educational history, and work samples, as appropriate**

(cf. 5022 - Student and Family Privacy Rights)

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

(cf. 5125 - Student Records)

(cf. 6162.5 - Student Assessment)

(cf. 6162.51 - State Academic Achievement Tests)

6. Help the student and parents/guardians prepare for the meeting

7. Facilitate the team meetings

- 8. Develop a plan to support the student which incorporates intervention strategies**

(cf. 3552 - Summer Meal Program)

(cf. 3553 - Free and Reduced Price Meals)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

(cf. 5141.5 - Mental Health)

(cf. 5141.52 - Suicide Prevention)

(cf. 5141.6 - School Health Services)

(cf. 5144 - Discipline)

(cf. 6141.4 - International Baccalaureate Program)

(cf. 6141.5 - Advanced Placement)

(cf. 6152 - Class Assignment)

(cf. 6152.1 - Placement in Mathematics Courses)

(cf. 6158 - Independent Study)

(cf. 6159.4 - Behavioral Interventions for Special Education Students)

(cf. 6164.2 - Guidance/Counseling Services)

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

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

(cf. 6172 - Gifted and Talented Student Program)

(cf. 6172.1 - Concurrent Enrollment in College Classes)

(cf. 6176 - Weekend/Saturday Classes)

(cf. 6177 - Summer Learning Programs)

(cf. 6178 - Career Technical Education)

(cf. 6178.1 - Work-Based Learning)

(cf. 6179 - Supplemental Instruction)

(cf. 6181 - Alternative Schools/Programs of Choice)

(cf. 6183 - Home and Hospital Instruction)

(cf. 6184 - Continuation Education)

(cf. 6185 - Community Day School)

STUDENT SUCCESS TEAMS (continued)

- 98.** Ensure that the student's progress is monitored, ~~and~~ that follow-up meetings are regularly scheduled, **and that adjustments are made to the plan and related interventions as necessary**

(9/90 3/04) 9/21

MB

San Pasqual Union SD

Board Policy

Professional Adult / Student Boundaries

BP 4119.²⁴~~26~~, 4219.²⁴~~26~~, 4319.²⁴~~26~~

Personnel

The purpose of this policy is to provide all staff, students, volunteers, and community members with information to increase their awareness of their role in protecting children from inappropriate conduct and failure to maintain appropriate boundaries by adults. All adults are expected to maintain professional, moral, and ethical relationships with students that are conducive to an effective, safe learning environment. The provisions of this policy apply to all San Pasqual Union School (SPUSD) staff, volunteers, and community members relative to their conduct with students in school and programs under the jurisdiction of the San Pasqual Union School District.

This policy addresses a range of behaviors that include not only obviously unlawful or improper interactions with students, but also boundary-blurring and grooming behaviors that undermine the professional adult-student relationship and can lead to misconduct or the appearance of impropriety. The behaviors addressed herein include in-person interactions, text messages, and communication through social media sites, including but not limited to, Facebook, Instagram, Snapchat, Twitter, and WhatsApp.

General Standards

The governing board expects adults to maintain the highest professional, moral, and ethical standards in their interaction with students. Employees are required to maintain an atmosphere conducive to learning, through consistently and appropriately applied discipline, as well as establishing and maintaining professional boundaries.

The interactions and relationships between employees and students should be based upon mutual respect and trust, and an understanding of the appropriate boundaries between adults and students in and outside of the educational setting. Relationships between adults and students should also be consistent with the educational mission of SPUSD.

Employees will not intrude on a student's physical and emotional boundaries unless the intrusion is necessary to serve a legitimate educational purpose. Violations of emotional boundaries include, but are not limited to: an employee showing favoritism toward a student; mismanaging feelings of frustration toward a student; failing to recognize that an employee is not a peer, parent, therapist, or friend to a student; and inquiring about overly sensitive or personal topics without a legitimate educational purpose for doing so.

For purposes of this policy, the term "legitimate educational purpose" includes matters or communications related to teaching, counseling, athletics, extracurricular activities, treatment of

a student's injury or other medical needs, school administration, or other purposes within the scope of the adult's employment duties.

Appearances of Impropriety

Employees are expected to be aware of the appearance of impropriety in their own conduct and the conduct of other adults when interacting with students.

Even though the intent of the employee may be professional and there is a legitimate education purpose for the conduct, the following activities can create the appearance of impropriety:

1. Being alone with an individual student out of the view of others;
2. Inviting or allowing individual students to visit the employee's home;
3. Remaining on campus with student(s) after the last administrator leaves the school site; and/or
4. Visiting a student's home unless home visits are a required and expected duty of the adult.

Whenever possible, employees should avoid these situations. If unavoidable, these activities should be pre-approved by the appropriate administrator. If not pre-approved, the employee must report the occurrence to the appropriate administrator within 48 hours.

Electronic Communications

As with other forms of communication, when communicating electronically, employees shall maintain professional boundaries with students.

Electronic and other communications with students shall be for legitimate educational purposes only. Employees shall not maintain personal contact with a student outside of school by phone, letter, electronic communication, or other means (beyond legitimate educational purposes) without including the parent/guardian and/or school principal.

When available, SPUSD email and communication devices shall be used when communicating electronically with students. The use of SPUSD email or other SPUSD communication devices shall be in accordance with SPUSD policies and procedures.

Employees shall not communicate with students, for any reason, through use of a medium that is designed to eliminate all traces or records of the communication (e.g., Snapchat).

All electronic communications from coaches and advisors to team or club members shall concern only legitimate educational interests and shall be sent in a single communication to all participating team or club members, except for communications concerning an individual student's medical or academic privacy matters, in which case the communication will be copied to the school principal.

Employees shall not follow or accept requests from current students or non-adult former students to be friends or connections on personal social networking sites and shall not create or participate in any networking site for communication with students other than those provided by SPUSD for this purpose, without the prior written approval of the school superintendent.

Boundary Violations

A boundary violation by an employee is an act or omission that does not have a legitimate educational purpose and has the potential to abuse the employee-student relationship. Examples of employee conduct that violate professional adult-student boundaries include but are not limited to the following:

1. Singling out a particular student or students for personal attention and friendship beyond the professional staff-student relationship.
2. For non-guidance/counseling staff, encouraging students to confide their personal or family problems and/or relationships.

If a student initiates such discussions, employees shall be attentive to the student's concerns but shall disclose to the student that they must immediately provide any information shared by the student to the appropriate guidance/counseling staff and notify the student that such guidance/counseling staff is in the best position to serve the student's concerns. In either case, employee involvement should be limited to a direct connection to the student's school performance.

3. Addressing students or permitting students to address staff members with personalized terms of endearment, pet names, or otherwise in an overly familiar manner.
4. Maintaining personal contact with a student outside of school by phone, email, instant messenger or Internet chat rooms, social networking websites, such as Facebook, or letters beyond homework or other legitimate school business without including the parent/guardian.

This prohibition specifically includes "friending" or "following" students on social media unless the social media page is dedicated to legitimate school business. This also specifically includes the posting of student images or other personally identifiable information of students on an adult's personal website.

5. Exchanging personal gifts, cards, or letters with an individual student for which it is directly or implicitly suggested that a student is to say or do something in return.
6. Touching students or initiating inappropriate physical contact without a legitimate educational purpose.

Legitimate purposes could include the following: (a) assisting an injured student; (b) assisting a student with special needs who requires assistance with toileting or other physical assistance; (c) appropriate coaching instruction; (d) appropriate music instruction; or (e) to protect the safety of students or staff.

7. Socializing or spending time with students (including but not limited to activities such as going out for beverages, meals, movies, shopping, traveling, recreational activities, or visiting the student's home) outside of school-sponsored events, except as participants in organized community activities.
8. Transporting student(s) in a personal vehicle in a non-emergency situation and without proper written authorization forms in advance.
9. Being alone with a student without a legitimate educational purpose.

Boundary Violations Constituting Serious Misconduct

A boundary violation that constitutes serious misconduct is an act, omission, or pattern of such behavior by an adult that does not have a legitimate educational purpose and results in abuse of the staff-student professional relationship.

A. Romantic or Sexual Relationships

Employees are prohibited from dating, courting, or entering into or attempting to form a romantic or sexual relationship with any student, regardless of the student's age.

Prohibited romantic or sexual interaction involving students includes, but is not limited to:

1. Sexual physical contact;
2. Romantic flirtation, propositions, or sexual remarks;
3. Sexual slurs, leering, epithets, sexual or derogatory comments;
4. Personal comments about a student's body;
5. Sexual jokes, banter, innuendo, notes, stories, drawings, gestures, or pictures;
6. Spreading sexual or romantic rumors;
7. Touching a student's body or clothes in a sexual or intimate way or in a manner that is not age appropriate;
8. Restricting a student's freedom of movement in a sexually intimidating or provocative manner;
9. Displaying or transmitting sexual objects, pornography, pictures, or depictions to a student; or
10. Any type of conduct that would be considered harassment under Board Policy and/or Administrative Regulation 4119.11, 4219.11, 4319.11.

No educational or other reason shall ever justify deviation from the above policy.

B. Social and Other Interactions

Employees are prohibited from engaging in social and other interactions with students which abuse the student/staff professional relationship.

Prohibited social and other interaction involving students includes, but is not limited to:

1. Sending or accompanying students on personal errands unrelated to any legitimate educational purpose;
2. Furnishing alcohol, drugs or tobacco to a student, or being present where any student is consuming these substances;
3. Disclosing personal, sexual, family, employment, or other private matters and concerns to one or more students;
4. Sharing personal secrets with a student;
5. Unnecessarily invading a student's privacy (e.g., walking in on the student in the bathroom);
6. Taking a student out of class without a legitimate educational purpose;
7. Giving a student a ride alone in a vehicle in a non-emergency situation without prior notification to and/or approval from the school principal as described above;
8. Engaging in harassing or discriminatory conduct prohibited by other SPUSD policies or by state or federal law and regulations.

Exceptions

An emergency situation or a legitimate educational purpose may justify deviation from professional boundaries set out in this policy. The employee shall be prepared to articulate the reason for any deviation from the requirements of this policy and must demonstrate that s/he has maintained an appropriate relationship with the student.

There may be circumstances where there is an appropriate pre-existing personal relationship between an employee and a student's family that exists independently of the employee's position with SPUSD (e.g., when their children are friends). This policy is not intended to interfere with such relationships or to limit activities that are normally consistent with such relationships. Employees are strongly encouraged to maintain professional boundaries appropriate to the nature of the activity.

It is understood that adults may be involved in other roles in the community through civic, religious, athletic, scouting, or other organizations and programs whose participants may include SPUSD students. This policy is not intended to interfere with or restrict an adult's ability to serve in those roles; however, adults are strongly encouraged to maintain professional

boundaries appropriate to the nature of the activity with regard to all youth with whom they interact in the course of their community involvement.

Duty to Report

When an employee observes conduct or has knowledge of another employee violating this policy that creates a reasonable suspicion of child abuse (including sexual abuse), or when an employee has reasonable suspicion of an adult harming or endangering a child, the employee shall report the conduct to San Diego County's Department of Child Support Services in accordance with state law and SPUSD Board Policy and Administrative Regulation 5141.4 – Child Abuse Reporting Procedures.

An adult who observes or has knowledge of another adult's violation of this policy shall immediately report the information to the site supervisor. If the supervisor is the subject of the report, the adult will report instead directly to the director of Human Resource Services. The supervisor who receives a report must document, in writing, the concern and provide a copy of the documentation to the director of Human Resource Services.

Investigation

Whenever SPUSD receives a report concerning a possible boundary violation, the site supervisor and the assigned human resources administrator will conduct a prompt investigation utilizing the procedures for investigations of allegations of serious misconduct. The investigation shall include a review of the full history of concerns relating to the subject of the concern/complaint.

Immediate intervention shall be considered and implemented when necessary to protect student safety and/or the integrity of the investigation.

Disciplinary Action

Any employee who is found to have engaged in conduct in violation of law, this policy, or other board policies shall be subject to disciplinary action up to and including dismissal. In the case of a certificated employee, the employee may be subject to a report to the Commission on Teacher Credentialing. The superintendent or designee shall notify local law enforcement as appropriate.

An employee who has knowledge of but fails to report inappropriate employee conduct may also be subject to discipline.

A volunteer, student teacher, independent contractor, or an employee of an independent contractor who violates this policy may be prohibited from working or serving in schools and programs under the jurisdiction of the San Pasqual Union School District for an appropriate period of time or permanently, as determined by the superintendent or designee.

Confidentiality and Retaliation

SPUSD prohibits retaliation against anyone who files a complaint under this policy. Any employee who retaliates against any such complainant, reporter, or other participant in SPUSD's complaint process shall be subject to discipline.

Reporting employees are specifically advised of the following:

1. Reporting employees are neither permitted nor responsible for investigating whether the conduct is inappropriate; and
2. Reporting employees are required to maintain confidentiality.

Confidentiality protects both the student(s) and the adult who is the subject of the report. Failure to maintain confidentiality may impede the investigation and foster untrue and potentially harmful rumors. Nothing in this policy shall prevent any represented employee from consulting with his/her exclusive representative.

Administrative Regulation: 5141.4

Legal Reference: Education Code

44691, 44807, 49001

Penal Code

152.3, 288, 11164 – 11174.3

California Code of Regulations, Title 5

4650

Policy SAN PASQUAL UNION SCHOOL DISTRICT
Adopted: 12/17/2019 Escondido, California

