

CSBA Sample Board Policy

Philosophy, Goals, Objectives, and Comprehensive Plans

BP 0420.4(a)

CHARTER SCHOOL AUTHORIZATION

Note: The following **optional** policy may be revised to reflect district practice. Education Code 47600-47616.7 authorize the establishment of ~~a capped number of~~ public charter schools, which are generally exempt from ~~the~~ Education Code ~~provisions governing school districts~~ unless otherwise specified in law. To establish a charter school within the district, petitioners must submit to the Governing Board for approval a petition which includes all components required by law as described in the accompanying administrative regulation. **The following policy reflects the criteria and procedures required by Education Code 47605 as amended by AB 1505 (Ch. 486, Statutes of 2019) and AB 1595 (Ch. 543, Statutes of 2019).**

Under certain circumstances, charter petitions may also be approved by other governmental entities. For example, Education Code 47605.5-47605.6 authorize petitioners to submit a petition directly to the County Board of Education when (1) the charter school will serve students for whom the county office of education would otherwise be responsible for providing direct education and related services or (2) the countywide program will provide educational services to a student population that cannot be served as well by a charter school operating in only one district in the county. **Education Code 47605.8, which authorized petitioners to submit a petition directly to the State Board of Education (SBE) to approve a statewide benefit charter school, was repealed by AB 1505.**

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

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

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

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

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

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CHARTER SCHOOL AUTHORIZATION (continued)

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

One or more persons may submit a petition **to the Board** for a **start-up** charter school to be established within the district or for the conversion of an existing district school to a charter school. (Education Code 47605)

Any petition for a ~~start-up charter school or conversion~~ charter school shall include all components, ~~and~~ **signatures, and statements** required by law, **as specified in the accompanying administrative regulation,** and shall be submitted to the Board. **The proposed charter shall be attached to the petition. (Education Code 47605)**

The Superintendent or designee shall consult with legal counsel, as appropriate, regarding compliance of the charter petition with legal requirements.

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

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

Timelines for Board Action

Note: Pursuant to Education Code 47605, as amended by AB 1505 and AB 1595, upon receiving a charter petition, the Board is required to hold a public hearing within 60 days to determine the level of support for the petition and to hold a public hearing within 90 days to take final action on the petition. As amended, Education Code 47605 also requires the district to publish, at least 15 days prior to the public hearing at which the Board will grant or deny the petition, staff recommendations regarding the petition and, if applicable, the certification from the County Superintendent of Schools regarding the potential fiscal impact of the charter school on the district.

To provide adequate opportunity for public input and thoughtful consideration of the charter petition, it is recommended that the Board conduct two public hearings -- one hearing to determine the level of support for the petition and, following the publication of staff recommendations, a second hearing to grant or deny the petition. However, the law does not explicitly require two hearings, and it may be

CHARTER SCHOOL AUTHORIZATION (continued)

possible to hold one public hearing for both determining the level of support for the petition and granting or denying the petition, provided that staff recommendations are published 15 days prior to the hearing, the hearing is held within 60 days of receipt of the petition, and the petitioners have equal time and opportunity to present evidence and testimony. Legal counsel should be consulted as needed to ensure that all requirements are met.

Within ~~30~~ 60 days of receiving a charter petition, the Board shall hold a public hearing on the charter provisions, at which time the Board shall consider to determine the level of support for the petition by teachers, other district employees of the district, and parents/guardians. A petition is deemed received on the day the petitioner submits a petition to the district office, along with a signed certification that the petitioner deems the petition to be complete. (Education Code 47605)

Within 60 days of receiving a petition, or within 90 days with mutual consent of the petitioners and the Board, the Board shall either approve or deny the request to establish the charter school. The Board shall either grant or deny the petition at a public hearing held within 90 days of receiving the petition, or within 120 days with the consent of both the petitioner and the Board. (Education Code 47605)

(cf. 9320 - Meetings and Notices)

At least 15 days before the public hearing at which the Board will grant or deny the charter, the district shall publish all staff recommendations regarding the petition, including any recommended findings and, if applicable, certification from the County Superintendent of Schools regarding the potential fiscal impact of the charter school on the district. During the public hearing, the petitioners shall have equal time and opportunity to present evidence and testimony in response to the staff recommendations and findings. (Education Code 47605)

Note: The following paragraph is optional and may be revised to reflect district practice. As amended by AB 1505 and AB 1595, Education Code 47605 requires that, in the event that a petition is denied and the matter is appealed, the Board must provide a documentary record to the petitioner, including a transcript of the public hearing at which the Board denied the hearing. See section on "Appeals" below. Thus, it may be useful to have a transcription of the hearing(s) in the event that the petitioners later appeal the decision of the Board.

The Superintendent or designee shall maintain accurate records, in relation to each charter petition, of documents submitted, the Board's proceedings, and the findings upon which the Board's decision is made.

(cf. 9320 - Meetings and Notices)

CHARTER SCHOOL AUTHORIZATION (continued)

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

Approval of Petition

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

Pursuant to Education Code 47605, as amended by AB 1505 and AB 1595, the Board must also consider the interests of the community in which the school is proposing to locate.

~~The Board shall approve the charter petition if~~ **A charter petition shall be granted only if the Board is satisfied that doing so is consistent with sound educational practice and the interests of the community in which the school is proposing to locate.** In granting charters, the Board shall **consider the academic needs of the students the charter school proposes to serve and shall** give preference to petitions that demonstrate the capability to provide comprehensive learning experiences for students who are identified by the petitioner as academically low-achieving, **based on standards established by California Department of Education (CDE).** (Education Code 47605)

Note: Pursuant to Education Code 47604.1, as added by SB 126 (Ch. 3, Statutes of 2019), charter schools are subject to the Brown Act (Government Code 54950-54963), California Public Records Act (Government Code 6250-6270), conflict of interest laws (Government Code 1090-1099), and the Political Reform Act (Government Code 81000-91014). ~~Although Education Code 47604.1 is not effective until January 1, 2020, a 2018 Attorney General opinion also concluded that, under current law, those statutes govern all local government agencies including charter schools.~~

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

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CHARTER SCHOOL AUTHORIZATION (continued)

(cf. 0420.41 - Charter School Oversight)

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

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

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

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

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

(cf. 0420.42 - Charter School Renewal)

(cf. 0420.43 - Charter School Revocation)

~~If~~ **When a petition is approved by the Board, it** shall be the responsibility of the petitioners to provide written notice of the Board's approval and a copy of the charter to the County Superintendent of Schools, the **California Department of Education CDE**, and the State Board of Education (SBE). (Education Code 47605)

Denial of Petition

The Board shall **summarily** deny any charter petition that **proposes to**:

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

CHARTER SCHOOL AUTHORIZATION (continued)

1. ~~Proposes to o~~Operate a charter school as or by a for-profit corporation, a for-profit educational management organization, or a for-profit charter management organization (Education Code 47604)
2. ~~Authorizes the conversion of~~ **Convert** a private school to a charter school (Education Code 47602)

Note: Pursuant to Education Code 47605, ~~provides that~~ the Board ~~cannot~~ **may** approve a charter school serving students in a grade level not offered by the district ~~unless only when~~ the charter school **will** also serve all the grade levels offered by the district. Thus, an elementary district's ~~board~~ cannot approve a charter for a high school, but may approve a charter for a K-12 school since ~~it includes the charter school~~ **will serve** all grade levels served by the **elementary school** district.

3. Proposes to ~~s~~erve students in a grade level that is not served by the district, unless the petition proposes to serve students in all the grade levels served by the district (Education Code 47605)

Note: Pursuant to Education Code 47612.7, as added by AB 1505, until January 1, 2022, the Board is prohibited from approving a petition for the establishment of a new charter school offering nonclassroom-based instruction. A charter school approved before October 1, 2019 which had started providing educational services as of that date may continue to offer nonclassroom-based instruction under the circumstances specified in Education Code 47612.7.

4. Offer nonclassroom-based instruction (Education Code 47612.7)

Note: Pursuant to Education Code 47605, a charter petition can be denied only if certain factual findings are made, ~~as specified in items #1-6 below~~. 5 CCR 11967.5.1 contains criteria for SBE's review of charter petitions, which may be useful to the district in determining how it might evaluate whether a petition meets the conditions specified ~~in items #1-6 below~~.

Regarding all other charter petitions, Any other charter petition shall be denied only if the Board shall deny a petition only if the Board makes written factual findings specific to the petition that one or more of the following conditions exist: (Education Code 47605; **5 CCR 11967.5.1**)

1. The charter school presents an unsound educational program **that has a likelihood of physical, educational, or psychological harm to, or which is not likely to provide an educational benefit** for, the students to be enrolled in the charter school.
2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.

CHARTER SCHOOL AUTHORIZATION (continued)

3. The petition does not contain the number of signatures required.
4. The petition does not contain **an affirmation of each of the conditions described in Education Code 47605(d) a clear, unequivocal statement described in Education Code 47605(e), including that the charter school will be nonsectarian and that the school shall not charge tuition or discriminate against any student based on the characteristics specified in Education Code 220.**
5. The petition does not contain reasonably comprehensive descriptions of the charter provisions in Education Code 47605(bc).
6. The petition does not contain a declaration as to whether or not the charter school shall be deemed the exclusive public **school**-employer of the school's employees for purposes of collective bargaining pursuant to Government Code 3540-3549.3.

Note: As amended by AB 1505 and AB 1595, Education Code 47605 expands the grounds for denial of a charter petition to include those specified in items #7-8 below.

7. **The charter school is demonstrably unlikely to serve the interests of the entire community in which the school is proposing to locate. Analysis of this finding shall include consideration of the fiscal impact of the proposed charter school. A written factual finding shall detail specific facts and circumstances regarding:**
 - a. **The extent to which the proposed charter school would substantially undermine existing services, academic offerings, or programmatic offerings**
 - b. **Whether the proposed charter school would duplicate a program currently offered within the district, when the existing program has sufficient capacity for the students proposed to be served within reasonable proximity to where the charter school intends to locate**
8. **The district is not positioned to absorb the fiscal impact of the proposed charter school. The district meets this criterion if it has a negative interim certification, or has a qualified interim certification and the County Superintendent certifies that approving the charter school would result in the district having a negative interim certification.**

CHARTER SCHOOL AUTHORIZATION (continued)

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

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

Appeals

Note: Pursuant to Education Code 47605, if the Board denies a charter petition, the petitioner may, within 30 days of the denial, submit the petition to the County Board. If the County Board denies a petition on appeal, the petitioner may, within 30 days of the denial, appeal to SBE.

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

At the request of the petitioner, the Board shall prepare the documentary record, including a transcript of the public hearing at which the Board denied the charter, no later than 10 business days after the petitioner makes the request. (Education Code 47605)

Within 30 days of receipt of an appeal submitted to SBE, the Board may submit a written opposition to SBE detailing, with specific citations to the documentary record, how the Board did not abuse its discretion in denying the petition. (Education Code 47605)

If either the County Board or SBE remands the petition to the Board because the petition on appeal contains new or different material terms, the Board shall reconsider the petition and grant shall or deny the petition within 30 days. (Education Code 47605)

Legal Reference: (see next page)

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CHARTER SCHOOL AUTHORIZATION (continued)

Legal Reference:

EDUCATION CODE

200 *Equal rights and opportunities in state educational institutions*

220 *Nondiscrimination*

1240 *Duties of County Superintendent*

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

17280-17317 *Field Act*

17365-17374 *Field Act, fitness for occupancy*

32282 *Comprehensive safety plan*

33126 *School Accountability Report Card*

41365 *Charter school revolving loan fund*

42131 *Interim certification*

42238.51-42238.2 *Funding for charter districts*

44237 *Criminal record summary*

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

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

46201 *Instructional minutes*

47600-47616.7 *Charter Schools Act of 1992*

47640-47647 *Special education funding for charter schools*

47650-47652 *Funding of charter schools*

49011 *Student fees*

51745-51749.6 *Independent study*

52052 *Accountability: numerically significant student subgroups*

52060-52077 *Local control and accountability plan*

56026 *Special education*

56145-56146 *Special education services in charter schools*

CORPORATIONS CODE

5110-6910 *Nonprofit public benefit corporations*

GOVERNMENT CODE

1090-1099 *Prohibitions applicable to specified officers*

3540-3549.3 *Educational Employment Relations Act*

6250-6270 *California Public Records Act*

54950-54963 *Ralph M. Brown Act*

81000-91014 *Political Reform Act of 1974*

CODE OF REGULATIONS, TITLE 5

11700.1-11705 *Independent study*

11960-11968.5.5 *Charter schools*

Legal Reference continued: (see next page)

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CHARTER SCHOOL AUTHORIZATION (continued)

Legal Reference: (continued)

UNITED STATES CODE, TITLE 20

7223-7225 Charter schools

COURT DECISIONS

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

ATTORNEY GENERAL OPINIONS

Opinion No. 11-201 (2018)

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

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

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

Management Resources:

CSBA PUBLICATIONS

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

Charter Schools in Focus, Issue 1: Managing the Petition Review Process, Governance Brief, November 2016

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

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

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Sample Copy of a Memorandum of Understanding

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

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

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

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

WEB SITES

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

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

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

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

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

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Policy Reference UPDATE Service

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CSBA Sample Administrative Regulation

Philosophy, Goals, Objectives, and Comprehensive Plans

AR 0420.4(a)

CHARTER SCHOOL AUTHORIZATION

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

Petition Signatures

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

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

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

(cf. 4116 - Probationary/Permanent Status)

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

Staff Advisory Committee

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

Education Code 47605, as amended by AB 1505 (Ch. 486, Statutes of 2019) and AB 1595 (Ch. 543, Statutes of 2019), requires the district to publish staff recommendations regarding the petition at least 15 days prior to the hearing at which the Governing Board will grant or deny the petition; see the section "Timelines for Board Action" in the accompanying Board policy.

CHARTER SCHOOL AUTHORIZATION (continued)

The Superintendent or designee may establish a staff advisory committee to evaluate the completeness of a charter petition based on the requirements in Education Code 47605 and to identify any concerns that should be addressed by the petitioners.

(cf. 2230 - Representative and Deliberative Groups)

Components of Charter Petition

All charter petitions shall comply with the applicable requirements of Education Code 47605, other state and federal laws, and district policies.

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

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

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

Note: Education Code 47605 requires the charter petition to include annual goals for all students and for each numerically significant subgroup of students, and specific actions to achieve those goals as described in Education Code 52060. Pursuant to Education Code 52052, numerically significant subgroups include ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students, when there are at least 30 students in the subgroup (or at least 15 foster youth or homeless students) in the school.

Education Code 47605 requires that these annual goals be aligned with **the** eight state priorities related to (1) the degree to which teachers are appropriately assigned and fully credentialed, students have sufficient access to standards-based instructional materials, and facilities are maintained in good repair; (2) implementation of and student access to state academic content and performance standards; (3) parent/guardian involvement and family engagement; (4) student achievement; (5) student engagement; (6) school climate; (7) student access to and enrollment in a broad course of study, including programs and services provided to benefit low-income students, English learners, and/or foster youth (i.e., "unduplicated

CHARTER SCHOOL AUTHORIZATION (continued)

students" for purposes of the local control funding formula); and (8) student outcomes in the specified course of study. See BP/AR 0460 - Local Control and Accountability Plan.

As amended by AB 1595, Education Code 47605 no longer requires that charter petitions include annual goals that apply to the nature of the program operated.

The petition shall include a description of the charter school's annual goals for all students and for each numerically significant subgroup of students identified pursuant to Education Code 52052, including ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students. These goals shall be aligned with the state priorities listed in Education Code 52060 that apply to the grade levels served ~~or the nature of the program operated by the charter school~~. The petition also shall describe specific annual actions to achieve those goals. The petition may identify additional priorities established for the proposed school, goals aligned with those priorities, and specific annual actions to achieve those goals.

(cf. 0420.41 - Charter School Oversight)

(cf. 0460 - Local Control and Accountability Plan)

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

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

2. The measurable student outcomes identified for use by the charter school. *Student outcomes* means the extent to which all students of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program, including outcomes that address increases in student academic achievement both schoolwide and for each numerically significant subgroup of

CHARTER SCHOOL AUTHORIZATION (continued)

students served by the charter school. The student outcomes shall align with the state priorities identified in Education Code 52060 that apply for the grade levels served **or the nature of the program operated** by the charter school.

3. The method by which student progress in meeting the identified student outcomes is to be measured. To the extent practicable, the method for measuring student outcomes for state priorities shall be consistent with the way information is reported on a school accountability report card.

(cf. 0510 - School Accountability Report Card)

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

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

6. The procedures that the charter school will follow to ensure the health and safety of students and staff, including the following requirements:
 - a. Each charter school employee shall furnish the school with a criminal record summary as described in Education Code 44237.
 - b. The charter school shall develop a school safety plan which includes the topics listed in Education Code 32282(a)(2)(A)-(H) **and procedures for conducting tactical responses to criminal incidents (A)-(J).**
 - c. The charter school's safety plan shall be reviewed and updated by March 1 each year.

Note: As amended by AB 1505 and AB 1595, Education Code 47605 adds a requirement that the petition describe the means by which the charter school will achieve a balance of racial and ethnic students, special education students, and English learners, including redesignated fluent English proficient students.

7. The means by which the charter school will achieve a **balance of racial and ethnic balance among its students, special education students, and English learner students, including redesignated fluent English proficient students,** that is reflective of the general population residing within the district's territorial jurisdiction.

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CHARTER SCHOOL AUTHORIZATION (continued)

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

8. The charter school's student admission policy. The petition shall, in accordance with Education Code 47605~~(de)~~, specify procedures for determining enrollment when the number of applicants exceeds the school's capacity, including requirements for the use of a public random drawing, admission preferences, and priority order of preferences as required by law and subject to Governing Board approval.
9. The manner in which annual, independent financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the Board's satisfaction.

Note: As added by AB 982 (Ch. 779, Statutes of 2019), Education Code 47606.2 requires that the suspension procedures included in the charter petition provide that (1) upon request of a student who has been suspended for two or more school days or the student's parent/guardian, the homework assigned during the period of suspension be given and (2) any such completed homework shall not count towards the student's overall grade in the class unless the assignments are graded before the end of the academic term.

10. The procedures by which students can be suspended or expelled for disciplinary reasons or otherwise involuntarily removed for any reason, including an explanation of how the charter school will comply with federal and state constitutional procedural and substantive due process requirements as specified in Education Code 47605~~(b)~~ and a statement that the suspension procedures will include requirements pertaining to the provision of homework assignments to suspended students as specified in Education Code 47606.2.

Such procedures shall also include processes by which the charter school will notify the superintendent of a district, and request to by which the charter school may be notified by the superintendent of a district, about when a student or former student of the charter school is expelled or subject to any of when the circumstances specified in Education Code 47605~~(de)~~(3) exist.

CHARTER SCHOOL AUTHORIZATION (continued)

11. The manner by which staff members of the charter school will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.
12. The public school attendance alternatives for students residing within the district who choose to not attend the charter school.
13. A description of the rights of any district employee upon leaving district employment to work in the charter school and of any rights of return to the district after employment at the charter school.
14. The procedures to be followed by the charter school and the Board to resolve disputes relating to charter provisions.

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

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

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

16. Consistent with 5 CCR 11962, the procedures to be used if the charter school closes, including, but not limited to:
 - a. Designation of a responsible entity to conduct closure-related activities
 - b. Notification to parents/guardians, the Board, the county office of education, the special education local plan area in which the charter school participates, the retirement systems in which the school's employees participate, and the California Department of Education, providing at least the following information:

- (1) The effective date of the closure

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CHARTER SCHOOL AUTHORIZATION (continued)

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

Note: Education Code 47605 requires that petitioners provide to the ~~Governing~~ Board the information listed in items #1-4 below. **As amended by AB 1505 and AB 1595, Education Code 47605 adds item #5 below as a requirement for any petition to operate a charter school by or as a nonprofit public benefit corporation.**

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CHARTER SCHOOL AUTHORIZATION (continued)

The Board may require additional information **beyond what is included in items #1-5**. As outlined in CSBA's publication Charter Schools: A Guide for Governance Teams, some districts request a school calendar, information regarding transportation arrangements, staff development plans, assurances that the school will provide appropriate services for English language learners and students with disabilities, or any other information that will assist the Board in understanding the proposal. Districts that wish to require additional information in the charter may list those items below.

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

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

1. The facilities to be used by the charter school, including where the school intends to locate
(cf. 7160 - Charter School Facilities)
2. The manner in which administrative services of the charter school are to be provided
3. Potential civil liability effects, if any, upon the charter school and district
4. Financial statements that include a proposed first-year operational budget, including start-up costs and cash-flow and financial projections for the first three years of operation
5. **If the charter school is to be operated by or as a nonprofit public benefit corporation, the names and relevant qualifications of all persons whom the petitioner nominates to serve on the governing body of the charter school**

Location of Charter School

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

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

CHARTER SCHOOL AUTHORIZATION (continued)

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

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

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

Note: Pursuant to Education Code 47605.1, as amended by AB 1507 (Ch. 487, Statutes of 2019), a resource center, meeting space, or other satellite facility used by a charter school for nonclassroom-based independent study must, with specified exceptions, be located within district boundaries.

A charter school may establish ~~and locate~~ a resource center, meeting space, or other satellite facility ~~in an adjacent county~~ **within the jurisdiction of the school district where the charter school is physically located** if both of the following conditions are met: (Education Code 47605.1)

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

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CSBA Sample Board Policy

Philosophy, Goals, Objectives, and Comprehensive Plans

BP 0420.41(a)

CHARTER SCHOOL OVERSIGHT

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

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

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

(cf. 0420.4 - Charter School Authorization)

(cf. 0500 - Accountability)

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

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

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

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

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CHARTER SCHOOL OVERSIGHT (continued)

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

Waivers

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

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

(cf. 1431 - Waivers)

Provision of District Services

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

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

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

At the request of a charter school, the Superintendent or designee shall create and submit any reports required by the State Teachers' Retirement System or Public Employees' Retirement System on behalf of the charter school. The district may charge the charter school for the

CHARTER SCHOOL OVERSIGHT (continued)

actual costs of the reporting services, but shall not require the charter school to purchase payroll processing services from the district as a condition for creating and submitting these reports. (Education Code 47611.3)

Material Revisions to Charter

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

Note: As amended by AB 1505 (Ch. 486, Statutes of 2019) and AB 1595 (Ch. 543, Statutes of 2019), Education Code 47605 requires a charter school to request a material revision to its charter whenever it proposes to expand operations at one or more grade levels.

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

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

Monitoring Charter School Performance

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

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

Note: Education Code 47605 requires that measurable student outcomes for "all groups of students served by the charter school" be included in the school's charter petition and that these outcomes be aligned with the state priorities for the local control and accountability plan (LCAP) as stated in Education Code 52060;

CHARTER SCHOOL OVERSIGHT (continued)

see AR 0420.4 - Charter School Authorization. Pursuant to Education Code 47607, "all groups of students served by the charter school" means all numerically significant subgroups of students served by the charter school, as defined in Education Code 52052. Pursuant to Education Code 52052, numerically significant subgroups include ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students, when the subgroup consists of at least 30 students (or 15 foster youth or homeless students).

Education Code 47605 requires that the charter petition include methods for measuring the charter school's progress toward achieving student outcomes. Although the measures of the school's progress may vary,

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

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

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

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

CHARTER SCHOOL OVERSIGHT (continued)

The district may charge up to one percent of a charter school's revenue for the actual costs of supervisory oversight of the school. However, if the **district-charter school** is able to **provide-obtain** substantially rent-free facilities **to the charter school from the district**, the district may charge up to three percent of the charter school's revenue for actual costs of supervisory oversight or, if the facility is provided under Education Code 47614, the pro-rata share facilities costs calculated pursuant to 5 CCR 11969.7. If the district charges the pro-rata share, it may also charge one percent of the charter school's revenue in oversight fees. **If the district is given responsibility for supervisory oversight of a charter school that was authorized by SBE on appeal, the district is not limited to these percentages and may charge for the actual costs of supervisory oversight and for the administrative costs necessary to secure charter school funding.** (Education Code 47613)

(cf. 7160 - Charter School Facilities)

Technical Assistance/Intervention

Note: Education Code 47607.3, as amended by AB 1505, establishes criteria for the provision of technical assistance to charter schools beginning with the 2020-2021 school year, including, but not limited to, the option to request assistance from the California Collaborative for Educational Excellence (CCEE). If, after providing technical assistance, the CCEE informs the Board that the charter school has failed or is unable to implement the CCEE's recommendations or continues to have persistent or acute inadequate performance, then the Board must consider revocation of the charter; see BP 0420.43 - Charter School Revocation.

Whenever a charter school is identified for technical assistance based on the performance of one or more numerically significant student subgroups on SBE-established criteria, the charter school shall receive technical assistance from the County Superintendent of Schools. Such technical assistance shall be focused on building the charter school's capacity to develop and implement actions and services responsive to student and community needs, including, but not limited to, any of the following: (Education Code 45607.3)

- 1. Assisting the charter school to identify its strengths and weaknesses in regard to the state priorities applicable to the charter school pursuant to Education Code 47605. This shall include working collaboratively with the charter school to review performance data on the state and local indicators included in the California School Dashboard and other relevant local data and to identify effective, evidence-based programs or practices that address any areas of weakness.**

CHARTER SCHOOL OVERSIGHT (continued)

2. Working collaboratively with the charter school to secure assistance from an academic, programmatic, or fiscal expert or team of experts to identify and implement effective programs and practices that are designed to improve performance in any areas of weakness identified by the charter school. Another service provider, including, but not limited to, a school district, county office of education, or charter school, may be solicited to act as a partner to the charter school in need of technical assistance.
3. Obtaining from the charter school timely documentation demonstrating that it has completed the activities described in items #1 and 2 or substantially similar activities, or has selected another service provider to work with the charter school to complete the activities described in items #1 and 2 or substantially similar activities, and ongoing communication with the Board to assess the charter school's progress in improving student outcomes.

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

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

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

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

CHARTER SCHOOL OVERSIGHT (continued)

(cf. 0420.42 - Charter School Renewal)

(cf. 0420.43 - Charter School Revocation)

Complaints

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

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

(cf. 1312.3 - Uniform Complaint Procedures)

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

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

School Closure

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

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

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

CHARTER SCHOOL OVERSIGHT (continued)

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

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

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

Legal Reference: (see next page)

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CHARTER SCHOOL OVERSIGHT (continued)

Legal Reference:

EDUCATION CODE

215 *Suicide prevention policy*

215.5 *Suicide prevention hotline contact information on sStudent identification cards, inclusion of safety hotlines*

220 *Nondiscrimination*

221.61 *Posting of Title IX information on web site*

221.9 *Sex equity in competitive athletics*

222 *Lactation accommodations for students*

222.5 *Pregnant and parenting students, notification of rights*

231.5-231.6 *Sexual harassment policy*

234.4 *Mandated policy on bullying prevention*

234.6 *Bullying and harassment prevention information*

234.7 *Student protections relating to immigration and citizenship status*

17070.10-17079.30 *Leroy F. Greene School Facilities Act*

17280-17317 *Field Act*

17365-17374 *Field Act, fitness for occupancy*

32282 *Comprehensive safety plan*

32283.5 *Online training on bullying prevention*

33479-33479.9 *The Eric Parades Sudden Cardiac Arrest Prevention Act*

35179.4-35179.6 *Interscholastic athletic programs, safety*

35183.1 *Graduation ceremonies; tribal regalia or recognized object of religious/cultural significance*

35330 *Field trips and excursions; student fees*

38080-38086 *School meals*

39831.3 *Transportation safety plan*

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

41024 *Report of expenditure of state facility funds*

42100 *Annual statement of receipts and expenditures*

44030.5 *Reporting change in employment status due to alleged misconduct*

44237 *Criminal record summary*

44691 *Information on detection of child abuse*

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

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

45125.1 *Fingerprinting; employees of contracting entity*

46015 *Accommodations for pregnant and parenting students; parental leave*

47600-47616.7 *Charter Schools Act of 1992*

47634.2 *Nonclassroom-based instruction*

47640-47647 *Special education funding for charter schools*

47651 *Apportionment of funds, charter schools*

Legal Reference continued: (see next page)

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CHARTER SCHOOL OVERSIGHT (continued)

Legal Reference: (continued)

EDUCATION CODE (continued)

- 48000 *Minimum age of admission for kindergarten; transitional kindergarten*
- 48010-48011 *Minimum age of admission (first grade)*
- 48206.3-48208 *Students with temporary disabilities; individual instruction*
- 48850-48859 *Educational placement of foster youth and homeless students*
- 48901.1 *Suspension and expulsion, willful defiance***
- 48907 *Students' exercise of free expression; rules and regulations*
- 48913.5 *Suspended students, homework assignments***
- 48950 *Student speech and other communication*
- 48985 *Parental notification,*
- 49005-49006.4 *Seclusion and restraint*
- 49011 *Student fees*
- 49014 *Public School Fair Debt Collection Act*
- 49061 *Student records*
- 49062.5 *Student records, name or gender changes***
- 49070 *Challenging student records***
- 49073.2 *Privacy of student and parent/guardian personal information*
- 49076.7 *Student records; data privacy; Social Security numbers*
- 49110 *Authority to issue work permits*
- 49381 *Human trafficking prevention*
- 49414 *Epinephrine auto-injectors*
- 49414.3 *Administration of opioid antagonist*
- 49428 *Notification of mental health services*
- 49430-49434 *The Pupil Nutrition, Health, and Achievement Act of 2001, especially:*
- 49431.9 *Advertisement of non-nutritious foods*
- 49475 *Health and safety, concussions and head injuries*
- 49557.5 *Child Hunger Prevention and Fair Treatment Act of 2017*
- 49564 *Meals for needy students*
- 51224.7 *Mathematics placement policy*
- 51225.1-51225.2 *Exemption from local graduation requirements; acceptance of coursework*
- 51225.6 *Instruction in cardiopulmonary resuscitation*
- 51513 *Diploma of graduation, without passage of high school exit examination*
- 51745-51749.6 *Independent study*
- 51930-51939 *California Healthy Youth Act*
- 52052 *Accountability; numerically significant student subgroups*
- 52060-52077 *Local control and accountability plans*
- 52075 *Uniform complaint procedures*

Legal Reference continued: (see next page)

CHARTER SCHOOL OVERSIGHT (continued)

Legal Reference: (continued)

EDUCATION CODE (continued)

56026 *Special education*

56040.3 *Availability of assistive technology devices*

56145-56146 *Special education services in charter schools*

56365-56366.12 *Nonpublic, nonsectarian schools*

60600-60649 *Assessment of academic achievement*

64000 *Categorical programs included in consolidated application*

64001 *School plan for student achievement, consolidated application programs*

65000-65001 *School site councils*

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

CORPORATIONS CODE

5110-6910 *Nonprofit public benefit corporations*

GOVERNMENT CODE

1090-1099 *Prohibitions applicable to specified officers*

3540-3549.3 *Educational Employment Relations Act*

6250-6270 *California Public Records Act*

54950-54963 *Ralph M. Brown Act*

81000-91014 *Political Reform Act of 1974*

HEALTH AND SAFETY CODE

104420 *Tobacco Use Prevention Education grant program*

104559 *Tobacco-free schools*

LABOR CODE

1198.5 *Personnel records related to performance and grievance*

PENAL CODE

667.5 *Definition of violent felony*

1192.7 *Definition of serious felony*

VEHICLE CODE

28160 *Child safety alert system*

CALIFORNIA CONSTITUTION

Article 9, Section 5 *Common school system*

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

CODE OF REGULATIONS, TITLE 5

4600-~~4687~~ 4670 *Uniform complaint procedures*

11700.1-11705 *Independent study*

11960-11969 *Charter schools*

CODE OF REGULATIONS, TITLE 24

101 et seq. *California Building Standards Code*

Legal Reference continued: (see next page)

CHARTER SCHOOL OVERSIGHT (continued)

Legal Reference: (continued)

UNITED STATES CODE, TITLE 20

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

6311 State plan

7221-7221j Charter schools

UNITED STATES CODE, TITLE 42

11431-11435 McKinney-Vento Homeless Assistance Act

CODE OF FEDERAL REGULATIONS, TITLE 34

200.1-200.78 Accountability

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

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

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

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

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

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

(10/16 3/19) 3/20

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CSBA Sample Exhibit

Philosophy, Goals, Objectives, and Comprehensive Plans

E 0420.41(a)

CHARTER SCHOOL OVERSIGHT

REQUIREMENTS FOR CHARTER SCHOOLS

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

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

Governance

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

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

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CHARTER SCHOOL OVERSIGHT (continued)

enrolled in the charter school reside. In addition, a two-way teleconference location shall be established at the school site and/or resource center, as applicable. (Education Code 47604.1)

Operations

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

Admission/Enrollment

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

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

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

7. Serve students with disabilities in the same manner as such students are served in other district schools (Education Code 47646, 56145)
8. Admit all students who wish to attend the charter school, according to the following criteria and procedures:

CHARTER SCHOOL OVERSIGHT (continued)

- a. Admission to the charter school shall not be determined according to the student's or parent/guardian's place of residence within the state, except that any existing public school converting partially or entirely to a charter school shall adopt and maintain a policy giving admission preference to students who reside within that school's former attendance area. (Education Code 47605)

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

- b. If the number of students who wish to attend the charter school exceeds the school's capacity, attendance shall be determined by a public random drawing, with preference extended to students currently attending the charter school and students who reside in the district, except as provided for in Education Code 47614.5. (Education Code 47605)
- c. Other admission preferences may be permitted by the Board of the district on an individual school basis consistent with law. (Education Code 47605)

9. Not discourage a student from enrolling or seeking to enroll in the charter school, nor encourage a current student from disenrolling, for any reason, including, but not limited to, the student's academic performance, nationality, race, ethnicity, or sexual orientation or because the student is a student with disabilities, academically low achieving, an English learner, neglected or delinquent, homeless, economically disadvantaged, or a foster youth. The charter school shall not request or require a student's records to be submitted before enrollment. The charter school shall post on its web site the California Department of Education's (CDE) notice of these requirements and shall provide the notice to parents/guardians or students age 18 and older when the parent/guardian or student inquires about enrollment, before conducting an enrollment lottery, and before disenrollment of a student. (Education Code 47605)

9-10. Immediately enroll a homeless student, except where such enrollment would conflict with Education Code 47605(d) (Education Code 48850; 42 USC 11431-11435)

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CHARTER SCHOOL OVERSIGHT (continued)

- 10.11.** Comply with the requirements of Education Code 48850-48859 regarding the enrollment and placement of foster youth (Education Code 48853.5, 48859)
- 11.12.** Allow a student who is enrolled in the charter school but receiving individual instruction at home or a hospital due to a temporary disability to return to the charter school when well enough to do so, provided the student returns during the school year in which the individual instruction was initiated (Education Code 48207.3)

Nondiscrimination

- 12.13.** Not discriminate against any student on the basis of the characteristics listed in Education Code 220 (Education Code 47605)
- 13.14.** Adopt policy that is consistent with the model policy developed by the California Attorney General addressing the charter school's response to immigration enforcement, notify parents/guardians of their children's right to a free public education regardless of immigration status or religious beliefs, prohibit the collection of information or documents regarding the immigration status of students or their family members, and fulfill other requirements of Education Code 234.7
- 14.15.** Post specified information related to the prohibition against discrimination under Title IX of the Education Amendments of 1972 in a prominent and conspicuous location on the school web site or on the web site of the charter operator (Education Code 221.61)
- 15.16.** If the charter school offers competitive athletics, annually post on the school's web site or on the web site of the charter operator the total enrollment of the school classified by gender, the number of students who participate in competitive athletics classified by gender, and the number of boys' and girls' teams classified by sport and by competition level (Education Code 221.9)
- 16.17.** Provide specified accommodations to pregnant and parenting students, including, but not limited to, the provision of parental leave and reasonable accommodations on campus to a lactating student to express breast milk, breastfeed an infant child, or address other needs related to breastfeeding. The charter school shall notify pregnant and parenting students and parents/guardians of the rights and options available to pregnant and parenting students. (Education Code 222, 222.5, 46015)

CHARTER SCHOOL OVERSIGHT (continued)

- 17-18.** If a direct-funded charter school, adopt and implement uniform complaint procedures to resolve complaints of unlawful discrimination or alleged violation of a state or federal law or regulation governing educational programs, in accordance with 5 CCR 4600-4670 (5 CCR 4600)

Tuition and Fees

- 18-19.** Not charge tuition (Education Code 47605)

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

- 19-20.** Not charge student fees for any activity that is an integral component of the educational program, except as authorized by those Education Code provisions that explicitly apply to charter schools
- 20-21.** Not bill, nor take any negative action against, a student or former student for a debt owed to the charter school. The school shall provide an itemized invoice for any amount owed by the parent/guardian on behalf of a student or former student before pursuing payment of the debt and shall provide a receipt to the parent/guardian for each payment made to the school. (Education Code 49014)

School Plans

- 21-22.** Adopt a local control and accountability plan (LCAP) and update the plan by July 1 each year, **after holding a public hearing, consulting in consultation** with specified stakeholders, and using the template adopted by the State Board of Education (SBE). **To the extent practicable, data shall be reported in a manner consistent with how information is reported on the California School Dashboard.** As part of the LCAP adoption and annual update to the LCAP, the governing body of the charter school shall separately adopt a local control funding formula budget overview for parents/guardians, based on the template developed by the SBE, **which includes specified information relating to the school's budget.** (Education Code 47604.33, 47606.5, 52064, 52064.1)

CHARTER SCHOOL OVERSIGHT (continued)

- 22-23.** If the charter school applies for federal and/or state categorical program funding through the state's consolidated application, establish a school site council to develop and annually review a school plan for student achievement, unless the school chooses to use its LCAP for this purpose (Education Code 64000-64001, 65000-65001)
- 23-24.** Develop a comprehensive safety plan in accordance with Education Code 32282 and review and update the plan by March 1 each year (Education Code 47605)
- 24-25.** Develop a transportation safety plan that includes procedures to ensure that a student is not left unattended on a school bus, student activity bus, youth bus, or child care motor vehicle and procedures for designating an adult chaperone, other than the driver, to accompany students on a school activity bus. In addition, ensure that each school bus, student activity bus, youth bus, or child care motor vehicle is equipped with a child safety alert system that requires the driver to either manually contact or scan the device, thereby prompting the driver to inspect the entirety of the interior of the vehicle before exiting, unless the student activity bus is exempted by law. (Education Code 39831.3; Vehicle Code 28160)

Curriculum and Instruction

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

- 25-26.** Offer at least the number of instructional minutes required by law for the grade levels provided by the charter school (Education Code 47612.5)
- 26-27.** If the charter school offers a kindergarten program, also offer a transitional kindergarten program to students whose fifth birthday is from September 2 through December 2 (Education Code 48000)
- 27-28.** If the charter school serves students in grade 9, adopt a fair, objective, and transparent mathematics placement policy with specified components (Education Code 51224.7)

CHARTER SCHOOL OVERSIGHT (continued)

- 28-29.** If the charter school serves students in any of grades 7-12, provide comprehensive sexual health education and human immunodeficiency virus (HIV) prevention education at least once in junior high or middle school and once in high school, **beginning in the 2019-2020 school year** (Education Code 51931, 51934)
- 29-30.** If the charter school serves students in any of grades 6-12, identify and implement methods of informing parents/guardians of human trafficking prevention resources **by January 1, 2020** (Education Code 49381)

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

- 30-31.** If the charter school provides independent study, meet the requirements of Education Code 51745-51749.6, except that the school may be allowed to offer courses required for graduation solely through independent study as an exception to Education Code 51745(e) (Education Code 47612.5, 51747.3; 5 CCR 11705)
- 32.** **Accept and provide full or partial credit for coursework satisfactorily completed by a foster youth, homeless student, former juvenile court school student, child of a military family, migrant student, or a student participating in a newcomer program while attending another school** (Education Code 51225.2)
- 31-33.** Meet all statewide standards and conduct any statewide assessments applicable to noncharter public schools (Education Code 47605, 47612.5, 60605)

Special Education

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

CHARTER SCHOOL OVERSIGHT (continued)

35. If the charter school is an independent member of a special education local plan area and has a master contract with a nonpublic, nonsectarian school:

- a. Pay the full amount of the tuition or fees for students with disabilities enrolled in programs or services provided pursuant to that contract (Education Code 56365)**
- b. Conduct at least one onsite visit to the nonpublic, nonsectarian school prior to a student's placement and at least once each school year (Education Code 56366.1)**

High School Graduation

32.36. Exempt a foster youth, homeless student, former juvenile court school student, child of a military family, or migrant student who transfers between schools after the second year of high school, or a student participating in a newcomer program for newly immigrant students in grades 11-12, from any **of the charter school's** graduation requirements ~~established by the charter school~~ that exceed state requirements, unless the **charter** school determines that the student is reasonably able to complete the requirements by the end of the fourth year of high school (Education Code 51225.1, 51225.2)

33.37. Grant a high school diploma to any student who completed grade 12 in the 2003-04 through 2014-15 school year and met all applicable graduation requirements other than the passage of the high school exit examination (Education Code 51413)

Student Expression

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

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

CHARTER SCHOOL OVERSIGHT (continued)

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

Staffing

36.40. Require its teachers to hold a certificate, permit, or other document issued by the Commission on Teacher Credentialing (CTC) ~~equivalent to that which a teacher in other public schools would be required to hold~~ as required for the teacher's certificated assignment. Teachers employed by the charter school during the 2019-20 school year shall have until July 1, 2025 to obtain the required certificate required. (Education Code 47605, 47605.4)

37.41. Not hire any person who has been convicted of a violent or serious felony except as otherwise provided by law, and, if the charter school contracts with an entity for specified services, verify that any employee of that entity who will have contact with students has had a criminal background check (Education Code 44830.1, 45122.1, 45125.1)

38.42. Report to the CTC any change in a certificated employee's employment status (dismissal, nonreelection, resignation, suspension, unpaid administrative leave for more than 10 days, retirement, or other decision not to employ or reemploy) as a result of an allegation of misconduct or while an allegation of misconduct is pending (Education Code 44030.5)

39.43. If the charter school chooses to make the state teachers' retirement plan available to its employees, meet Meet the requirements of Education Code 47611 regarding the State Teachers' Retirement System (Education Code 47610)

40.44. Meet the requirements of Government Code 3540-3549.3 related to collective bargaining in public education employment (Education Code 47611.5)

Parent/Guardian Involvement

41.45. On a regular basis, consult with parents/guardians and teachers regarding the charter school's educational programs (Education Code 47605)

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CHARTER SCHOOL OVERSIGHT (continued)

42.46. Notify parents/guardians of applicant students and currently enrolled students that parental involvement is not a requirement for acceptance to, or continued enrollment at, the charter school (Education Code 47605)

47. **If 15 percent or more of the students at the charter school speak a single primary language other than English, provide all notices, reports, statements, or records sent to parents/guardians in English and in the primary language (Education Code 48985)**

Nutrition

43.48. ~~Beginning with the 2019-2020 school year, p~~ Provide each eligible student with one nutritionally adequate free or reduced-price meal during each school day, except as provided for a charter school that offers nonclassroom-based instruction (Education Code 47613.5)

44.49. If the charter school participates in the National School Lunch and/or Breakfast program, not promote any food or beverage during the school day that does not comply with state nutritional standards pursuant to Education Code 49430-49434, and not participate in a corporate incentive program that offers free or discounted non-nutritious foods or beverages as rewards for students who reach certain academic goals (Education Code 49431.9)

45.50. If the charter school participates in the National School Lunch and/or Breakfast program, notify parents/guardians within 10 days of their child's meal account reaching a negative balance; **not take any action directed at a student to collect unpaid school meal fees;** ensure that a student with unpaid school meal fees is not **denied a meal of the student's choice,** shamed, or treated differently, ~~or served a meal that differs from other students;~~ and prohibit student discipline from resulting in the denial or delay of a nutritionally adequate meal (Education Code 49557.5)

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

Student Health

47.52. ~~If the charter school serves students in grades 7-12, a~~ Adopt a policy on suicide prevention, intervention, and postvention **for grades 7-12, and an age-appropriate**

CHARTER SCHOOL OVERSIGHT (continued)

- policy for grades K-6, and with specified components**, review the policy at least every five years, **and, if the school issues student identification cards, print the telephone number of the National Suicide Prevention Lifeline on those cards** (Education Code 215, ~~215.5~~)
- 53. If the charter school serves grades 7-12 and issues student identification cards, print the telephone numbers of the National Suicide Prevention Lifeline and the National Domestic Violence Hotline on the identification cards (Education Code 215.5)**
- 48.54.** Notify students and parents/guardians at least twice during the school year on how to initiate access to available student mental health services on campus or in the community (Education Code 49428)
- 49.55.** Provide annual training on child abuse and neglect reporting requirements to employees and persons working on the charter school's behalf who are mandated reporters, within the first six weeks of each school year or within six weeks of employment (Education Code 44691)
- 50.56.** If the charter school offers an athletic program, annually provide information sheets about concussions/head injuries and sudden cardiac arrest to athletes and their parents/guardians, which must be signed and returned to the school before the athlete initiates practice or competition. In the event that an athlete is suspected of sustaining a concussion or head injury, passes out, or faints during or immediately after participation in an athletic activity, the student shall be immediately removed from the activity for the remainder of the day and shall not be permitted to return to the activity until the student is evaluated by a licensed health care provider and receives written clearance to do so. (Education Code 33479-33479.5, 49475)
- 51.57.** If the charter school offers an interscholastic athletic program, develop and post a written emergency action plan that describes procedures to be followed in the event of sudden cardiac arrest and other medical emergencies, acquire at least one automated external defibrillator (AED) for the school, and make the AED available at on-campus athletic activities or events (Education Code 35179.4, 35179.6)
- 52.58.** Provide school nurses or other voluntary, trained personnel with emergency epinephrine auto-injectors of the type required pursuant to Education Code 49414 (Education Code 49414)

CHARTER SCHOOL OVERSIGHT (continued)

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

Student Conduct/Discipline

54.60. Adopt a policy on bullying and cyberbullying prevention **by December 31, 2019, post specified information on bullying and harassment prevention**, and annually make CDE's online training module on bullying prevention available to school site certificated employees and other employees who have regular interaction with students (Education Code 234.4, **234.6**, 32283.5)

61. **Adopt and display a written policy on sexual harassment, include the policy as part of any orientation for new and continuing students, and post a poster notifying students of the policy (Education Code 231.5, 231.6)**

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

63. **Neither recommend for expulsion a student in grades K-12 nor suspend a student in grades K-8 for disrupting school activities or otherwise willfully defying the authority of school personnel in the performance of their duties (Education Code 48901.1)**

64. **Upon request, provide a student who is suspended for two or more days with the homework assigned during the period of suspension (Education Code 48913.5)**

Student and Parent/Guardian Records

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

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

CHARTER SCHOOL OVERSIGHT (continued)

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

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

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

Facilities

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

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

Finance

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

CHARTER SCHOOL OVERSIGHT (continued)

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

63.73. Identify and report to the SPI any portion of the charter school's average daily attendance that is generated through nonclassroom-based instruction, including, but not limited to, independent study, home study, work study, and distance and computer-based education (Education Code 47612.5, 47634.2; 5 CCR 11963.2)

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

- a. By July 1, a preliminary budget for the current fiscal year. For a charter school in its first year of operation, financial statements submitted with the charter petition pursuant to Education Code 47605(g) will satisfy this requirement. (Education Code 47604.33)
- b. By December 15, an interim financial report for the current fiscal year reflecting changes through October 31. (Education Code 47604.33)
- c. By March 15, a second interim financial report for the current fiscal year reflecting changes through January 31. (Education Code 47604.33)
- d. By September 15, a final unaudited report for the full prior year. The report submitted to the Board shall include an annual statement of all the charter school's receipts and expenditures for the preceding fiscal year. (Education Code 42100, 47604.33)
- e. By December 15, a copy of the charter school's annual, independent financial audit report for the preceding fiscal year, unless the charter school's audit is encompassed in the district's audit. The audit report shall also be submitted to the State Controller and CDE. (Education Code 47605)

65.75. If the charter school receives state facilities funding pursuant to the Leroy F. Greene School Facilities Act (Education Code 17070.10-17079.30), annually report a detailed list of all expenditures of state funds and of the school's matching funds for completed projects, and submit an audit of completed facilities projects within one year of project completion (Education Code 41024)

CHARTER SCHOOL OVERSIGHT (continued)

Accountability

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

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CSBA Sample Board Policy

Philosophy, Goals, Objectives, and Comprehensive Plans

BP 0420.42(a)

CHARTER SCHOOL RENEWAL

Note: The following policy is **optional**. When the term of a charter granted by the Governing Board pursuant to Education Code 47605 (see BP/AR 0420.4 - Charter School Authorization) is due to expire, the charter school must submit a petition for renewal to the Board in accordance with Education Code 47607, as amended by AB 1505 (Ch. 486, Statutes of 2019), and Education Code 47607.2, as added by AB 1505 and 5 CCR 11966.4.

For a charter that was granted by the State Board of Education (SBE) on appeal after being denied by the district, the renewal petition must first be submitted to the district board that denied the charter, pursuant to Education Code 47605. A petition for the renewal of a charter that was originally granted by the County Board of Education on appeal after being denied by the district must be submitted directly to the County Board as the chartering authority pursuant to 5 CCR 11966.5.

The Governing Board believes that the ongoing operation of a charter school should be dependent on the school's effectiveness in achieving its mission and goals for student learning and other student outcomes. Whenever a charter school submits a petition for renewal of its charter, the Board shall review the petition thoroughly and in a timely manner. The Board shall consider renewal petitions only of charters originally authorized by the Board itself or by the State Board of Education on appeal after initial denial by the Board.

(cf. 0420.4 - Charter School Authorization)

(cf. 0420.41 - Charter School Oversight)

(cf. 0420.43 - Charter School Revocation)

(cf. 0500 - Accountability)

Note: Education Code 47604, as amended by AB 406 (Ch. 291, Statutes of 2018), prohibits a charter school from being operated by a for-profit corporation or organization effective July 1, 2019. Any charter school that submits a renewal petition on or after that date must demonstrate that it has nonprofit management or it cannot be renewed.

~~No charter school that submits a~~ **The Board shall deny the renewal petition on or after July 1, 2019 shall be of any charter school** operated as; or be operated by; a for-profit corporation, a for-profit educational management organization, or a for-profit charter management organization. (Education Code 47604)

When a charter school, concurrently with its renewal petition, proposes to expand operations to one or more additional sites or grade levels, the charter school shall request a material revision to its charter. The material revision may be made only with the approval of the Board and in accordance with the standards and criteria in Education Code 47605 for material revisions. (Education Code 47607)

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CHARTER SCHOOL RENEWAL (continued)

Note: The following optional paragraph may be revised to reflect district timelines for the submission of charter renewal petitions. ~~Although 5 CCR 11966.4 Education Code 47605, as amended by AB 1505 and AB 1595 (Ch. 543, Statutes of 2019), requires that the Board grant or deny the renewal petition within 60 90 days of receiving the petition; it (see section entitled "Timelines for Board Action" below). However, it is recommended that charter schools submit their petition sufficiently early (e.g., as much as six to nine months before the term of the charter is due to expire) so that, in . The timeline should take into consideration the date by which student achievement data needed for the petition will be available and the amount of time needed for the Board's deliberations and decision. In the event that the Board denies the renewal, the charter school may need time be able to appeal to the County Board and then to SBE and, if the school closes, to allow students of the charter school to transfer to another school.~~

The Board recommends that a charter school submit its petition for renewal to the Board sufficiently early before the expiration of the term of the charter to allow the Board's deliberations and decision on the renewal petition to be completed with minimal disruption to the charter school's educational program in the renewal year.

~~Each renewal granted by the Board shall be for a period of five years. (Education Code 47607)~~

~~The petition for renewal shall include a reasonably comprehensive description of how the charter school has met all new charter school requirements enacted into law after the charter was originally granted or last renewed. (Education Code 47607; 5 CCR 11966.4)~~

Criteria for Granting or Denying Renewal

Note: AB 1505 amended Education Code 47607 and added Education Code 47607.2 to revise the criteria for granting or denying charter renewals and to authorize different lengths of renewal for high-performing, middle-performing, and low-performing charter schools.

Pursuant to Education Code 47607, charter renewals are subject to the same standards and criteria as initial charter authorizations as specified in Education Code 47605, except that the Board may not deny the renewal of an existing charter school based on a finding that (1) the district has a negative or qualified interim certification and is not positioned to absorb the fiscal impact of the proposed charter school or (2) the charter school is unlikely to serve the interests of the entire community in which the school will be located (i.e., the school would substantially undermine or duplicate existing district services or programs). However, these two criteria may be used to deny a proposed expansion of an existing charter school.

Renewals shall be governed by the same standards and criteria that apply to new charter petitions as set forth in Education Code 47605. , ~~except that the signature requirement for new petitions is not applicable to petitions for renewal. However, a charter renewal shall not be denied based on the fiscal impact of the charter school on the district or a finding~~

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CHARTER SCHOOL RENEWAL (continued)

that the charter school is unlikely to serve the interests of the entire community in which the school is located, as described in Education Code 47605. (Education Code 47607; 5 CCR 11966.4)

The signature requirement for new charter authorization petitions is not applicable to petitions for renewal. (Education Code 47607)

The petition for renewal shall include a reasonably comprehensive description of how the charter school has met all new charter school requirements enacted into law after the charter was originally granted or last renewed. (Education Code 47607; 5 CCR 11966.4)

In determining whether to grant a charter renewal, the Board shall consider the past academic, financial, and operational performance of the charter school in evaluating the likelihood of future success, along with any plans for improvement. Increases in academic achievement for all numerically significant groups of students served by the charter school, as defined in Education Code 52052, shall be the most important factor. (Education Code 47607; 5 CCR 11966.4)

Note: Education Code 47607 and 5 CCR 11966.4 establish grounds for denial of charter renewals. See CSBA's publication *Charter Schools: A Guide for Governance Teams* for additional information about making the determinations specified in items #1-5 below.

The Board shall not deny a renewal petition unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the following grounds: (Education Code 47605, 47607; 5 CCR 11966.4)

- 1. The charter school presents an unsound educational program for the students enrolled in the school.**
- 2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.**
- 3. The petition does not contain an affirmation of each of the conditions described in Education Code 47605(d).**
- 4. The petition does not contain reasonably comprehensive descriptions of the charter provisions in Education Code 47605(b).**
- 5. The charter school has failed to demonstrate that it meets at least one of the following criteria of academic performance:**

CHARTER SCHOOL RENEWAL (continued)

Note: Although Education Code 47607 authorizes the use of the Academic Performance Index (API) to demonstrate academic performance for purposes of charter renewal, the API is no longer being calculated. Pursuant to Education Code 52052, as amended by AB 1808 (Ch. 32, Statutes of 2018), alternative measures that show increases in student achievement for all groups of students schoolwide and among numerically significant student subgroups may be used instead. For example, for purposes of meeting the academic criterion for charter renewal, charter schools may use indicators of student achievement and English learner progress available through the state's accountability system, the California School Dashboard.

- a. — Increases in academic achievement for all groups of students schoolwide and among numerically significant student subgroups, as determined using measures identified pursuant to Education Code 52052

Note: When making a determination based on item #5b, Education Code 47607 requires the district to submit copies of supporting documentation and a written summary of the basis for its determination to the Superintendent of Public Instruction (SPI), as provided below. The SPI will review the materials and make recommendations to the district. Those recommendations may be the basis for a revocation of the charter by the SBE.

- b. — Academic performance at least equal to the academic performance of the public schools that the charter school students would otherwise have been required to attend as well as the academic performance of district schools, taking into account the composition of the student population that is served at the charter school

Such performance shall be determined based on a review of documented clear and convincing data; student achievement data from assessments, including, but not limited to, state academic achievement tests, for demographically similar student populations in comparison schools; and information submitted by the charter school. The Board shall not grant a renewal until at least 30 days after the submission of any such documentation by the charter school. The Superintendent or designee shall submit to the Superintendent of Public Instruction copies of supporting documentation and a written summary of the basis for the Board's determination.

(*cf. 6162.51 – State Academic Achievement Tests*)

Note: Charter schools that serve high-risk students may qualify for the state's Dashboard Alternative School Status (DASS) program, which uses modified methods of measurement for accountability indicators when appropriate. Charter schools that participate in the DASS satisfy the academic criterion for charter renewal without being subject to the criteria listed above in item #5a or b.

- e. — Qualification for the state's alternative accountability system for schools that serve high-risk students

CHARTER SCHOOL RENEWAL (continued)

Note: Pursuant to Education Code 47607.2, the review of the charter school's performance must be based on "verified data," defined as data that are derived from nationally recognized, valid, peer-reviewed, and reliable sources that are externally produced and include measures of postsecondary outcomes. SBE is required to identify, by January 1, 2021, a list of valid and reliable assessments that must be used by the Board for this purpose. Until such a list is available, a charter school under consideration for renewal may present data consistent with the definition of "verified data."

In determining whether to grant a charter renewal, the Board shall review both schoolwide performance and the performance of numerically significant student subgroups on the state and local indicators included in the California School Dashboard, giving greater weight to performance on measurements of academic performance. If the Dashboard indicators are not yet available for the most recently completed academic year before renewal, the Board shall consider verifiable data provided by the charter school related to the Dashboard indicators, such as data from the California Assessment of Student Performance and Progress, or any successor system, for the most recent academic year. (Education Code 47607)

Following the Board's review, a renewal of the charter petition may be granted in accordance with a three-tiered system based on school performance, as follows:

1. Renewal of Five to Seven Years

A renewal shall be granted for a period of five to seven years to a charter school that is not eligible for technical assistance pursuant to Education Code 47607.3 and that, for two consecutive years immediately preceding the renewal, achieved either of the following: (Education Code 47607)

- a. Received the two highest performance levels schoolwide on all the state indicators included in the Dashboard for which the charter school receives performance levels**
- b. For all measurements of academic performance, received performance levels schoolwide that are the same or higher than the state average and, for a majority of numerically significant student subgroups performing statewide below the state average in each respective year, received performance levels that are higher than the state average**

2. Renewal of Five Years

CHARTER SCHOOL RENEWAL (continued)

- a. A renewal shall be granted for five years if clear and convincing evidence, demonstrated by verified data, shows either of the following: (Education Code 47607.2)**
 - (1) Measurable increases in academic achievement, as defined by at least one year's progress for each year in school**
 - (2) Strong postsecondary outcomes, as defined by college enrollment, persistence, and completion rates equal to similar peers**
- b. For any such charter school, the Board may deny the renewal petition upon making written factual findings that the charter school failed to meet or make sufficient progress toward meeting standards that provide a benefit to students at the school, that the closure of the charter school is in the best interest of students, and that the Board's decision provided greater weight to performance on measurements of academic performance. (Education Code 47607.2)**

3. Denial with Option for Two-Year Renewal

- a. The Board shall generally not renew a charter if, for two consecutive years immediately preceding the renewal decision, either of the following applies: (Education Code 47607.2)**
 - (1) The charter school has received the two lowest performance levels schoolwide on all the state indicators included in the Dashboard for which it receives performance levels.**
 - (2) For all measurements of academic performance, the charter school has received performance levels schoolwide that are the same or lower than the state average and, for a majority of numerically significant student subgroups performing statewide below the state average in each respective year, received performance levels that are lower than the state average.**
- b. However, the Board may grant a two-year renewal to any such charter school if the Board makes written factual findings, setting forth specific facts to support the findings, that:**

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CHARTER SCHOOL RENEWAL (continued)

- (1) The charter school is taking meaningful steps to address the underlying cause(s) of low performance, and those steps are reflected, or will be reflected, in a written plan adopted by the governing body of the charter school.**
- (2) There is clear and convincing evidence, demonstrated by verified data, showing achievement of the criteria specified in item #2a above**

In addition to all the grounds stated above for denial of a charter, the Board may deny renewal of a charter upon a finding that the school is demonstrably unlikely to successfully implement the program set forth in the petition due to substantial fiscal or governance factors or a finding that the school is not serving all students who wish to attend. When denying a charter renewal for either of these reasons, the Board shall provide the charter school at least 30 days' notice of the alleged violation and a reasonable opportunity to cure the violation, including the submission of a proposed corrective action plan. The renewal shall be denied if the Board finds either that the corrective action proposed by the charter school has been unsuccessful or that the violations are sufficiently severe and pervasive as to render a corrective action plan unviable. Any finding that a school is not serving all students who wish to attend shall specifically identify the evidence supporting the finding. (Education Code 47607)

Note: Charter schools that serve high-risk students may qualify for the state's Dashboard Alternative School Status (DASS) program, which uses modified methods of measurement for accountability indicators when appropriate. Charter schools that participate in the DASS are subject to the following criteria specified in Education Code 46607, as amended by AB 1505.

A charter school that is eligible for the state's Dashboard Alternative School Status shall not be subject to any of the above criteria. Instead, in determining whether to grant a charter renewal for such a charter school, the Board shall consider, in addition to the charter school's performance on the state and local indicators included in the Dashboard, the charter school's performance on alternative metrics applicable to the charter school based on the student population served. The Board shall meet with the charter school during the first year of the charter school's term to mutually agree to discuss alternative metrics to be considered and shall notify the charter school of the alternative metrics to be used within 30 days of this meeting. The Board may deny a charter renewal only upon making written findings, setting forth specific facts to support the findings, that the closure of the charter school is in the best interest of students. (Education Code 47607)

CHARTER SCHOOL RENEWAL (continued)**Timelines for Board Action**

Note: The following **optional** paragraph may be revised to reflect district practice. Pursuant to Education Code 47607, the Board must grant or deny the request for renewal within 60 days of receiving the renewal petition. Thus, the Board should establish a timeline for holding a public hearing that will provide sufficient time for the Board to consider public input before taking action on the request.

The Education Code does not specifically define when a petition is "received." However, because the Board conducts its business as an entity during public meetings, many education attorneys interpret the 30 days to begin when the petition is presented to the Board at the first Board meeting following the submission of the petition. Others consider the petition to be "received" when it is delivered to the district. Districts with questions regarding when the 30 days begin should consult legal counsel. State law does not expressly provide a timeline for a public hearing on the renewal petition or for the Board's final decision on the renewal. However, pursuant to Education Code 47607, renewals are generally subject to the same standards and criteria applicable to initial charter authorizations, as specified in Education Code 47605. As amended by AB 1505 and AB 1595, Education Code 47605 extends the timeline for the hearing for a charter petition from 30 to 60 days of the receipt of the petition. In addition, Education Code 47605 defines receipt of the petition as the date that the petitioner submits the petition to the district, and requires the Board to publish staff recommendations regarding the petition at least 15 days prior to the hearing at which the Board will grant or deny the petition. The following section reflects the timelines established for initial charter authorizations.

Within ~~30~~ **60** days of receiving the renewal petition, the Board shall hold a public hearing to review documentation submitted by the charter school and obtain public input. **A petition is deemed received on the day the petitioner submits a petition to the district office, along with a signed certification that the petitioner deems the petition to be complete. (Education Code 47605)**

~~Within 60 days of receiving the renewal petition, or within 90 days if extended by mutual written agreement of the Board and the charter school, the Board shall either grant or deny the request to renew the charter.~~ **charter renewal within 90 days of receiving the petition, or within 120 days with the consent of both the petitioner and the Board. (Education Code ~~47607~~ 47605; 5 CCR 11966.4)**

At least 15 days before the public hearing at which the Board will grant or deny the charter petition, the Board shall publish all staff recommendations and recommended findings regarding the petition. During the public hearing, petitioners shall have equal time and opportunity to present evidence and testimony to respond to the staff recommendations and findings. (Education Code 47605)

If the Board fails to make a written factual finding **when required for denial of the petition** pursuant to **items #1-5 in** the section "Criteria for Granting or Denying Renewal" above within the required time period, the absence of a written factual finding shall be deemed an approval of the renewal petition. (5 CCR 11966.4)

CHARTER SCHOOL RENEWAL (continued)

The Superintendent or designee shall provide notification to **the California Department of Education CDE**, within 10 calendar days of the Board's action, whenever a renewal of the charter is granted or denied. (Education Code 47604.32; 5 CCR 11962.1)

If the Board denies a renewal petition, the charter school may submit its application for renewal to the County Board **of Education** within 30 days of the Board's written factual findings supporting the denial. (Education Code 47605, 47607.5)

Note: Pursuant to Education Code 47604.32, if a charter school ceases operation for any reason, including denial of its renewal, the district must notify the California Department of Education; see BP 0420.41 – Charter School Oversight. In addition, the district and/or charter school must implement the school closure procedures specified in the charter in accordance with Education Code 47605 and 5 CCR 11962; see AR 0420.4 – Charter School Authorization.

School Closure

If a charter is not renewed and the charter school ceases operation, the Board and/or the charter school shall implement the school closure procedures specified in the charter in accordance with Education Code 47605 and 5 CCR 11962. (Education Code 47603.32)

Legal Reference: (see next page)

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CHARTER SCHOOL RENEWAL (continued)

Legal Reference:

EDUCATION CODE

47600-47616.7 *Charter Schools Act of 1992*

52052 *Definition of numerically significant student subgroup*

56145-56146 *Special education services in charter schools*

60600-60649 *Assessment of academic achievement*

CODE OF REGULATIONS, TITLE 5

11960-11969 *Charter schools*

UNITED STATES CODE, TITLE 20

7223-7225 *Charter schools*

Management Resources:

CSBA PUBLICATIONS

The Role of the Charter School Authorizer, Online Course

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

WEB SITES

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

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

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

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

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

Philosophy, Goals, Objectives, and Comprehensive Plans

BP 0420.43(a)

CHARTER SCHOOL REVOCATION

Note: The following policy is **optional**. Education Code 47607 and 5 CCR 11968.5.2-11968.5.3 **authorize allow** the Governing Board to revoke ~~the charter of a charter school in its jurisdiction~~ **any charter it has authorized**, when certain substantiated findings are made. In Today's Fresh Start, Inc. v. Los Angeles County Office of Education, the California Supreme Court confirmed that the revocation process prescribed in the Education Code provides a charter school with sufficient due process and that a charter school is not entitled to any additional evidentiary hearing by a neutral third party.

In addition, Education Code 47604.5 authorizes the State Board of Education (SBE), upon the recommendation of the Superintendent of Public Instruction (SPI), to revoke the charter of any charter school, whether or not ~~the~~ SBE is the chartering authority, if it makes certain findings relating to gross financial mismanagement, illegal or improper use of funds, substantial and sustained departure from measurably successful practices that may jeopardize the educational development of students, or, ~~as amended by AB 97 (Ch. 47, Statutes of 2013)~~, failure to improve student outcomes across multiple state and school priorities identified in the charter pursuant to Education Code 47605 ~~or 47605.6~~. SBE revocation procedures are specified in 5 CCR 11968.5.1.

The Governing Board expects any charter school it authorizes to provide a sound educational program that promotes student learning and to carry out its operations in a manner that complies with law and the terms of its charter. **The Board may revoke a charter in accordance with law.**

(cf. 0420.4 - Charter School Authorization)

(cf. 0420.41 - Charter School Oversight)

(cf. 0420.42 - Charter School Renewal)

(cf. 0500 - Accountability)

~~The procedures specified above shall not be applicable when~~ **When** the Board determines, in writing, that any violation under Education Code 47607 constitutes a severe and imminent threat to the health or safety of students, ~~In such circumstances,~~ the Board may immediately revoke the school's charter. **When such a determination is made, the Board shall approve and deliver by approving and delivering to the charter school's governing body, the County Board of Education, and the California Department of Education (CDE) a Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety to the charter school's governing body, the County Board, and the CDE.** (Education Code 47607; 5 CCR 11968.5.3)

In all other circumstances, the Board may revoke a charter after providing due process and using the procedures described below. The Board may revoke a charter ~~before the date it is due to expire~~ **whenever the Board if it makes a written factual finding, specific to that charter school and supported by substantial evidence,** that the charter school has done any of the following: (Education Code 47607)

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CHARTER SCHOOL REVOCATION (continued)

1. Committed a material violation of any of the conditions, standards, or procedures set forth in the charter
2. Failed to meet or pursue any of the student outcomes identified in the charter
3. Failed to meet generally accepted accounting principles or engaged in fiscal mismanagement
4. Violated any provision of law

Note: Education Code 47607.3, as added by AB 97 (Ch. 47, Statutes of 2013), provides additional criteria for considering revocation of a charter, as described below. Pursuant to Education Code 47607.3, if, in three out of four consecutive years, a charter school fails to improve outcomes for three or more numerically significant student subgroups served by the school, or for all of the student subgroups if the school has fewer than three, in regard to one or more state or school priorities identified in the charter, then the district (1) must provide technical assistance to the school using an evaluation rubric adopted by the SBE pursuant to Education Code 52064.5, or (2) may request that the SPI assign the California Collaborative for Educational Excellence (CCEE) to provide advice and assistance to the school; see BP 0420.41 – Charter School Oversight. Education Code 47607.3, as amended by AB 1505 (Ch. 486, Statutes of 2019), establishes criteria for the provision of technical assistance to charter schools, including, but not limited to, the option to request that the SPI assign the California Collaborative for Educational Excellence (CCEE) to provide advice and assistance to the school. If CCEE informs the Board that the charter school has failed or is unable to implement CCEE's recommendations or continues to have persistent or acute inadequate performance, then the Board must consider revocation of the charter.

The Board shall also consider ~~revocation of a charter whenever~~ **revoking the charter of any charter school for which** the California Collaborative for Educational Excellence (CCEE), **after providing has provided** advice and assistance to the charter school pursuant to Education Code 47607.3, **submits to the Board if CCEE has issued** either of the following findings: (Education Code 47607.3)

1. That the charter school has failed or is unable to implement the recommendations of the CCEE
2. That the inadequate performance of the charter school, as based on **an evaluation rubric adopted by the State Board of Education (SBE) the California School Dashboard**, is so persistent or acute as to require revocation of the charter

In determining whether to revoke a charter, the Board shall consider increases in student academic achievement for all **"numerically significant"** groups of students served by the charter school, as defined in Education Code 52052, **as the most important factor.** (Education Code 47607, 47607.3)

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CHARTER SCHOOL REVOCATION (continued)

Revocation Procedures

At least 72 hours prior to any Board meeting at which the Board will consider issuing a Notice of Violation, the Board shall provide the charter school with notice and all relevant documents related to the proposed action. (5 CCR 11968.5.2)

(cf. 9320 - Meetings and Notices)

If the Board takes action to issue a Notice of Violation is considering a revocation of a charter school, it shall take action to approve and, it shall deliver the a Notice of Violation to the charter school's governing body. The Notice of Violation shall identify: (Education Code 47607; 5 CCR 11965, 11968.5.2)

1. The charter school's alleged violation(s).
2. All evidence relied upon by the Board in determining that the charter school committed the alleged violation(s), including the date and duration of the alleged violation(s). The Notice shall show that each alleged violation is both material and uncured and that it occurred within a reasonable period of time before the Notice of Violation is issued.
3. The period of time that the Board has concluded is a reasonable period of time for the charter school to remedy or refute the identified violation(s). In identifying this time period, the Board shall consider the amount of time reasonably necessary to remedy each identified violation, which may include the charter school's estimation as to the anticipated remediation time.

At least 72 hours prior to any Board meeting at which the Board will consider issuing a Notice of Violation, the Board shall provide the charter school with notice and all relevant documents related to the proposed action. (5 CCR 11968.5.2)

(cf. 9320 - Meetings and Notices)

By the end of the remedy period identified in the Notice of Violation, the charter school's governing body may submit to the Board a detailed written response and supporting evidence addressing each identified violation, including, as applicable, a the refutation, remedial action taken, or proposed remedial action. (5 CCR 11968.5.2)

CHARTER SCHOOL REVOCATION (continued)

Within 60 calendar days of At the conclusion of the remedy period specified in the Notice of Violation, the Board shall evaluate any response and supporting evidence provided by the charter school's governing body and shall take one of the following actions: (5 CCR 11968.5.2)

1. Discontinue revocation of the charter and provide timely written notice of such action to the charter school's governing body

Note: Pursuant to Education Code 47607 and 5 CCR 11968.5.2, a decision to issue a Notice of Intent to Revoke as provided in item #2 below must be supported by substantial evidence that the charter school has failed to remedy or refute a violation. "Substantial evidence" is not defined in law or state regulations. When issuing a Notice of Intent to Revoke, it is a best practice for the Board to identify all of the evidence relied upon in determining that the charter school failed to remedy a violation. The district should consult legal counsel as necessary.

2. If there is substantial evidence that the charter school has failed to remedy a violation identified in the Notice of Violation or to refute a violation to the Board's satisfaction, eContinue revocation of the charter, by issuing a Notice of Intent to Revoke to the charter school's governing body within 60 calendar days of the conclusion of the remedy period, if there is substantial evidence that the charter school has failed to remedy a violation identified in the Notice of Violation or to refute a violation to the Board's satisfaction. All evidence relied upon by the Board for the decision shall be included in the Notice of Intent to Revoke.

If the Board issues a Notice of Intent to Revoke, it shall hold a public hearing concerning the revocation on the date specified in the notice, which shall be no later than 30 days after providing the notice. Within 30 calendar days after the public hearing, or within 60 calendar days if extended by written mutual agreement of the Board and the charter school, the Board shall issue a final decision to revoke or decline to revoke on the revocation of the charter. (Education Code 47607; 5 CCR 11968.5.2)

If the Board fails to meet the timelines specified above for issuing a Notice of Intent to Revoke or a final decision, the revocation process shall be deemed terminated. (5 CCR 11968.5.2)

Within 10 calendar days of the Board's final decision, the Superintendent or designee shall provide a copy of the final decision to the California Department of Education (CDE) and the County Board of Education. (Education Code 47604.32; 5 CCR 11968.5.2)

CHARTER SCHOOL REVOCATION (continued)

Note: Pursuant to Education Code 47604.32, if a charter school ceases operation for any reason, including revocation, the district must notify the California Department of Education; see BP 0420.41—Charter School Oversight. In addition, the district and/or charter school must implement the school closure procedures specified in the charter in accordance with Education Code 47605 and 5 CCR 11962; see AR 0420.4—Charter School Authorization.

Severe and Imminent Threat

The procedures specified above shall not be applicable when the Board determines, in writing, that any violation under Education Code 47607 constitutes a severe and imminent threat to the health or safety of students. In such circumstances, the Board may immediately revoke the school's charter by approving and delivering a Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety to the charter school's governing body, the County Board, and the CDE. (Education Code 47607; 5 CCR 11968.5.3)

Appeals

Note: Pursuant to Education Code 47607 and 5 CCR 11968.5.3-11968.5.5, within 30 days of the Board's final decision to revoke a charter, the charter school may appeal the revocation **the Board's decision to revoke a charter**, including a revocation based on a severe and imminent threat, **may be appealed** to the County Board of Education. The County Board may reverse the revocation if it determines that the district's findings are not supported by substantial evidence, in which case the district may appeal the reversal to **the** SBE. If the County Board upholds the revocation or does not issue a decision within 90 days of its receipt of the appeal, the charter school may appeal to **the** SBE. Pursuant to Education Code 47607, if either the County Board or **the** SBE reverses the revocation, the district remains the chartering authority.

Education Code 47607 further provides that, while an appeal is pending, a charter school whose revocation is based on a material violation of any of the conditions, standards, or procedures set forth in its charter, or on a failure to meet or pursue any of the student outcomes identified in the charter, will continue to qualify as a charter school for funding and all other purposes of the Charter Schools Act and may continue to hold all existing grants, resources, and facilities in order to ensure that the education of students enrolled in the school is not disrupted.

As added by AB 97 (Ch. 47, Statutes of 2013), Education Code 47607.3 provides that a charter school may not appeal a revocation made pursuant to Education Code 47607.3 based on findings of the CCEE that the school failed or is unable to implement the CCEE's recommendations or that revocation is warranted based on persistent or acute inadequate performance.

If the Board revokes a charter, the charter school may, within 30 days of the Board's final decision, appeal the revocation to the County Board. **The County Board's decision may subsequently be appealed to the State Board of Education by either** ~~Either~~ the charter school or the district ~~may subsequently appeal the County Board's decision to the SBE.~~

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CHARTER SCHOOL REVOCATION (continued)

However, a revocation based upon the findings of ~~the~~ CCEE pursuant to Education Code 47607.3 may not be appealed. (Education Code 47607, 47607.3; 5 CCR 11968.5.3-11968.5.5)

School Closure

If a charter school ceases operation due to revocation, the Board and/or the charter school shall implement the school closure procedures specified in the charter in accordance with Education Code 47605 and 5 CCR 11962. (Education Code 47603.32)

Legal Reference:

EDUCATION CODE

47600-47616.7 Charter Schools Act of 1992, especially:

47607 Charter renewals and revocations

52052 Accountability: numerically significant student subgroups; definition

CODE OF REGULATIONS, TITLE 5

11960-11969 Charter schools, especially:

11968.5.1-11968.5.5 Charter revocations

COURT DECISIONS

Today's Fresh Start, Inc. v. Los Angeles County Office of Education (2013) 57 Cal.4th 197

Management Resources:

CSBA PUBLICATIONS

The Role of the Charter School Authorizer, Online Course

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

WEB SITES

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

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

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

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

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CSBA Sample Board Policy

Business and Noninstructional Operations

BP 3471(a)

PARCEL TAXES

Note: The following policy is optional. Pursuant to Article 13A of the California Constitution and Government Code 50079, districts and county offices of education may levy, with voter approval, a qualified special tax known as a parcel tax on real property in accordance with Government Code 50075-50077.5. Unlike a traditional ad valorem property tax which is based on estimated property values and which cannot be levied by school districts, taxpayers generally pay a flat rate for a parcel tax regardless of property value. The funds can be used on any activities or items for which general fund moneys can be spent, including general operating expenses, as long as the funds are used strictly for the purposes specified in the ballot statement.

A parcel tax is separate from general obligation bonds that may be approved for the construction, reconstruction, rehabilitation, or replacement of school facilities. For information regarding the funding of specified facilities needs through the issuance of debt, see BP/AR 7214 - General Obligation Bonds.

Districts considering placing a parcel tax on the ballot should consult legal counsel.

The Governing Board recognizes its obligation to provide a high-quality educational program within safe facilities and secure campuses, and that additional funds are at times necessary to fulfill this responsibility. The Board may consider appropriate methods of financing and, when it is in the best interest of the district, may order the placement of a parcel tax on the ballot for approval by the voters.

(cf. 3100 - Budget)

(cf. 3470 - Debt Issuance and Management)

(cf. 7110 - Facilities Master Plan)

(cf. 7210 - Facilities Financing)

(cf. 7214 - General Obligation Bonds)

The Board shall hold a noticed public hearing prior to approving a resolution for the adoption of a parcel tax. The resolution shall be approved by a two-thirds vote of the Board in order to be placed on the ballot. The resolution shall include the type and rate of the tax to be levied, the method of collection, and the date upon which an election shall be held to approve the levy of the tax. (Government Code 50077, 53724)

(cf. 9320 - Meetings and Notices)

(cf. 9323.2 - Actions by the Board)

Note: Pursuant to Government Code 50079, the parcel tax must be applied uniformly to all taxpayers or all real property within the district, unless the Board grants an exemption as authorized by law. See section on "Exemptions" below.

In addition, Government Code 50079 provides that unimproved property may be taxed at a lower rate than improved property. However, different tax rates may not be imposed for different

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PARCEL TAXES (continued)

classifications of property. In Borikas v. Alameda Unified School District, the appellate court concluded that the language in Government Code 50079 which states that the special tax “apply uniformly to all taxpayers or all real property” does not authorize different tax rates for residential and commercial/industrial properties, nor for different sized commercial/industrial properties.

The parcel tax shall apply uniformly to all taxpayers or all real property within the district, except that unimproved property may be taxed at a lower rate than improved property. (Government Code 50079)

The Board shall consult with legal counsel to ensure compliance with all requirements of law, including its determination of the appropriate amount of the proposed parcel tax and whether exemptions from the tax will be granted.

Any parcel tax to be proposed for voter approval shall provide for accountability measures, including, but not limited to, a statement indicating the specific purposes of the special tax and that the proceeds of the tax shall be used only for the specific purposes identified, creation of a separate account into which the proceeds shall be deposited, and annual reporting pursuant to Government Code 50075.3. (Government Code 50075.1)

No district funds, services, supplies, or equipment shall be used to support or defeat a parcel tax ballot measure. The Superintendent or designee may use district resources to provide students, parents/guardians, and community members with fair and impartial information related to a parcel tax ballot measure, including information about the impact of the parcel tax on the district. (Education Code 7054)

(cf. 1160 - Political Processes)

(cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)

Upon approval of the tax by two-thirds of the votes, the district may levy the tax or contract with the county to collect the tax on the district's behalf. (Government Code 50077)

Exemptions

The Board may grant an exemption from the parcel tax for any or all of the following: (Government Code 50079)

1. Persons who are 65 years of age or older
2. Persons receiving Supplemental Security Income for a disability, regardless of age

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PARCEL TAXES (continued)

- 3. Persons receiving Social Security Disability Insurance benefits, regardless of age, whose yearly income does not exceed 250 percent of the 2012 federal poverty guideline issued by the U.S. Department of Health and Human Services**

Any exemption granted by the Board shall remain in effect until the taxpayer becomes ineligible. If the taxpayer becomes ineligible for the exemption for any reason, a new exemption may be granted in the same manner. (Government Code 50079)

If the district provides for an exemption from the parcel tax and contracts or enters into an agreement with the county to collect such tax, the district shall annually provide to the tax collector a phone number where requests for exemption information may be directed and the link, if available, to the location on the district's web site that contains exemption information and the application for exemption. (Government Code 50079)

Legal Reference: (see next page)

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PARCEL TAXES (continued)

Legal Reference:

EDUCATION CODE

7054 Prohibition against use of district property for campaigning; informational only

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324 General election, definition

328 Local election, definition

341 Primary election, definition

348 Regular election, definition

356 Special election, definition

357 Statewide election, definition

1302 Local election to select governing board members

15372 Elections official certificate statement of election results

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50075-50077.5 Voter-approved special taxes

50079 Qualified special taxes of school district

53724 Board resolution for special tax

54952 Definition of legislative body, Brown Act

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Article 13A Taxation

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U.S. Department of Health and Human Services: <https://www.hhs.gov>

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FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)

Cafeteria Fund

Note: Pursuant to Education Code 38090, money received for the sale of food or for any services performed by the cafeterias may be paid into the county treasury to the credit of a "cafeteria fund" for the district.

The Superintendent or designee shall establish a cafeteria fund independent of the district's general fund.

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

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

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

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

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

(cf. 3230 - Federal Grant Funds)

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

(cf. 3460 - Financial Reports and Accountability)

Contracts with Outside Services

Note: The following section is **optional**. Pursuant to Education Code 45103.5, the district is authorized to contract for consulting services related to food service management. 42 USC 1758, 7 CFR 210.16, and Education Code 45103.5 authorize a district, under specified conditions and with approval of the CDE, to contract with a food service management company to manage its food service operation in one or more of its schools. See the accompanying administrative regulation for related requirements.

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FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)

Meal prices, as recommended by the Superintendent or designee and approved by the Board, shall be based on the costs of providing food services and consistent with Education Code 38084 and 42 USC 1760. Students who are enrolled in the free or reduced-price meal program shall receive meals free of charge or at a reduced price in accordance with law, Board policy, and administrative regulation.

(cf. 3553 - Free and Reduced Price Meals)

Note: Pursuant to USDA Memorandum SP 46-2016, districts participating in the National School Lunch and/or Breakfast Program are **mandated** to have a written and clearly communicated meal charge policy which includes, but is not limited to, policy on the collection of delinquent meal charge debt. See the accompanying administrative regulation for additional language fulfilling this mandate.

The Superintendent or designee shall establish strategies and procedures for the collection of meal payments, including delinquent meal payments. Such procedures shall conform with BP/AR 3553 - Free and Reduced Price Meals, 2 CFR 200.426, and any applicable CDE guidance. The Superintendent or designee shall clearly communicate these procedures to students and parents/guardians, and shall make this policy and the accompanying administrative regulation available to the public pursuant to Education Code 49557.5.

Note: Education Code 49557.5 requires any district that participates in the National School Lunch and/or Breakfast Program to ensure that students **with whose parents/guardians have** unpaid meal fees are not shamed or treated differently than other students. **As amended by SB 265 (Ch. 785, Statutes of 2019), Education Code 49557.5 provides that students with unpaid meal fees must not be denied a reimbursable meal of their choice, eliminating the possibility that a school could provide an alternative meal to a student with unpaid meal fees.** For further information **about unpaid meal charges**, see CDE's Nutrition Services Division Management Bulletin SNP-03-2017.

In addition, Education Code 49557 requires the Board to approve a plan that ensures students eligible to receive free or reduced-price meals are not treated differently from other students, including, but not limited to, assurance that eligible students will not be overtly identified by the use of special tokens, tickets, or any other means. For additional language addressing this requirement, see BP/AR 3553 - Free and Reduced Price Meals.

The Superintendent or designee shall ensure that a student whose parent/guardian has unpaid school meal fees or a student who is enrolled in the free or reduced-price meal program is not overtly identified by the use of special tokens, tickets, or other means and is not shamed, treated differently, or **served a meal that differs from the meal served to other students denied a meal of the student's choice.** (Education Code 49557, 49557.5)

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

(cf. 0415 - Equity)

FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)

administrative practices (i.e., training in application, certification, verification, meal counting, and meal claiming procedures) at least once each year. In addition, all food service personnel are required to receive annual training that (1) is designed to improve the accuracy of approvals for free and reduced-price meals and the identification of reimbursable meals at the point of service **and to ensure program compliance and integrity. Food service personnel must obtain certification on an annual basis to demonstrate competence in the training. In addition, training is required to** and (2) includes modules on nutrition, health and food safety standards and methodologies, and any other appropriate topics as determined by the U.S. Secretary of Agriculture. The CDE provides online training that meets these requirements; see CDE's web site.

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

Meal Sales

Note: The following section may be revised by districts that have one or more high-poverty schools that operate under the federal universal meal service provision (42 USC 1759a), which provides breakfast and/or lunch free of charge to all students at the school. For further information, see BP 3553 - Free and Reduced Price Meals.

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

Note: Pursuant to Education Code 38082, the Governing Board may adopt a resolution to authorize serving meals to additional persons other than those listed above. CDE's Nutrition Services Division Management Bulletin 00-111 states that the Board's policy or resolution must specify the means for serving those persons and indicates that using funds from the National School Lunch or Breakfast Program to serve any nonstudent would be contrary to program goals. The following **optional** paragraph is for districts that have adopted such a resolution and should be revised to reflect district practice.

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

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

Students who meet federal eligibility criteria for the reduced-price meal program cannot be charged more than the amounts listed in 42 USC 1758 and 1773; see AR 3553 - Free and Reduced Price Meals. For information about setting prices for full-price meals, see 42 USC 1760 and CDE's Nutrition Services Division Management Bulletin SNP **12-2018 11-2019**.

CSBA Sample Board Policy

Business and Noninstructional Operations

BP 3551(a)

FOOD SERVICE OPERATIONS/CAFETERIA FUND

Note: The following policy may be revised to reflect district practice. Pursuant to U.S. Department of Agriculture (USDA) Memorandum SP 46-2016, districts participating in the National School Lunch and/or Breakfast Program (42 USC 1751-1769j, 1773) are **mandated** to adopt policy addressing **meal charges, including** delinquent meal charges; see the section "Meal Sales" below and the accompanying administrative regulation.

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

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

(cf. 3100 - Budget)
(cf. 3300 - Expenditures and Purchases)
(cf. 3311 - Bids)
(cf. 3550 - Food Service/Child Nutrition Program)
(cf. 3552 - Summer Meal Program)
(cf. 5030 - Student Wellness)

Note: The following paragraph is for use by districts that participate in the National School Lunch and/or Breakfast Program and may be adapted for use by other districts. Pursuant to 42 USC 1776 and 7 CFR 210.30, **as amended by 84 Fed. Reg. 8247**, USDA has established minimum professional standards for food service directors and granted CDE the authority to adopt more flexible standards for districts with average daily attendance of less than 2,500. See CDE's Nutrition Services Division Management Bulletin 10-2019 for information about state hiring standards.

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

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

Note: The following paragraph is for use by districts participating in the National School Lunch and/or Breakfast Program. Pursuant to 42 USC 1776, such districts must ensure that food service personnel and other appropriate personnel who conduct or oversee administrative procedures receive training on

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FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)

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

(cf. 3312 - Contracts)

(cf. 3600 - Consultants)

Procurement of Foods, Equipment and Supplies

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

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

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

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

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

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

FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)

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

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

Program Monitoring and Evaluation

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

Note: The following paragraph is for use by districts that have one or more schools participating in the National School Lunch Program, School Breakfast Program, Seamless Summer Feeding Option, and/or other federal meal program. The state monitoring process (the Administrative Review) includes a review of district compliance with requirements for federal meal programs, including a review of resource management in the food service program as provided in the following paragraph. Each district is reviewed at least once every three years **except that, for school years from 2017-2019 through 2021-22, the three-year review cycle was extended to a five-year cycle pursuant to a waiver submitted by CDE's Nutrition Services Division to USDA.** See CDE's nutrition services web site for a current list of documents that may be requested for the review.

During the Administrative Review, CDE will review district policies on **charge accounts, alternate meals, unpaid meal charges, and guidelines for continually unpaid meal debt, the prohibition against shaming of students whose families cannot pay for a meal or who have unpaid meal debt, and processes for notifying parents/guardians of these policies at the beginning of the school year and when a student enrolls during the school year.**

The Superintendent or designee shall provide all necessary documentation required for the Administrative Review conducted by ~~the~~ CDE to ensure compliance of the district's food service program with federal requirements, **related to maintenance of the nonprofit school food service account, meal charges, paid lunch equity, revenue from nonprogram goods, indirect costs, and USDA foods.**

(cf. 3555 - Nutrition Program Compliance)

Legal Reference: (see next page)

FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)*Legal Reference:*EDUCATION CODE

38080-38086.1 Cafeteria, establishment and use
 38090-38095 Cafeterias, funds and accounts
 38100-38103 Cafeterias, allocation of charges
 42646 Alternate payroll procedure
 45103.5 Contracts for management consulting services; restrictions
 49490-49493 School breakfast and lunch programs
 49500-49505 School meals
 49550-49564.5 Meals for needy students, especially:
 49550.5 Universal breakfast
 49554 Contract for services
 49580-49581 Food recovery program

FOOD AND AGRICULTURE CODE

58595 Preference for California-grown agricultural products

HEALTH AND SAFETY CODE

113700-114437 California Retail Food Code

PUBLIC CONTRACT CODE

2000-2002 Responsive bidders

20111 Contracts

CODE OF REGULATIONS, TITLE 5

15550-15565 School lunch and breakfast programs

UNITED STATES CODE, TITLE 42

1751-1769j School lunch programs

1771-~~1791~~ 1793 Child nutrition, including:

1773 School breakfast program

CODE OF FEDERAL REGULATIONS, TITLE 2

200.56 Indirect costs, definition

200.317-200.326 Procurement standards

200.400-200.475 Cost principles

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210.1-~~210.31~~ 210.33 National School Lunch Program

220.1-~~220.21~~ 220.22 National School Breakfast Program

245.8 **Nondiscrimination practices for students eligible for free and reduced price meals and free milk**

250.1-250.70 USDA foods

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FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)

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Storage and Inventory Management of U.S. Department of Agriculture Foods, NSD Management Bulletin, FDP-01-2018, January 2018

Unpaid Meal Charges: Local Meal Charge Policies, Clarification on Collection of Delinquent Meal Payments, and Excess Student Account Balances, NSD Management Bulletin, SNP-03-2017, April 2017

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Compliance with and Enforcement of the Buy American Provision in the National School Lunch Program, SP 38-2017, June 2017

Overcoming the Unpaid Meal Challenge: Proven Strategies from Our Nation's Schools, SP 29-2017, May 2017

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California School Nutrition Association: <http://www.calsna.org>

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Policy Reference UPDATE Service

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CSBA Sample Administrative Regulation

Business and Noninstructional Operations

AR 3551(a)

FOOD SERVICE OPERATIONS/CAFETERIA FUND

Note: Districts that provide breakfast and/or lunch free of charge to all students (i.e., "universal meal service") at one or more schools pursuant to 42 USC 1759a or Education Code 49550.5 should revise the following administrative regulation accordingly. Also see BP/AR 3553 - Free and Reduced Price Meals.

Payments for Meals

Note: State and federal law (Education Code 49550, 49557; 42 USC 1758, 1773; 7 CFR 245.8) require that all students eligible for free and reduced-price meals receive a reimbursable meal during each school day, which must be the same meal choice offered to noneligible students; see BP/AR 3553 - Free and Reduced Price Meals. California Department of Education (CDE) Nutrition Services Division Management Bulletin SNP 03 2018 clarifies that districts therefore cannot serve an alternate meal (i.e., a meal that is different than the day's advertised meal) to a student eligible for reduced-price meals who does not have the ability to pay or who fails to provide a meal ticket or other medium of exchange on a given day.

In addition to providing meals at no cost to students who are eligible, the district may offer meals at no cost to students who qualify for reduced-price benefits. Districts that choose to eliminate reduced-price meal charges may still claim the meals at the reduced-price rate, but the cost difference between the reduced-price meal and the no-cost meal must be covered by the district's cafeteria fund. For more information, see the U.S. Department of Agriculture's (USDA) Memorandum SP 17-2014.

The following section includes recommendations of the California Department of Education's (CDE)'s Nutrition Services Division Management Bulletin and the USDA's "FAQs About School Meals - FAQs" on the USDA's web site and may be revised to reflect district practice.

With the exception of students who are eligible to receive meals at no cost, students may pay on a per-meal basis or may submit payments in advance. The Superintendent or designee shall maintain a system for accurately recording payments received and tracking meals provided to each student.

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

(cf. 3552 - Summer Meal Program)

(cf. 3553 - Free and Reduced Price Meals)

(cf. 3555 - Nutrition Program Compliance)

Note: CDE's program monitoring process (the Administrative Review) requires districts to continually notify parents/guardians of district policies regarding meal payments, including charge accounts and alternate meals if applicable. Districts should, at a minimum, inform parents/guardians at the beginning of the school year and on an ongoing basis of district practices for students who have lost or forgotten their meal payment. In addition, districts should set up a system for notifying parents/guardians when a student's meal payment account has a low or negative balance.

According to USDA's Memorandum SP-23-2017, the district's policy on delinquent meal payments must be communicated in writing to all households at the start of each school year and to households transferring to

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FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)

the school during the school year. CDE's Nutrition Services Division Management Bulletin SNP-03-2017 states that, at a minimum, districts should use the methods specified below to communicate the district's meal policy.

At the beginning of the school year, and whenever a student enrolls during the school year, parents/guardians shall be notified of the district's meal payment policies and be encouraged to prepay for meals whenever possible. The Superintendent or designee shall communicate the district's meal payment policies through multiple methods, including, but not limited to:

1. Explaining the meal charge policy within registration materials provided to parents/guardians at the start of the school year
2. Including the policy in print versions of student handbooks, if provided to parents/guardians annually
3. Providing the policy whenever parents/guardians are notified regarding the application process for free and reduced-price meals, such as in the distribution of applications at the start of the school year
4. Posting the policy on the district's web site
5. Establishing a system to notify parents/guardians when a student's meal payment account has a low or negative balance

(cf. 1113 - District and School Web Sites)
(cf. 5145.6 - Parental Notifications)

Note: The following **optional** paragraph may be revised to reflect district practice. According to the USDA's "FAQs About School Meals - FAQs," any district that participates in the National School Lunch and/or Breakfast Program and has one or more schools which use a system of meal tickets (or tokens, cards, or other similar medium of exchange) may limit the number of lost or stolen tickets it will replace for students each school year, as long as the limit is set at three or more. However, such a limit may only be established if the school (1) advises students and parents/guardians of the district's rules regarding replacement tickets **at the beginning of the school year and/or** when applications for free and reduced-price meals are distributed or approved; (2) maintains a list of students who have reported lost and stolen tickets and the number of occurrences for each student; (3) issues at least one advance warning to the student or the student's parent/guardian prior to refusing to issue a replacement ticket; and (4) does not deny meals to prekindergarten or younger primary students or students with disabilities who may be unable to take full responsibility for their meal tickets. Although these requirements apply only to students who qualify for free or reduced-price meals, **the** USDA recommends that districts apply the same limits for students who pay full price for their meals in order to ensure that needy students are not overtly identified because of a disparate ticket replacement policy.

In any school that uses a system of meal tickets or other similar medium of exchange rather

FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)

than an electronic point-of-sale system, the Superintendent or designee shall develop a process for providing replacement tickets to any student who reports a ticket as lost or stolen.

However, whenever any student reports an excessive number of lost or stolen tickets, the Superintendent or designee shall notify the parent/guardian and may provide an alternative method of tracking meal usage for that student.

In order to avoid potential misuse of a student's food service account by someone other than the student in whose name the account has been established, the Superintendent or designee shall verify a student's identity when setting up the account and when charging any meal to the account. The Superintendent or designee shall investigate any claim that a bill does not belong to a student or is inaccurate, and shall open a new account as appropriate for a student whose account appears to have been misused.

(cf. 1340 - Access to District Records)

(cf. 3580 - District Records)

Note: Pursuant to CDE's Nutrition Services Division Management Bulletin SNP-03-2017, districts must ensure that students who are approved for reduced-price meals receive all meals that are paid for. Any excess payments must be either carried over or refunded to the parents/guardians. The following paragraph extends this provision to also apply to students paying for full-price meals.

Any payments made to a student's food service account shall, if not used within the school year, be carried over into the next school year or ~~be~~ refunded to the student's parents/guardians.

Unpaid and Delinquent Meal Charges

Note: The following section reflects requirements applicable to districts participating in the National School Lunch and/or Breakfast Program and may also be used by districts that do not participate in the program. Pursuant to USDA Memorandum SP 46-2016, districts participating in the National School Lunch and/or Breakfast Program are **mandated** to have a written and clearly communicated meal charge policy which includes, but is not limited to, policy on the collection of delinquent meal charge debt. Such policy may be consistent for all students or vary by grade level. The following section may be revised to reflect district practice.

At its discretion, the district may choose to also notify parents/guardians before the student's meal account reaches a negative balance. The following paragraph may be modified to reflect district practice.

The district shall not direct any action toward a student to collect unpaid school meal fees. (Education Code 49557.5)

Students who have unpaid meal charges shall be served a meal of their choice throughout the school year regardless of the level of debt incurred by the household.

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FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)

Such students shall not be overtly identified by the use of special tokens, tickets, or other means and shall not be shamed, treated differently, or denied a meal of their choice. (Education Code 49557, 49557.5)

Note: Education Code 49557.5 requires that parents/guardians be notified no later than 10 days after a student's school meal account has reached a negative balance. At its discretion, the district may choose to also notify parents/guardians before the student's meal account reaches a negative balance. The following paragraph may be modified to reflect district practice.

No later than 10 days after a student's school meal account has reached a negative balance, the Superintendent or designee shall so notify the student's parent/guardian. Before sending this notification, the district shall exhaust all options and methods to directly certify the student for free or reduced-price meals. If the district is not able to directly certify the student, the notice to the parent/guardian shall include a paper copy of, or an electronic link to, an application for free or reduced-price meals and the Superintendent or designee shall contact the parent/guardian to encourage submission of the application. (Education Code 49557.5)

The district may attempt to collect unpaid school meal fees from a parent/guardian, but shall not use a debt collector. (Education Code 49557.5)

Note: The following optional paragraph reflects CDE guidance in its Nutrition Services Division Management Bulletin SNP-03-2017.

The Superintendent or designee may enter into an agreement with a student's parent/guardian for payment of the student's unpaid meal charge balance over a period of time. As necessary, the repayment plan may allow the unrecovered or delinquent debt to carry over into the next fiscal year.

The district shall not direct any action toward a student to collect unpaid school meal fees. (Education Code 49557.5)

Note: CDE's Nutrition Services Division Management Bulletin SNP-03-2017 requires that the district's unpaid meal policy conform with the cost principles set forth in 2 CFR 200.426, as provided below.

The district's efforts to collect debt shall be consistent with district policies and procedures, California Department of Education (CDE) guidance, and 2 CFR 200.426. The district shall not spend more than the actual debt owed in efforts to recover unpaid meal charges.

Note: Pursuant to CDE's Nutrition Services Division Management Bulletin SNP-03-2017, delinquent debt must be reclassified as bad debt and written off as an operating loss if it is not paid by the end of the fiscal year in which the debt was incurred, unless the district enters into a repayment plan with the parent/guardian prior to the end of the fiscal year or the debt occurs fewer than 90 days prior to the end of the fiscal year. Federal funds are not available to reimburse the district for bad debt. Districts are required to maintain related records in accordance with 7 CFR 210.9 and 210.15.

FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)

The Superintendent or designee shall maintain records of the efforts made to collect unpaid meal charges and, if applicable, financial documentation showing when the unpaid meal balance has become an operating loss.

Reimbursement Claims

Note: To streamline administration of state and federal meal programs, CDE has developed an online Child Nutrition Information and Payment System which must be used to submit reimbursement claims and to submit and track the status of applications and USDA food requests.

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

Donation of Leftover Food

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

(cf. 3510 - Green School Operations)

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

Cafeteria Fund

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

All proceeds from food sales and other services offered by the cafeteria shall be deposited in the cafeteria fund as provided by law. **The income and expenditures of any cafeteria revolving account established by the Governing Board shall be recorded as income and expenditures of the cafeteria fund.** (Education Code 38090, 38093)

(cf. 3100 - Budget)

FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)*(cf. 3300 - Expenditures and Purchases)*

Note: Education Code 38101, **as amended by AB 3043 (Ch. 593, Statutes of 2018)**, permits a district, with approval from CDE, to utilize cafeteria funds to pay for the purchase of a mobile food facility. However, if the district uses federal reimbursements from any of the federal child nutrition programs for such purchase, the mobile food facility shall only be used to support the administration of those federal programs. Mobile food facilities used for any purposes other than to support the administration of federal child nutrition programs shall not be purchased with cafeteria funds.

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

Note: The following **optional** paragraph is for use by districts that choose to provide universal breakfast (free of charge to all students) at one or more schools. Pursuant to Education Code 49550.5, **as added by AB 3043**, districts may use cafeteria funds to supplement the cost of providing universal breakfast provided they submit the required certification to CDE. The requirement to submit certification does not apply to any district that provides universal breakfast pursuant to a federally authorized provision (e.g., Provision 1, 2, or 3 or the Community Eligibility Provision of the National School Lunch Act).

With CDE approval, the district may use cafeteria funds to supplement the provision of universal breakfast. On or before July 1 of each year, the district shall submit to CDE a Board-signed application certifying that breakfast will be provided to all students at no charge and that any cost above the amount provided in federal reimbursement will be covered by the district with nonfederal funds. (Education Code 49550.5)

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

(cf. 3110 - Transfer of Funds)

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

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

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FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)

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

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

U.S. Department of Agriculture Foods

Note: The following **optional** section is for use by districts that participate in the National School Lunch Program and receive foods from ~~the~~ USDA pursuant to 42 USC 1755 and 7 CFR 250.1-250.70. CDE is responsible for ordering and distributing USDA foods for use in California schools. **Pursuant to 42 USC 1758, USDA must ensure that foods offered through this program reflect the most recent Dietary Guidelines for Americans.**

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

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

USDA donated foods shall be used in school lunches as far as practicable. USDA foods also may be used in other nonprofit food service activities, including, but not limited to, school breakfasts or other meals, a la carte foods sold to students, meals served to adults directly involved in the operation and administration of the food service and to other school staff, and training in nutrition, health, food service, or general home economics instruction for students, provided that any revenues from such activities accrue to the district's nonprofit food service account. (7 CFR 250.59)

Contracts with Outside Services

Note: The following **optional** section is for use by districts that contract for food service management services pursuant to Education Code 49554, 42 USC 1758, or 7 CFR 210.16 or consulting services pursuant

FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)

to Education Code 45103.5, and should be modified to reflect the type(s) of contracts the district maintains; see the accompanying Board policy.

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

Any contract for management of the food service operation shall be approved by CDE and comply with the conditions in Education Code 49554 and 7 CFR 210.16 as applicable. The district shall retain control of the quality, extent, and general nature of its food services, including prices to be charged to students for meals, and shall monitor the food service operation through periodic on-site visits. The district shall not enter into a contract with a food service company to provide a la carte food services **only**, unless the company agrees to offer free, reduced-price, and full-price reimbursable meals to all eligible students. (Education Code 49554; 42 USC 1758; 7 CFR 210.16)

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

- (cf. 3312 - Contracts)*
- (cf. 3515.6 - Criminal Background Checks for Contractors)*
- (cf. 3600 - Consultants)*
- (cf. 4112.4/4212.4/4312.4 - Health Examinations)*
- (cf. 4212 - Appointments and Conditions of Employment)*

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Policy Reference UPDATE Service

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CSBA Sample Board Policy

Certificated Personnel

BP 4112.2(a)

CERTIFICATION

Note: Under the authority granted by Education Code 44252, the Commission on Teacher Credentialing (CTC) establishes standards and procedures for the issuance and renewal of multiple subject, single subject, education specialist, and other credentials, certificates, and permits and approves applications. Pursuant to Education Code 44251, a preliminary credential is generally valid for five years, during which time the employee must complete the requirements for the clear credential in order to continue to serve in a certificated position. The clear credential must be renewed every five years, but renewal does not require completion of additional coursework or service requirements.

Assignment to certain positions within the district may require additional qualifications. For example, see AR 4112.22 - Staff Teaching English Language Learners, AR 4112.23 - Special Education Staff, and BP/AR 4113 - Assignment.

The Governing Board recognizes that the district's ability to provide a high-quality educational program is dependent upon the employment of certificated staff who are adequately prepared and have demonstrated proficiency in basic skills and in the subject matter to be taught. The Superintendent or designee shall ensure that persons employed to fill positions requiring certification qualifications possess the appropriate credential, permit, or other certification document from the Commission on Teacher Credentialing (CTC) and fulfill any additional state, federal, or district requirements for the position.

(cf. 4111/4211/4311 - Recruitment and Selection)
(cf. 4112.21 - Interns)
(cf. 4112.22 - Staff Teaching English Learners)
(cf. 4112.23 - Special Education Staff)
(cf. 4112.5/4212.5/4312.5 - Criminal Record Check)
(cf. 4113 - Assignment)
(cf. 4121 - Temporary/Substitute Personnel)
(cf. 5148 - Child Care and Development)
(cf. 6178 - Career Technical Education)
(cf. 6200 - Adult Education)

The Superintendent or designee shall provide assistance and support to teachers holding preliminary credentials to enable them to meet the qualifications required for the clear credential.

(cf. 4131 - Staff Development)
(cf. 4131.1 - Teacher Support and Guidance)

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CERTIFICATION (continued)

Priorities for Hiring Based on Unavailability of Credentialed Teacher

Note: **To the extent possible, the district must** ~~When the district is unable to~~ hire a "fully prepared" teacher who ~~has completed a teacher preparation program (i.e., a teacher who~~ holds a clear or preliminary teaching credential), **in the subject or setting of the assignment. The Board may authorize a fully credentialed teacher to serve in an assignment outside the area authorized by the credential if specified criteria are met; see BP/AR 4113 - Assignment and CTC's Credential Information Guide. When the district is unable to hire a fully credentialed teacher,** Education Code 44225.7 permits the district to hire a ~~teacher candidate~~ without those credentials **in accordance with the hiring . Education Code 44225.7 establishes a hierarchy for such hires, as provided in items #1-3 below.**

The Superintendent or designee shall make reasonable efforts to recruit a fully prepared teacher ~~for~~ **who is authorized in the subject or setting for** each assignment **or, when necessary, a fully prepared teacher serving on a local assignment option.** Whenever a teacher with a clear or preliminary credential is not available, the Superintendent or designee shall make reasonable efforts to recruit an individual for the assignment in the following order: (Education Code 44225.7)

Note: Pursuant to Education Code 44225.7, if a credentialed teacher is not available, priority **for employment** must be given to ~~employing~~ an individual who is enrolled in an approved intern program, as provided in item #1 below. CTC Coded Correspondence 13-01 clarifies that such an individual must possess a CTC-issued intern credential.

1. A candidate who enrolls in an approved intern program in the region of the district and possesses an intern credential

Note: Pursuant to Education Code 44225.7, next priority for filling a position should be for a candidate who is scheduled to complete preliminary credential requirements within six months, as provided in item #2 below. CTC Coded Correspondence 13-01 clarifies that such an individual must qualify for and obtain a provisional internship permit (PIP) or short-term staff permit (STSP).

Pursuant to 5 CCR 80021-80021.1, the district may employ persons with **an STSP when needed to immediately staff classrooms based on unforeseen circumstances, or a PIP when the district has conducted a diligent search but has been unable to recruit a credentialed teacher, or an STSP when needed to immediately staff classrooms based on unforeseen circumstances.** Each of these options requires the district to provide orientation, training, and/or guidance; see the accompanying administrative regulation.

2. A candidate who is scheduled to complete preliminary credential requirements within six months and who **holds is granted** a provisional internship permit (PIP) or short-term staff permit issued by the CTC

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CERTIFICATION (continued)

Note: 5 CCR 80021.1 requires that a notice of intent to employ a person with a PIP be made public as described in the following paragraph. A copy of the agenda item and the Superintendent or designee's verification of the Governing Board's favorable action must be included as part of the application to the CTC along with other required verifications; see the accompanying administrative regulation.

The Board shall approve, as an action item at a **public an open** Board meeting, a notice of its intent to employ a PIP applicant for a specific position. (5 CCR 80021.1)

Note: Pursuant to Education Code 44225.7, when the district is unable to recruit a credentialed teacher or a teacher who meets the qualifications specified in items #1-2 above, it may request **CTC to approve the assignment of a person who does not meet those criteria. According to CTC Coded Correspondence 13-01, such an individual would need to qualify for a "variable term waiver."** For further information about variable term waivers, see **CTC's Waiver Requests Guidebook and 5 CCR 80125.** that the CTC issue a "variable term" credential waiver (Education Code 44225; 5 CCR 80120-80125) or a long-term emergency permit (Education Code 44300; 5 CCR 80023-80026.6), as provided in item #3 below.

The STSP and PIP have replaced multiple subject, single subject, and education specialist emergency permits, but the CTC continues to issue the emergency resource specialist permit (5 CCR 80024.3.1), emergency teacher librarian services permit (5 CCR 80024.6), emergency crosscultural, language and academic development permit (5 CCR 80024.8), and emergency bilingual authorization permit (5 CCR 80024.7).

3. An individual who **holds an emergency permit or for whom has been granted a credential waiver has been granted** by the CTC

Note: Pursuant to 5 CCR 80023.2, 80026, and 80027-80027.1, the Board must annually approve a Declaration of Need for Fully Qualified Educators prior to hiring a person with an emergency permit or a limited assignment permit to teach outside **his/her the** area of certification. The form for the Declaration of Need is available in the CTC's online **Credential Information Guide, which may be accessed only by employers on CTC's web site.** Pursuant to 5 CCR 80026, the Declaration of Need must be approved at a regularly scheduled public Board meeting and is valid for up to 12 months, expiring on June 30 following its submission to CTC.

Prior to requesting that the CTC issue an emergency permit **pursuant to item #3 above** or a limited assignment permit **which allows a fully credentialed teacher to teach outside of his/her area of certification while working toward an added or supplementary authorization,** the Board shall annually approve a Declaration of Need for Fully Qualified Educators. The Declaration of Need shall be approved by the Board as an action item at a regularly scheduled **public open** Board meeting, with the entire Declaration of Need being included in the Board agenda. (Education Code 44225, 44225.7; 5 CCR 80023.2, 80026, 80027, 80027.1)

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CERTIFICATION (continued)

The Declaration of Need shall certify that there is an insufficient number of certificated persons who meet the district's specified employment criteria for the position(s) and that the district has made reasonable efforts to recruit individuals who meet the qualifications specified in items #1-2 above. The Declaration of Need shall also indicate the number and type of emergency permits that the district estimates it will need during the valid period of the Declaration of Need, based on the previous year's actual needs and projections of enrollment. Whenever the actual number of permits needed exceeds the estimate by 10 percent, the Board shall revise and resubmit the Declaration of Need. (5 CCR 80026)

Whenever it is necessary to employ noncredentialed teachers to fill a position requiring certification qualifications, the Superintendent or designee shall provide support and guidance in accordance with law to ensure the quality of the instructional program.

National Board for Professional Teaching Standards Certification

Note: The following **optional** section may be revised to reflect district practice. The National Board for Professional Teaching Standards (NBPTS) offers teachers a voluntary, rigorous advanced certification process **to demonstrate professional accomplishment. Some districts provide fee support to teachers seeking this certification. to improve their practice as educators. Districts can encourage teacher participation by coordinating a cohort of teachers through school or district-based programs, their county office of education, or the NBPTS Resource Center at Stanford University or other NBPTS support networks. A list of current NBPTS support networks can be found on the NBPTS web site.**

Districts and schools may use U.S. Department of Education grant funds (e.g., Title I, Part A; Title II, Part A; Individuals with Disabilities Education Act, Part B), as well as district resources for beginning teachers, for costs associated with teachers pursuing, achieving, and maintaining National Board certification.

The Board encourages district teachers to voluntarily complete the requirements for the advanced certification awarded by the National Board for Professional Teaching Standards.

The Superintendent or designee shall inform all teachers about the program and how to acquire the necessary application and information materials. In accordance with the collective bargaining agreement and the district budget, the Superintendent or designee may provide release time, fee support, a stipend upon completion, or other support to teachers participating in the program.

The Superintendent or designee shall promote a career continuum that includes participation of district teachers in professional learning that supports their completion of advanced certification awarded by the National Board for Professional Teaching Standards (NBPTS). The Superintendent or designee may coordinate a cohort of teachers through school or district programs or other available networks.

CERTIFICATION (continued)

With Board approval and funding, and consistent with the collective bargaining agreement and applicable law, the Superintendent may provide an incentive program for teacher participation in NBPTS certification, which may include:

- 1. Defraying, subsidizing, or reimbursing the registration, certification, or maintenance fees for NBPTS certification**
- 2. Providing bonuses, step increases, or differential pay for teachers who maintain their certification and continue to teach in the district, with priority given to teachers at Title I schools and schools serving a majority of low-income students**
- 3. Providing substitute teachers to provide release time for participating teachers**
- 4. Providing stipends for teacher participation that match other professional development stipends**
- 5. Compensating mentor teachers who support other teachers' professional learning aligned to NBPTS standards**

(cf. 4161.3 - Professional Leaves)

Parental Notifications

Note: The following section is for use by districts that receive federal Title I funds, and may be used or adapted by other districts at their discretion.

20 USC 6312 requires districts receiving federal Title I funds to provide the following annual notification to parents/guardians of students in any school receiving Title I funds. Such districts may choose to provide the same notification to all schools, regardless of whether or not they receive Title I funds. **As amended by the Every Student Succeeds Act (P.L. 114 95), 20 USC 6312 no longer requires the notification to include the right of parents/guardians to request information about a teacher's baccalaureate major or graduate certification or degree held by the teacher.**

At the beginning of each school year, the Superintendent or designee shall notify the parents/guardians of each student attending a school receiving Title I funds that they may request information regarding the professional qualifications of their child's classroom teacher including, but not limited to, whether the teacher: (20 USC 6312)

1. Has met state qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction

CERTIFICATION (continued)

2. Is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived
3. Is teaching in the field of discipline of **his/her the teacher's** certification

(cf. 5145.6 - Parental Notifications)

Note: As amended by P.L. 114-95, 20 USC 6312 requires the following notice to parents/guardians whenever a student has been assigned, or has been taught for four or more consecutive weeks by, a teacher who does not meet applicable state certification or licensure requirements.

In addition, the Superintendent or designee shall notify parents/guardians in a timely manner whenever their child has been assigned, or has been taught for four or more consecutive weeks by, a teacher who does not meet applicable state certification or licensure requirements at the grade level and subject area to which the teacher has been assigned. (20 USC 6312)

Legal Reference continued: (see next page)

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CERTIFICATION (continued)

Legal Reference:

EDUCATION CODE

8360-8370 *Qualifications of child care personnel*

32340-32341 *Unlawful issuance of a credential*

35186 *Complaints regarding teacher vacancy or misassignment*

44066 *Limitations on certification requirements*

44200-44399.1 *Teacher credentialing, especially:*

44250-44277 *Credential types; minimum requirements*

44300-44302 *Emergency permit*

44325-44328 *District interns*

44330-44355 *Certificates and credentials*

44420-44440 *Revocation and suspension of credentials*

44450-44468 *University intern program*

44830-44929 *Employment of certificated persons; requirement of proficiency in basic skills*

56060-56063 *Substitute teachers in special education*

CODE OF REGULATIONS, TITLE 5

80001-80674.6 *Commission on Teacher Credentialing*

UNITED STATES CODE, TITLE 20

6312 *Title I local educational agency plans; notifications regarding teacher qualifications*

CODE OF FEDERAL REGULATIONS, TITLE 34

200.48 *Parent notification regarding teacher qualifications*

COURT DECISIONS

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

Management Resources:

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

CL-667 *Basic Skills Requirement*

CL-856 *Provisional Internship Permit*

CL 858 *Short-Term Staff Permit*

Credential Information Guide

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

Waiver Requests Guidebook, 2015

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

Subject Matter Authorization Guideline Book, 2012

Supplementary Authorization Guideline Book, 2012

California Standards for the Teaching Profession, 2009

The Administrator's Assignment Manual, rev. September 2007

NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS PUBLICATIONS

Considerations for Using Federal Funds to Support National Board Certification, 2018

WEB SITES

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

Commission on Teacher Credentialing: <http://www.ctc.ca.gov>

Management Resources continued: (see next page)

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CERTIFICATION (continued)

Management Resources: (continued)

WEB SITES (continued)

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

<http://www.ctc.ca.gov/credentials/cig>

National Board for Professional Teaching Standards: <http://www.nbpts.org>

National Board Resource Center: nbc.strong.net

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

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Policy Reference UPDATE Service

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CSBA Sample Exhibit

All Personnel

E 4112.9(a)
4212.9
4312.9

EMPLOYEE NOTIFICATIONS

Note: The following exhibit lists notices which the law requires be provided to employees. See the referenced Board policy, administrative regulation, or Board bylaw for further information about related program and notice requirements.

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. To All Employees			
At the beginning of school year or upon employment	Education Code 231.5; Government Code 12950; 2 CCR 11024	AR 4119.11 4219.11 4319.11	The district's policy on sexual harassment, legal remedies, complaints
Annually to all employees, and 72 hours before pesticide application	Education Code 17612	AR 3514.2	Use of pesticide product, active ingredients, Internet address to access information
To all employees, prior to implementing year-round schedule	Education Code 37616	BP 6117	Public hearing on year-round program
To all employees, prior to implementing alternative schedule	Education Code 46162	AR 6112	Public hearing on alternative schedule
Annually to all employees	Education Code 49013; 5 CCR 4622	AR 1312.3 BP 0460 BP 3260	Uniform complaint procedures, appeals, civil law remedies, coordinator, complaints about student fees and local control and accountability plan
Annually to all employees	Education Code 49414	AR 5141.21	Request for volunteers to be trained to administer epinephrine auto-injectors
At least once per year	Education Code 49414.3	AR 5141.21	Request for volunteers to be trained to administer opioid antagonist
To all employees	Government Code 1126	BP 4136 4236 4336	Prohibition of activities that are inconsistent, incompatible, in conflict with, or inimical to duties; discipline; appeal

E 4112.9(b)
4212.9
4312.9

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. To All Employees (continued)			
Prior to beginning employment	Government Code 3102	AR 4112.3 4212.3 4312.3	Oath or affirmation of allegiance required of disaster service workers
To all employees	Government Code 8355; 41 USC 8102; 34 CFR 84.205, 84.210	BP 4020 BP 4159 4259 4359	District's drug- and alcohol-free workplace; actions to be taken if violated; available employee assistance programs
Upon employment	Government Code 21029	None	Right to purchase PERS service credit for military service performed prior to public employment
Upon placement of automated external defibrillator (AED) in school, and annually thereafter	Health and Safety Code 1797.196	AR 5141	Proper use of AED; location of all AEDs on campus, sudden cardiac arrest, school's emergency response plan
To all employees, if the district receives Tobacco-Use Prevention Education funds	Health and Safety Code 104420	AR 3513.3	District's tobacco-free schools policy and enforcement procedures
Annually to all employees, or more frequently if there is new information	Health and Safety Code 120875, 120880	AR 4119.43 4219.43 4319.43	AIDS and hepatitis B, including methods to prevent exposure
To all employees, with each paycheck	Labor Code 246	AR 4161.1 4361.1 AR 4261.1	Amount of sick leave available
Upon hire, in employee handbook, and upon request for parental leave	Labor Code 1034	BP 4033	The district's policy on lactation accommodation

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E 4112.9(d)
 4212.9
 4312.9

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. To All Employees (continued)			
Annually to all employees	40 CFR 763.84, 763.93	AR 3514	Availability of asbestos management plan; inspections, response actions, post-response actions planned or in progress
II. To Certificated Employees			
To eligible certificated employees in a timely manner, and to part-time and substitute certificated employees within 30 days of hire	Education Code 22455.5	AR 4121	Criteria for membership in retirement system; right to elect membership at any time
Upon employment of a retired certificated individual	Education Code 22461	AR 4117.14 4317.14	Postretirement earnings limitation or employment restriction; monthly report of compensation
To certificated employees	Education Code 35171	AR 4115 BP 4315	District regulations related to performance evaluations
30 days before last day of school year for instructional staff, or by June 30 for noninstructional certificated staff, in any year in which employee is evaluated	Education Code 44663	AR 4115	Copy of employee's evaluation
To a certificated employee with unsatisfactory evaluation, once per year for probationary employee or at least once every other year for permanent employee	Education Code 44664	AR 4115	Notice and description of the unsatisfactory performance

E 4112.9(c)
4212.9
4312.9

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. To All Employees (continued)			
To covered employees and former employees	Labor Code 2800.2	AR 4154 4254 4354	Availability of COBRA/ Cal-COBRA continuation and conversion coverage; statement encouraging careful examination of options before declining coverage
To employees participating in a flexible spending account	Labor Code 2810.7	None	Deadline to withdraw funds from account before the end of the plan year
To every new employee, either at the time employee is hired or by end of first pay period	Labor Code 3551	BP 4157.1 4257.1 4357.1	Workers' compensation benefits, how to obtain medical care, role of primary physician, form for reporting personal physician/chiropractor
Prior to beginning employment	Penal Code 11165.7, 11166.5	AR 5141.4	Status as a mandated reporter of child abuse, reporting obligations, confidentiality rights, copy of law
Upon employment, and when employee goes on leave for specified reasons	Unemployment Insurance Code 2613	AR 4154 4254 4354	Disability insurance rights and benefits
To all employees and job applicants	2 CCR 11023; 34 CFR 104.8, 106.9	BP 0410 BP 4030	District's policy on nondiscrimination and related complaint procedures
To all employees via employee handbook, or to each new employee	2 CCR 11091, 11095; 29 CFR 825.300	AR 4161.8 4261.8 4361.8	Benefits through Family and Medical Leave Act (FMLA) and California Family Rights Act(<i>cfRA</i>); <i>obligation</i> to provide 30 days' notice of need for leave when possible

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E 4112.9(d)
4212.9
4312.9

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
II. To Certificated Employees (continued)			
By May 30, if district issues reemployment notices to certificated employees	Education Code 44842	AR 4112.1	Request that the employee notify district of intent to remain in service next year
To certificated employees upon employment, and to nonpermanent employees in July of each school year	Education Code 44916	AR 4112.1 AR 4121	Employment status and salary
To probationary employees in district with ADA of 250 or more by March 15 of employee's second consecutive year of employment By March 15 of employee's second year of employment, in districts that grant permanent status after two years	Education Code 44929.21	AR 4117.6 BP 4116	Whether or not employee is reelected for next school year
When certificated employee is subject to disciplinary action for cause, at any time of year or, for charge of unsatisfactory performance, during instructional year	Education Code 44934, 44934.1, 44936	BP 4118 AR 4118	Notice of charges, procedures, and employee rights; intent to dismiss or suspend 30 days after notice
To certificated employee charged with unprofessional conduct, at least 45 days prior to suspension/ dismissal notice	Education Code 44938	BP 4118	Notice of deficiency and opportunity to correct
To certificated employee charged with unsatisfactory performance, at least 90 days prior to suspension/dismissal notice or prior to last quarter of school year	Education Code 44938	BP 4118	Notice of deficiency and opportunity to correct

E 4112.9(e)
4212.9
4312.9

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
II. To Certificated Employees (continued)			
To certificated employee charged with mandatory leave of absence offense, within 10 days of entry of judgment in proceedings	Education Code 44940.5	AR 4118	Notice of intent to dismiss 30 days from notice unless employee demands hearing
To probationary employees 30 days prior to dismissal during school year, but not later than March 15 for second-year probationary employees	Education Code 44948.3	AR 4118	Reasons for dismissal and opportunity to appeal
By March 15 when necessary to reduce certificated personnel, with final notice by May 15	Education Code 44949, 44955	BP 4117.3	Reasons for personnel reduction and employees' right to hearing; final notice of Board decision re: termination
On or before June 30, to temporary employee who served 75 percent of school year but will be released	Education Code 44954	BP 4121	District's decision not to reelect employee for following school year
To teacher, when a student engages in or is reasonably suspected of specified acts	Education Code 49079	AR 4158 4258 4358	Student has committed specified act that constitutes ground for suspension or expulsion
To certificated employee upon change in employment status due to alleged misconduct or while allegation is pending	5 CCR 80303	AR 4117.7 4317.7	Contents of state regulation re: report to Commission on Teacher Credentialing
III. To Classified Employees			
To classified employee charged with mandatory leave of absence offense, in merit system district	Education Code 44940.5	AR 4218	Notice of intent to dismiss in 30 days

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E 4112.9(f)
4212.9
4312.9

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. To Classified Employees (continued)			
When classified employee is subject to disciplinary action for cause, in nonmerit district	Education Code 45113	AR 4218	Notice of charges, procedures, and employee rights right to hearing, timeline for requesting hearing
To classified employees at least 60 days prior to layoff, or by April 29 for specially funded program that expires at end of school year	Education Code 45117	AR 4217.3	Notice of layoff and reemployment rights
To classified employees upon employment and upon each change in classification	Education Code 45169	AR 4212	Employee's class specification, salary data, assignment or work location, duty hours, prescribed workweek
To classified permanent employee whose leave is exhausted	Education Code 45192, 45195	AR 4261.1 AR 4261.11	Exhaustion of leave, opportunity to request additional leave
To school bus drivers and school activity bus drivers prior to expiration of specified documents	13 CCR 1234	AR 3542	Expiration date of driver's license, driver's certificate and medical certificate; need to renew
To school bus drivers and school activity bus drivers upon employment and at least once per year thereafter	13 CCR 2480	AR 3542	Limitations on vehicle idling; consequences of not complying
To school bus drivers, prior to district drug testing program and thereafter upon employment	49 CFR 382.601	BP 4112.42 4212.42 4312.42	Explanation of federal requirements for drug testing program and district's policy

MS

E 4112.9(g)
4212.9
4312.9

EMPLOYEE NOTIFICATIONS (continued)

IV. To Administrative/Supervisory Personnel

To superintendent , deputy, associate, or assistant superintendent or senior manager of classified service, at least 45 days before expiration of contract	Education Code 35031	BP 2121 BP 4312.1	Decision not to reelect or reemploy upon expiration of contract or term
Upon request by administrative or supervisory employee transferred to teaching position	Education Code 44896	AR 4313.2	Statement of the reasons for the release or reassignment
By March 15 to employee who may be released/reassigned the following school year	Education Code 44951	AR 4313.2	Notice that employee may be released or reassigned the following school year

V. To Individual Employees Under Special Circumstances

In the event of a breach of security of district records, to affected employees	Civil Code 1798.29	BP 3580	Types of records affected, date of breach, description of incident, and, as applicable, contact information for credit reporting agencies
Prior to placing derogatory information in personnel file	Education Code 44031	AR 4112.6 4212.6 4312.6	Notice of derogatory information, opportunity to review and comment
To employees who volunteer to administer epinephrine auto-injector	Education Code 49414	AR 5141.21	Defense and indemnification from civil liability by the district
To employees returning from military leave of absence, within 30 days of return	Government Code 20997	AR 4161.5 4261.5 4361.5	Right to receive PERS service credit for military service; application form
24 hours before Board meets in closed session to hear complaints or charges against employee	Government Code 54957	BB 9321	Employee's right to have complaints/charges heard in open session
When taking disciplinary action against employee for disclosure of confidential information	Government Code 54963	BP 4119.23 4219.23 4319.23	Law prohibiting disclosure of confidential information obtained in closed session

E 4112.9(h)
4212.9
4312.9

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
V. To Individual Employees Under Special Circumstances (continued)			
Within one working day of work-related injury or victimization of crime	Labor Code 3553, 5401	BP 4157.1 4257.1 4357.1	Potential eligibility for workers' compensation benefits, claim form
When adverse employment action is based on DOJ criminal history information or subsequent arrest notification	Penal Code 11105, 11105.2	AR 4112.5 4212.5 4312.5	Copy of DOJ notification
To any employee with exposure to blood or other potentially infectious materials, upon initial employment and at least annually thereafter	8 CCR 3204, 5193	AR 4119.42 4219.42 4319.42	The existence, location, and availability of exposure and medical records; person responsible for maintaining and providing access to records; right to access records
To any employee assigned to a work area where hazardous chemicals are present, upon initial assignment and upon new exposure situation	8 CCR 5191	AR 3514.1	Location and availability of chemical hygiene plan, exposure limits, signs and symptoms of exposure, location of reference material
To any employee who may be exposed to hazardous substances in the work area, upon initial assignment and when new hazard is introduced into work area	8 CCR 5194	AR 3514.1	Any presence of hazardous substances in the work area, location and availability of hazard communication program, new material safety data sheet, employee rights
To employee eligible for military leave	38 USC 4334	AR 4161.5 4261.5 4361.5	Notice of rights, benefits, and obligations under military leave
Within five days of employee's request for FMLA leave, receipt of supporting information, or district's knowledge that the requested leave may qualify as FMLA leave	29 CFR 825.300; 2 CCR 11049, 11091	AR 4161.8 4261.8 4361.8	Designation of leave as FMLA or non-FMLA; if not eligible, reason not eligible; requirement to use paid leave; any requirement for fitness-for-duty certification; any subsequent changes in designation notice

E 4112.9(i)
4212.9
4312.9

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
V. To Individual Employees Under Special Circumstances (continued)			
Whenever notice of eligibility for FMLA is provided to employee	29 CFR 825.300	AR 4161.8 4261.8 4361.8	Rights and responsibilities re: use of FMLA; consequences of failure to meet obligations

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MB

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 7-12 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.** ~~These~~ **The required** components are addressed in the following policy and the accompanying administrative regulation. Also see the California Department of Education's (CDE) ~~model policy~~ **Model Youth Suicide Prevention Policy** developed pursuant to Education Code 215. ~~Although not required by law, districts serving students in grades K-6 may adapt this policy for use in elementary schools.~~

~~The following policy and accompanying administrative regulation should be revised to reflect district practice. Pursuant to Education Code 215, the policy must be developed in consultation with school and community stakeholders, school-employed mental health professionals, and suicide prevention experts. It is recommended that districts also consult with legal counsel and the district's risk manager or insurance carrier, as appropriate.~~ **The following policy and accompanying administrative regulation should be revised to reflect district practice and the grade levels offered by the district.**

~~Also see the California Department of Education's model policy required by Education Code 215.~~

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

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, and 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.~~

In developing **policy measures** and strategies for **suicide prevention and intervention, 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** ~~use by the district, the Superintendent or designee may consult with school health professionals, school counselors, school psychologists, school social workers, and school nurses; administrators, other staff, parents/guardians, students,~~ **suicide**

SUICIDE PREVENTION (continued)

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: 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)

Such 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 grades 7-12 on suicide awareness and prevention 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 be revised to specify other categories of employees who will receive the training.

1. Staff development on suicide awareness and prevention for teachers, school counselors, and other district employees who interact with students, **as described in the accompanying administrative regulation**

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Note: Items #2-7 below reflect optional strategies for suicide prevention, intervention, and postvention and may be revised to reflect district practice.

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

(cf. 6142.8 - Comprehensive Health Education)

MB

SUICIDE PREVENTION (continued)

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

(cf. 5131 - Conduct)

(cf. 5131.2 - Bullying)

(cf. 5137 - Positive School Climate)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.9 - Hate-Motivated Behavior)

4. The provision of information to parents/guardians regarding risk factors and warning signs of suicide, the severity of the suicide problem among youth, the district's suicide prevention curriculum, basic steps for helping suicidal youth, and/or school and community resources that can help youth in crisis
5. Encouragement for students to notify appropriate school personnel or other adults when they are experiencing thoughts of suicide or when they suspect or have knowledge of another student's suicidal intentions
6. Crisis intervention procedures for addressing suicide threats or attempts
7. Counseling and other postvention strategies for helping students, staff, and others cope in the aftermath of a student's suicide

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 youth. (Education Code 215)

Note: The following paragraph 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.

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)

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SUICIDE PREVENTION (continued)

(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: Pursuant to Education Code 215, as amended by AB 2639 (Ch. 437, Statutes of 2018), boards that serve students in grades 7-12 are required to review, and if necessary update, the district's student suicide prevention policy at least every five years.

The Board shall review, and update as necessary, this policy at least every five years. (Education Code 215)

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:

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 Confidentiality of student information

49604 Suicide prevention training for school counselors

GOVERNMENT CODE

810-996.6 Government Claims Act

PENAL CODE

11164-11174.3 Child Abuse and Neglect Reporting Act

WELFARE AND INSTITUTIONS CODE

5698 Emotionally disturbed youth; legislative intent

5850-~~5883~~ **5886** Children's Mental Health Services Act

COURT DECISIONS

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

Management Resources: (see next page)

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SUICIDE PREVENTION (continued)

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

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

Health Framework for California Public Schools, Kindergarten Through Grade Twelve, 2003-2019

CENTERS FOR DISEASE CONTROL AND PREVENTION PUBLICATIONS

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

NATIONAL ASSOCIATION OF SCHOOL PSYCHOLOGISTS PUBLICATIONS

Preventing Suicide: Guidelines for Administrators and Crisis Teams, 2015

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES PUBLICATIONS

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

Preventing Suicide: A Toolkit for High Schools, 2012

WEB SITES

American Association of Suicidology: <http://www.suicidology.org>

American Foundation for Suicide Prevention: <https://afsp.org>

American Psychological Association: <http://www.apa.org>

American School Counselor Association: <https://www.schoolcounselor.org>

California Department of Education, Mental Health: <http://www.cde.ca.gov/ls/cg/mh>

California Department of Health Care Services, **Mental Health Services Suicide Prevention Program**:
<http://www.dhcs.ca.gov/services/MH/Pages/SuicidePrevention.aspx>

Centers for Disease Control and Prevention, Mental Health: <http://www.cdc.gov/mentalhealth>

National Association of School Psychologists: <https://www.nasponline.org>

National Institute for Mental Health: <http://www.nimh.nih.gov>

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>

(3/17 12/18) 3/20

CSBA Sample Administrative Regulation

Students

AR 5141.52(a)

SUICIDE PREVENTION

Note: Pursuant to Education Code 215, districts serving students in grades 7-12 are ~~mandated~~ to adopt a policy on student suicide prevention, intervention, and postvention (i.e., intervention conducted after a suicide). Education Code 215, as amended by AB 1767 (Ch. 694, Statutes of 2019), mandates policy on suicide prevention, intervention, and postvention for grades 7-12 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.

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

Effective July 1, 2019, Education Code 215.5, as added by SB 972 (Ch. 460, Statutes of 2018), requires districts that issue or reissue student identification cards to have printed on either side of the card the telephone number of the National Suicide Prevention Lifeline (1-800-273-8255), and allows to have printed on the card the Crisis Text Line (texting HOME to 741741) and/or a local suicide prevention hotline telephone number. If, as of July 1, 2019, the district has unissued student identification cards that do not comply with the above requirements, the cards should be issued until the supply is depleted.

~~Student identification cards shall include the National Suicide Prevention Lifeline telephone number and may also include the Crisis Text Line and/or a local suicide prevention hotline telephone number. (Education Code 215.5)~~

Staff Development

Note: Education Code 215, as amended by AB 1767, mandates that the district's policy and procedures address any training on suicide awareness and prevention to be provided to teachers of students in all grades ~~7-12 on suicide awareness and prevention 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. The following section may be revised to reflect district practice.

Education Code 216, as added by AB 1808 (Ch. 32, Statutes of 2018), requires CDE to identify evidence-based online training program(s), aligned with the requirements of Education Code 215, that districts can use to train students and staff. Additionally, dependent upon funds being appropriated in the annual Budget Act, CDE will provide grants, upon application, to county offices of education for the acquisition of such training programs to disseminate to districts at no cost.

Suicide prevention training shall be provided to teachers, counselors, and other district employees who interact with students. The training shall be offered under the direction of a district counselor/psychologist and/or in cooperation with one or more community mental health agencies.

SUICIDE PREVENTION (continued)

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

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

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

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

1. The higher risk of suicide among certain groups, including, but not limited to, students who are **bereaved 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 **youth**

Note: Staff development may include training about individual risk factors associated with suicide, as provided in item #2 below. Information about risk factors is available from CDE, Centers for Disease Control and Prevention, American Association of Suicidology, American Foundation for Suicide Prevention, Trevor Project, and other agencies and organizations.

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

(cf. 5131.6 - Alcohol and Other Drugs)

3. Warning signs that may indicate depression, emotional distress, or suicidal intentions, such as changes in students' personality or behavior and verbalizations of hopelessness or suicidal intent
4. Protective factors that may help to decrease a 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

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SUICIDE PREVENTION (continued)

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

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

7. Appropriate ways to interact with a student who is demonstrating emotional distress or is suicidal and procedures for intervening when a student attempts, threatens, or discloses the desire to die by suicide, including, but not limited to, appropriate protocols for monitoring the student while the immediate referral of the student to medical or mental health services is being processed
8. District procedures for responding after a suicide has occurred

Instruction

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

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

1. Identify and analyze signs of 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 and self-esteem
3. Learn to listen, be honest, share feelings, and get help when communicating with friends who show signs of suicidal intent
4. Identify trusted adults, school resources, and/or community crisis intervention resources where youth can get help and recognize that there is no stigma associated with seeking services for mental health, substance abuse, and/or suicide prevention

(cf. 5131.6 - Alcohol and Other Drugs)
(cf. 5141.6 - School Health Services)
(cf. 6142.8 - Comprehensive Health Education)
(cf. 6164.2 - Guidance/Counseling Services)

SUICIDE PREVENTION (continued)

Student Identification Cards

Note: The following section is for use by districts that serve students in grades 7-12. Effective July 1, 2019, Education Code 215.5, as added by SB 972 (Ch. 460, Statutes of 2018), requires districts that issue or reissue student identification cards to have printed on either side of the card the telephone number of the National Suicide Prevention Lifeline (1-800-273-8255), and allows to have printed on the card the Crisis Text Line (texting HOME to 741741) and/or a local suicide prevention hotline telephone number. If, as of July 1, 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.

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

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

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

Although any personal information that a student discloses to a school counselor shall generally not be revealed, released, referenced, or discussed with third parties, the counselor may report to the principal or student's parents/guardians when 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

SUICIDE PREVENTION (continued)

disclose information of a personal nature to psychotherapists, other health care providers, or the school nurse for the sole purpose of referring the student for treatment. (Education Code 49602)

(cf. 5141 - Health Care and Emergencies)

School employees shall act only within the authorization and scope of their credential or license. An employee is not authorized to diagnose or treat mental illness unless specifically licensed and employed to do so. (Education Code 215)

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

(cf. 5138 - Conflict Resolution/Peer Mediation)

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

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

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

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

(cf. 5125 - Student Records)

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

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SUICIDE PREVENTION (continued)

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.

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

The Superintendent or designee shall implement procedures to address students' and staff's grief and to minimize the risk of imitative suicide or suicide contagion. 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 best to discuss the suicide or attempted suicide with students.

SUICIDE PREVENTION (continued)

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 5144.1(a)

SUSPENSION AND EXPULSION/DUE PROCESS

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

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

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

Pursuant to Education Code 48913.5, as added by AB 982 (Ch. 779, Statutes of 2019), when a parent/guardian of a student in grades 1-12 who has been suspended for two or more school days requests homework that the student would otherwise have been assigned, the student's teacher must provide such homework; see BP 6154 - Homework/Makeup Work.

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

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

(cf. 5131 - Conduct)

(cf. 5131.1 - Bus Conduct)

(cf. 5131.2 - Bullying)

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

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

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

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

(cf. 5112.5 - Open/Closed Campus)

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

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

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

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SUSPENSION AND EXPULSION/DUE PROCESS (continued)*(cf. 0410 - Nondiscrimination in District Programs and Activities)***Appropriate Use of Suspension Authority**

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

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

*(cf. 5138 - Conflict Resolution/Peer Mediation)**(cf. 5144 - Discipline)**(cf. 6142.4 - Service Learning/Community Service Classes)**(cf. 6164.2 - Guidance/Counseling Services)**(cf. 6164.5 - Student Success Teams)*

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

A student's parents/guardians shall be notified as soon as possible when there is an escalating pattern of misbehavior that could lead to on-campus or off-campus suspension.

Note: **As amended by SB 419 (Ch. 279, Statutes of 2019)**, Education Code 48900(k) prohibits a district from suspending students in grades K-~~3~~ **8** for disruption or willful defiance **beginning July 1, 2020**.

A district may, but is not required to, and authorizes, but does not require, a district to suspend students in grades ~~4-9~~-12 for disruption or willful defiance. Even with this authority, districts should be careful in using these grounds, as available data have indicated a disproportionate use with certain student subgroups. Option 1 below is for use by any district that chooses to suspend students in grades ~~4-9~~-12 for disruption and/or willful defiance as authorized pursuant to Education Code 48900(k). Any district that chooses to eliminate disruption and willful defiance as reasons for suspending any of its students from school should select Option 2 below. Such districts should also delete the ~~first paragraph in the~~ section titled "Additional Grounds for Suspension and Expulsion: Grades ~~4-9~~-12" in the accompanying administrative regulation.

Each option below reflects an exception granted to teachers pursuant to Education Code 48910 to suspend students, including a K-3 student, from class; see section "Suspension from Class by a Teacher" in the accompanying administrative regulation.

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SUSPENSION AND EXPULSION/DUE PROCESS (continued)

~~**OPTION 1:** No student in grades K-**5** **8** may be suspended for disruption or willful defiance, except by a teacher pursuant to Education Code 48910. (Education Code 48900)~~

Yes -

OPTION 2: No student may be suspended for disruption or willful defiance, except by a teacher pursuant to Education Code 48910. (Education Code 48900)

Note: The following **optional** paragraph reflects the Legislature's intent, expressed in Education Code 48900, concerning disciplinary actions against truant, tardy, or absent students. Since these are not enumerated offenses, a district does not have the authority to suspend or expel students for committing any of these acts.

ok

Students shall not be suspended or expelled for truancy, tardiness, or absenteeism from assigned school activities.

(cf. 5113 - Absences and Excuses)

(cf. 5113.1 - Chronic Absence and Truancy)

On-Campus Suspension

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

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

No

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

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

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SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Authority to Expel

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

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

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

(cf. 5131.7 - Weapons and Dangerous Instruments)

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

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

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

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

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

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

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

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

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

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

(cf. 5148.3 - Preschool/Early Childhood Education)

Due Process

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

(cf. 5119 - Students Expelled from Other Districts)

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

Maintenance and Monitoring of Outcome Data

Note: Education Code 48900.8 and 48916.1 require the district to maintain data related to suspensions and expulsions as provided below. Pursuant to Education Code 48916.1, the Superintendent of Public Instruction

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SUSPENSION AND EXPULSION/DUE PROCESS (continued)

may require submission of such data as part of the Federal Program Monitoring process. In addition, 20 USC 7961 requires districts to submit to CDE a description of the circumstances surrounding any expulsions based on bringing or possessing a firearm on campus, including the name of the school, the number of students expelled, and the type of firearms involved.

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

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

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

(cf. 0460 - Local Control and Accountability Plan)

Legal Reference: (see next page)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Legal Reference:

EDUCATION CODE

212.5 Sexual harassment

233 Hate violence

1981-1981.5 Enrollment of students in community school

8239.1 Prohibition against expulsion of preschool student

17292.5 Program for expelled students

32261 Interagency School Safety Demonstration Act of 1985

35145 Open board meetings

35146 Closed sessions (regarding suspensions)

35291 Rules (for government and discipline of schools)

35291.5 Rules and procedures on school discipline

48645.5 Readmission; contact with juvenile justice system

48660-48666 Community day schools

48853.5 Foster youth

48900-48927 Suspension and expulsion

48950 Speech and other communication

48980 Parental notifications

49073-49079 Privacy of student records

52052 Numerically significant student subgroups

52060-52077 Local control and accountability plan

64000-64001 Consolidated application

CIVIL CODE

47 Privileged communication

48.8 Defamation liability

CODE OF CIVIL PROCEDURE

1985-1997 Subpoenas; means of production

GOVERNMENT CODE

11455.20 Contempt

54950-54963 Ralph M. Brown Act

HEALTH AND SAFETY CODE

11014.5 Drug paraphernalia

11053-11058 Standards and schedules

LABOR CODE

230.7 Employee time off to appear in school on behalf of a child

PENAL CODE

31 Principal of a crime, defined

240 Assault defined

241.2 Assault fines

242 Battery defined

243.2 Battery on school property

Legal Reference continued: (see next page)

MS

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Legal Reference: (continued)

PENAL CODE (continued)

- 243.4 Sexual battery
- 245 Assault with deadly weapon
- 245.6 Hazing
- 261 Rape defined
- 266c Unlawful sexual intercourse
- 286 Sodomy defined
- 288 Lewd or lascivious acts with child under age 14
- 288a Oral copulation
- 289 Penetration of genital or anal openings
- 417.27 Laser pointers
- 422.55 Hate crime defined
- 422.6 Interference with exercise of civil rights
- 422.7 Aggravating factors for punishment
- 422.75 Enhanced penalties for hate crimes
- 626.2 Entry upon campus after written notice of suspension or dismissal without permission
- 626.9 Gun-Free School Zone Act of 1995
- 626.10 Dirks, daggers, knives, razors, or stun guns
- 868.5 Supporting person; attendance during testimony of witness

WELFARE AND INSTITUTIONS CODE

- 729.6 Counseling

UNITED STATES CODE, TITLE 18

- 921 Definitions, firearm

UNITED STATES CODE, TITLE 20

- 1415(K) Placement in alternative educational setting
- 7961 Gun-free schools

UNITED STATES CODE, TITLE 42

- 11432-11435 Education of homeless children and youths

COURT DECISIONS

- T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267
- Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421
- Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H. (2001) 85 Cal.App.4th 1321
- Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 118
- Garcia v. Los Angeles Board of Education (1991) 123 Cal. App. 3d 807
- John A. v. San Bernardino School District (1982) 33 Cal. 3d 301

ATTORNEY GENERAL OPINIONS

- 84 Ops.Cal.Atty.Gen. 146 (2001)
- 80 Ops.Cal.Atty.Gen. 348 (1997)
- 80 Ops.Cal.Atty.Gen. 91 (1997)
- 80 Ops.Cal.Atty.Gen. 85 (1997)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Management Resources:

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

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

WEB SITES

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

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

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

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

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

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

<http://www2.ed.gov/about/offices/list/oese/oshs>

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Policy Reference UPDATE Service

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CSBA Sample Administrative Regulation

Students

AR 5144.1(a)

SUSPENSION AND EXPULSION/DUE PROCESS

Note: CSBA recommends that this administrative regulation be approved by the Governing Board, regardless of **regular** district practice **regarding the approval of administrative regulations**.

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

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

Definitions

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

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

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

Notice of Regulations

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

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

(cf. 5144 - Discipline)

(cf. 5145.6 - Parental Notifications)

Grounds for Suspension and Expulsion: Grades K-12

Note: The acts for which students may be suspended or expelled are specified in law, the following section, and in the sections below titled "Grounds for Suspension and Expulsion: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12," and "Additional Grounds for Suspension and Expulsion: Grades 9-12." The Board does not have authority to add to those enumerated acts. However, the Board has authority to prohibit suspension or expulsion for certain acts for which suspension or expulsion is permissible rather than mandatory. The Board may consider limiting the use of suspension and expulsion for such offenses as part of the district plan to address school climate within the local control and accountability plan required pursuant to Education Code 52060. In addition, pursuant to Education Code 48900.5, a district is not authorized to suspend a student for certain specified violations unless other means of correction have failed to bring about proper conduct.

Acts for which a student, including a student with disabilities, may be suspended or expelled shall be only those specified as follows and in the sections "Additional Grounds for Suspension and Expulsion: Grades 4-12" and "Additional Grounds for Suspension and Expulsion: Grades 9-12" below:

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

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

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

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

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SUSPENSION AND EXPULSION/DUE PROCESS (continued)

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

(cf. 5131 - Conduct)

(cf. 5131.7 - Weapons and Dangerous Instruments)

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

(cf. 3513.4 - Drug and Alcohol Free Schools)

(cf. 5131.6 - Alcohol and Other Drugs)

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

5. Committed or attempted to commit robbery or extortion (Education Code 48900(e))

6. Caused or attempted to cause damage to school property or private property (Education Code 48900(f))

7. Stole or attempted to steal school property or private property (Education Code 48900(g))

8. Possessed or used tobacco or products containing tobacco or nicotine products, including, but not limited to, cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel, except that this restriction shall not prohibit a student from using or possessing **his/her own** prescription products (Education Code 48900(h))

(cf. 5131.62 - Tobacco)

9. Committed an obscene act or engaged in habitual profanity or vulgarity (Education Code 48900(i))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

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

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

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

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

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

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SUSPENSION AND EXPULSION/DUE PROCESS (continued)

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

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

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

Bullying also includes an act of cyber sexual bullying by a student through the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording that depicts a nude, semi-nude, or sexually explicit photograph or other visual recording of an identifiable minor, when such dissemination is to another student or to school personnel by means of an electronic act and has or can be reasonably predicted to have one or more of the effects of bullying described above. Cyber sexual bullying does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.

Electronic act means the creation or transmission originated on or off the school site by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication including, but not limited to: (Education Code 48900(r))

- a. A message, text, sound, video, or image

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

- b. A post on a social network Internet web site, including, but not limited to, posting to or creating a burn page or creating a credible impersonation or false profile for the purpose of causing a reasonable student any of the effects of bullying described above.

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

(cf. 1114 - District-Sponsored Social Media)

(cf. 5131.2 - Bullying)

(cf. 6163.4 - Student Use of Technology)

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

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

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

Pursuant to Education Code 48900(t), any student who aids or abets a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury is subject to suspension or expulsion as provided in item #1 above.

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

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

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SUSPENSION AND EXPULSION/DUE PROCESS (continued)**Additional Grounds for Suspension and Expulsion: Grades 4-12**

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

Pursuant to Education Code 48900(k), except as otherwise provided in Education Code 48910, students in grades K-3 must not be suspended for disruption of school activities or willful defiance of school authority, and students in grades K-12 must not be expelled on these grounds. Since districts are authorized but not required to suspend students in grades 4-12 based on these grounds, a district may choose, consistent with Option 2 in the accompanying Board policy, to prohibit the use of these reasons for suspending its students. **Any district that chooses to do so should delete the following paragraph.**

None of the prohibitions or restrictions in Education Code 48900(k) affect a teacher's authority to remove a student from class for one day pursuant to Education Code 48910.

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

(cf. 5131.4 - Student Disturbances)

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

As discussed in item #17 of "Grounds for Suspension and Expulsion: Grades K-12" above, although Education Code 48900(r) defines bullying to include acts involving items #1-3 below, Education Code 48900.2-48900.4 provide that only students in grades 4-12 may be suspended or expelled for the individual acts that constitute sexual harassment, hate violence, and harassment. The interplay between "bullying" and items #1-3 can raise complex legal issues. Districts should consult legal counsel as appropriate.

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

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

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

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

(cf. 5145.7 - Sexual Harassment)

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

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

(cf. 5145.9 - Hate-Motivated Behavior)

3. Intentionally engaged in harassment, threats, or intimidation against district personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of school personnel or students by creating an intimidating or hostile educational environment (Education Code 48900.4)

(cf. 5145.3 - Nondiscrimination/Harassment)

Additional Grounds for Suspension and Expulsion: Grades 9-12

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Note: Pursuant to Education Code 48900(k), as amended by SB 419 (Ch. 279, Statutes of 2019), except as otherwise provided in Education Code 48910, students in grades ~~K-3~~ K-8 must not be suspended for disruption of school activities or willful defiance of school authority, and students in grades K-12 must not be expelled on these grounds. Since districts are authorized but not required to suspend students in grades 4-12 9-12 based on these grounds, the following section is for use only by districts that selected Option 1 in the section "Appropriate Use of Suspension Authority" in the accompanying Board policy. Districts that selected Option 2 in the accompanying Board policy, thereby prohibiting the use of these reasons for suspending students at any grade level, should delete the following section. a district may choose, consistent with Option 2 in the accompanying Board policy, to prohibit the use of these reasons for suspending its students. Any district that chooses to do so should delete the following paragraph.

None of the prohibitions or restrictions in Education Code 48900(k) affect a teacher's authority to remove a student from class for one day pursuant to Education Code 48910. See the section "Suspension from Class by a Teacher" below.

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SUSPENSION AND EXPULSION/DUE PROCESS (continued)

NO
 Any student in grades 4-12 ~~9-12~~ may be suspended, but not expelled, for disrupting school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties. (Education Code 48900(k))

(cf. 5131.4 - Student Disturbances)

Suspension from Class by a Teacher

Note: The following section is optional and may be revised to reflect district practice. While Education Code 48900(k) prohibits a district from suspending students in grades ~~K-3~~ K-8 for disruption or willful defiance, it still allows for a teacher to suspend a ~~K-3~~ K-8 student on these grounds.

A teacher may suspend a student, including a grade ~~K-3~~ student, from class for the remainder of the day and the following day for ~~disruption, willful defiance, or any of the other~~ acts specified in Education Code 48900 and listed as items #1-18 under "Grounds for Suspension and Expulsion: Grades K-12" above or for disruption or willful defiance at any grade level, including grades K-8. (Education Code 48910)

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

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

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

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

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SUSPENSION AND EXPULSION/DUE PROCESS (continued)

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

Suspension by Superintendent, Principal or Principal's Designee

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

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

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

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

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

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

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

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

(cf. 5125 - Student Records)

Length of Suspension

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

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

(cf. 6184 - Continuation Education)

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

Due Process Procedures for Suspension

Suspensions shall be imposed in accordance with the following procedures:

1. **Informal Conference:** Suspension shall be preceded by an informal conference conducted by the Superintendent, principal, or designee with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action, including the other means of correction that were attempted before the suspension as required pursuant to Education Code 48900.5, and the evidence against **him/her the student**, and shall be given the opportunity to present **his/her the student's** version and evidence **in support of his/her defense**. (Education Code 48911)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

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

Note: Item #2 below should be revised to reflect the district's processing and reporting procedures.

2. **Administrative Actions:** All requests for student suspension are to be processed by the principal or designee. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee. (Education Code 48911)
3. **Notice to Parents/Guardians:** At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall also be notified in writing of the suspension. (Education Code 48911)

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

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

In addition, the notice may state the date and time when the student may return to school.

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

If school officials request to meet with the parent/guardian, the notice may state that the law requires the parent/guardian to respond to such requests without delay. However, no penalties may be imposed on the student for the failure of the

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

parent/guardian to attend such a conference. The student may not be denied reinstatement solely because the parent/guardian failed to attend the conference. (Education Code 48911)

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

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

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

(cf. 6173.1 - Education for Foster Youth)

Note: Pursuant to Education Code 48918.1, the district's liaison for homeless students must be notified when the student being considered for expulsion is a homeless student. See the section below titled "Additional Notice of Expulsion Hearing for Foster Youth and Homeless Students."

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

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

(cf. 6173 - Education for Homeless Children)

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

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

Suspension by the Board

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

The Board may suspend a student for any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12," **and** "Additional Grounds for Suspension and Expulsion: Grades 4-12," **and** "Additional Grounds for Suspension and Expulsion: Grades 9-12" above and within the limits specified under "Suspension by Superintendent, Principal, or Designee" above. (Education Code 48912)

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

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

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

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SUSPENSION AND EXPULSION/DUE PROCESS (continued)

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

On-Campus Suspension

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

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

1. The on-campus suspension classroom shall be staffed in accordance with law.
2. The student shall have access to appropriate counseling services.
3. The on-campus suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.
4. The student shall be responsible for contacting **his/her the student's** teacher(s) to receive assignments to be completed in the supervised suspension classroom. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no such work is assigned, the person supervising the suspension classroom shall assign schoolwork.

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

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Superintendent or Principal's Authority to Recommend Expulsion

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

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

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

Student's Right to Expulsion Hearing

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

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

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

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

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

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

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

Stipulated Expulsion

Note: The following section is **optional** and may be revised to reflect district practice. "Stipulated expulsion" is for districts that have adopted an expedited procedure which allows a student to waive **his/her** **the** right to a pre-expulsion hearing in exchange for an agreement as to the terms of the expulsion. Such waivers are not specifically addressed in law and districts should ensure that the due process rights of students are included in the stipulated agreement and are clearly explained to them before the agreement is signed. Districts should consult legal counsel as appropriate.

After a determination that a student has committed an expellable offense, the Superintendent, principal, or designee shall offer the student and **his/her** parent/guardian the option to waive a hearing and stipulate to the expulsion or to a suspension of the expulsion under certain conditions. The offer shall be made only after the student or **his/her** parent/guardian has been given written notice of the expulsion hearing pursuant to Education Code 48918.

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

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

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

Rights of Complaining Witness

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

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

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

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

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

Written Notice of the Expulsion Hearing

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

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

1. The date and place of the hearing

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SUSPENSION AND EXPULSION/DUE PROCESS (continued)

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

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

(cf. 5119 - Students Expelled from Other Districts)

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

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

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

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

Additional Notice of Expulsion Hearing for Foster Youth and Homeless Students

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

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SUSPENSION AND EXPULSION/DUE PROCESS (continued)

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

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

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

Conduct of Expulsion Hearing

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

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

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

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

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

If a hearing that involves a charge of sexual assault or sexual battery is to be conducted in public, a complaining witness shall have the right to ~~have his/her testimony heard~~ **testify** in closed session when testifying in public would threaten

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

serious psychological harm to the witness and when there are no alternative procedures to avoid the threatened harm, including, but not limited to, a videotaped deposition or contemporaneous examination in another place communicated to the hearing room by closed-circuit television. (Education Code 48918(c))

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

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

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

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

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

If the Board determines, or if the hearing officer or administrative panel finds and submits to the Board, that a witness would be subject to unreasonable risk of harm by

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as described in item #4 below. (Education Code 48918(i))

4. **Presentation of Evidence:** Technical rules of evidence shall not apply to the expulsion hearing, but relevant evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Board to expel shall be supported by substantial evidence that the student committed any of the acts pursuant to Education Code 48900 and listed in "Grounds for Suspension and Expulsion: Grades K-12," and "Additional Grounds for Suspension and Expulsion: Grades 4-12," and "Additional Grounds for Suspension and Expulsion: Grades 9-12" above. (Education Code 48918(h))

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

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

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

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

5. **Testimony by Complaining Witnesses:** The following procedures shall be observed when a hearing involves allegations of sexual assault or sexual battery by a student: (Education Code 48918, 48918.5)
 - a. Any complaining witness shall be given five days' notice before being called to testify.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

- b. Any complaining witness shall be entitled to have up to two adult support persons, including, but not limited to, a parent/guardian or legal counsel, present during **his/her the** testimony.
- c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.
- d. The person presiding over the hearing may remove a support person whom **he/she finds** is disrupting the hearing.
- e. If one or both support persons are also witnesses, the hearing shall be conducted in accordance with Penal Code 868.5.
- f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances require the evidence to be heard. Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.
- g. In order to facilitate a free and accurate statement of the experiences of the complaining witness and to prevent discouragement of complaints, the district shall provide a nonthreatening environment.
 - (1) The district shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.
 - (2) At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which **he/she the complaining witness** may leave the hearing room.
 - (3) The person conducting the hearing may:

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SUSPENSION AND EXPULSION/DUE PROCESS (continued)

- (a) Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining witness
 - (b) Limit the time for taking the testimony of a complaining witness to **the normal school hours he/she is normally in school**, if there is no good cause to take the testimony during other hours
 - (c) Permit one of the support persons to accompany the complaining witness to the witness stand
6. **Decision:** The Board's decision as to whether to expel a student shall be made within 40 school days after the student is removed from **his/her school of attendance**, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

Alternative Expulsion Hearing: Hearing Officer or Administrative Panel

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

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

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

Note: Pursuant to Education Code 48918, if the hearing officer or administrative panel does not recommend expulsion, a student must be permitted to return to the classroom instructional program from which the expulsion referral was made, unless the student's parent/guardian requests a different placement. Education Code 48918 also states that a student who is found to have committed any of the violations listed in "Authority to Expel" in the accompanying Board policy but for whom expulsion is not recommended may

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SUSPENSION AND EXPULSION/DUE PROCESS (continued)

be referred to **his/her the student's** prior school. However, the hearing officer or administrative panel, like the Board, **must** recommend expulsion or a suspended expulsion under Education Code 48915, if it finds that a student committed any such violation that mandates expulsion. District should consult legal counsel to resolve this apparent discrepancy.

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

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

In accordance with Board policy, the hearing officer or administrative panel may recommend that the Board suspend the enforcement of the expulsion. If the hearing officer or administrative panel recommends that the Board expel a student but suspend the enforcement of the expulsion, the student shall not be reinstated and permitted to return to the classroom instructional program from which the referral was made until the Board has ruled on the recommendation. (Education Code 48917, 48918)

Final Action by the Board

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

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

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

(cf. 9321.1 – Closed Session Actions and Reports)

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

Note: 20 USC 7961 requires the district, in the consolidated application for federal funding, to provide an assurance that it will comply with the state requirement to expel, for a period not less than one year, any student who brings a firearm to school or possesses a firearm at school.

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

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

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

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

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

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Written Notice to Expel

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

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed above under "Grounds for Suspension and Expulsion: Grades K-12," ~~or~~ "Additional Grounds for Suspension and Expulsion: Grades 4-12," **or "Additional Grounds for Suspension and Expulsion: Grades 9-12"** (Education Code 48900.8)
2. The fact that a description of readmission procedures will be made available to the student and **his/her** parent/guardian (Education Code 48916)
3. Notice of the right to appeal the expulsion to the County Board (Education Code 48918)
4. Notice of the alternative educational placement to be provided to the student during the time of expulsion (Education Code 48918)
5. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1 (Education Code 48918)

Decision to Suspend Expulsion Order

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

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

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

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

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

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class, or program appropriate for the student's rehabilitation. This rehabilitation program may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program. (Education Code 48917)
2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status. (Education Code 48917)
3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12," ~~or~~ "Additional Grounds for Suspension and Expulsion: Grades 4-12," **or "Additional Grounds for Suspension and Expulsion: Grades 9-12"** above or violates any of the district's rules and regulations governing student conduct. (Education Code 48917)
4. When the suspension of enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order. (Education Code 48917)
5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a district school. Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings. (Education Code 48917)
6. The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall inform the parent/guardian of the right to appeal the expulsion to the County Board, the alternative educational placement to be provided to the student during the period of expulsion, and the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of ~~his/her~~ **the student's** status with the expelling district, pursuant to Education Code 48915.1(b). (Education Code 48918(j))
7. Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board. (Education Code 48917)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Appeal

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

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

Notification to Law Enforcement Authorities

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

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

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

The principal or designee shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance, or of any student acts involving the possession, sale, or furnishing of firearms, explosives, or other dangerous weapons in violation of Education Code 48915(c)(1) or (5) or Penal Code 626.9 and 626.10. (Education Code 48902)

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

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SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Placement During Expulsion

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

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

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

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

(cf. 6158 - Independent Study)

(cf. 6185 - Community Day School)

When the placement described above is not available and when the County Superintendent so certifies, students expelled for only acts described in items #6-12 under "Grounds for Suspension and Expulsion: Grades K-12" and items #1-3 under "Additional Grounds for Suspension and Expulsion: Grades 4-12" above may be referred to a program of study that is provided at another comprehensive middle, junior, or senior high school or at an elementary school. (Education Code 48915)

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

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Readmission After Expulsion

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

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

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

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

No student shall be denied readmission into the district based solely on the student's arrest, adjudication by a juvenile court, formal or informal supervision by a probation officer, detention in a juvenile facility, enrollment in a juvenile court school, or other such contact with the juvenile justice system. (Education Code 48645.5)

Maintenance of Records

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

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

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

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

(cf. 5119 - Students Expelled from Other Districts)

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CSBA Sample Board Policy

Instruction

BP 6172.1(a)

CONCURRENT ENROLLMENT IN COLLEGE CLASSES

Note: The following **optional** policy may be revised to reflect district practice. Education Code 48800-48802 and 76000-~~76002~~ **76004** authorize enrollment in community college courses as an option for a limited number of district students to benefit from advanced scholastic or career technical work.

~~In addition, a limited number of school districts receive funding through the Foundation for California Community Colleges to operate Early College High Schools. The following policy does not address requirements pertaining to early or middle college high schools established pursuant to Education Code 11300-11302. These schools are designed so that students can~~ **These programs provide students an opportunity to** achieve two years of college credit at the same time they are earning a high school diploma, and are targeted toward student groups that historically have below-average high school and college graduation rates (e.g., low-income, at-risk, English language learner, and minority students). ~~For more information, see the Foundation's or California Department of Education's (CDE) web site. Districts that offer such a program may revise the following policy to reflect program goals and requirements.~~

The Governing Board desires to provide opportunities for eligible district students to enroll concurrently in courses offered at postsecondary institutions in order to foster individual student achievement, increase opportunities for students to complete college preparatory course requirements **and/or participate in** career technical education **(CTE) preparation**, and prepare students for a smooth transition into college by providing exposure to the collegiate environment.

(cf. 6143 - Courses of Study)

(cf. 6172 - Gifted and Talented Student Program)

(cf. 6178 - Career Technical Education)

(cf. 6178.2 - Regional Occupational Center/Program)

Note: The following paragraph is **optional**. Education Code 51225.3 provides that completion of postsecondary courses may be used as an alternative means of satisfying high school graduation requirements when approved by the Governing Board. See BP 6146.11 - Alternative Credits Toward Graduation. ~~According to the CDE, students enrolled in college classes will receive credit from the postsecondary institution but,~~ Pursuant to Education Code 48800-48802 and 76001-76002 and as a result of the repeal in 2005 of 5 CCR 1630, the district has discretion to determine whether completion of such courses will receive credit from the district. See BP 6146.11 - Alternative Credits Toward Graduation. **48800, 76001, and 76003, a student will receive credit for community college courses that the student completes at the level determined appropriate by the Board and the governing board of the community college district.**

When it is determined that the postsecondary course in which the student intends to enroll is substantially equivalent to a course provided by the district, the student may receive credit toward high school graduation requirements in addition to credit received from the college.

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6146.11 - Alternative Credits Toward Graduation)

NO HS

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CONCURRENT ENROLLMENT IN COLLEGE CLASSES (continued)**Approval of Concurrent Enrollment**

Note: Although the Board may approve students for postsecondary classes in accordance with Education Code 48800 and 48800.5, the decision to admit a student into a postsecondary class rests with the college. Pursuant to Education Code 76002, a community college may restrict the admission of special part-time or full-time students based on age, completion of a specified grade level, and/or demonstrated eligibility for instruction using assessment methods and procedures approved by the Board of Governors of the California Community Colleges. Education Code 76001 requires that community colleges assign a low enrollment priority to special part-time or full-time students in order to ensure that they do not displace regularly admitted students.

The following **optional** paragraph may be revised to reflect criteria for approval established by the Board.

The Board may approve a limited number of students of any age or grade level to apply for part-time or full-time concurrent enrollment in a community college or four-year college when it is determined to be in the student's best interest and the student is adequately prepared for such coursework.

Upon recommendation of the principal and with parent/guardian consent, the Board may authorize a student to **apply for attendance at attend** a community college during any session or term as a special part-time or full-time student and to undertake one or more courses of instruction offered at the community college level. (Education Code 48800)

Note: Education Code 48800 provides a five percent enrollment cap on the number of students at each grade level **that who** may be recommended for community college summer session. However, this enrollment cap does not include a students who **are is** enrolled in a college-level lower division general education courses or in a career technical education (CTE) courses leading to a degree or certificate in the subject area, **under the conditions if the course meets the criteria** specified in Education Code 48800. **Pursuant to Education Code 48800, as amended by AB 1729 (Ch. 784, Statutes of 2019), such exceptions are operative through January 1, 2027.**

Within the enrollment limits and exceptions allowed by law, the principal may recommend a student for community college summer session if that student demonstrates adequate preparation in the discipline to be studied and exhausts all opportunities to enroll in an equivalent course, if any, at **his/her the** school of attendance. (Education Code 48800)

Any student's parent/guardian, **regardless of the student's age or grade level**, may petition the Board to authorize **special** full-time attendance at a community college **on the ground that if he/she believes** the student would benefit from advanced scholastic or career technical work that would be available. **If the petition is denied, an appeal may be filed with the County Board of Education.** (Education Code 48800.5)

If the Board denies a request for special part-time or full-time enrollment at a community college for a student who is identified as highly gifted and talented, the Board shall issue its

CONCURRENT ENROLLMENT IN COLLEGE CLASSES (continued)

written recommendation and the reasons for the denial at its next regularly scheduled Board meeting that falls at least 30 days, but within 60 days, after the request has been submitted. (Education Code 48800, 48800.5)

Note: Pursuant to Education Code 48800.5, if the Board denies any student's petition for full-time enrollment in a community college, the student's parent/guardian may file an appeal with the County Board, which must render a final decision, in writing, within 30 days.

Note: The following optional paragraph is for districts that offer an adult education program. Pursuant to Education Code 52620, as added by SB 554 (Ch. 528, Statutes of 2019), an adult education student pursuing a high school diploma or a high school equivalency certificate may be allowed to attend a community college as a special part-time student.

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The Board may authorize a student who is pursuing a high school diploma or a high school equivalency certificate through an adult education program, upon recommendation of the administrator of the student's adult school, to attend a community college during any session or term as a special part-time student. (Education Code 52620)

(cf. 6146.2 - Certificate of Proficiency/High School Equivalency)
(cf. 6200 - Adult Education)

College and Career Access Pathways Partnerships

Note: The following optional section is for districts that wish to establish a College and Career Access Pathways (CCAP) program at one or more high schools. Education Code 76004 authorizes the Board to enter into a CCAP agreement with the governing board of a community college district for the purpose of offering or expanding dual enrollment opportunities for students who may not already be college bound or who are underrepresented in higher education. The goals of such programs are to develop seamless pathways from high school to community college for CTE or preparation for transfer, improve high school graduation rates, and/or help achieve college and career readiness. Pursuant to Education Code 76004, as amended by SB 586 (Ch. 529, Statutes of 2019), the Board must present, invite public input, and take action on the proposed agreement at an open Board meeting.

As a condition of adopting a CCAP agreement which provides for CTE pathways, Education Code 76004, as amended by SB 586, requires the Board and the governing board of the community college district to consult with and consider input from the appropriate local workforce development board to determine the extent to which the pathways are aligned with regional and statewide employment needs.

For further information about CCAP requirements, see the accompanying administrative regulation.

The Board may enter into a College and Career Access Pathways (CCAP) partnership agreement with the board of a community college district for the purpose of offering or expanding dual enrollment opportunities for students. The agreement shall be approved at an open public Board meeting, with an opportunity for public input

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CONCURRENT ENROLLMENT IN COLLEGE CLASSES (continued)

NO HS

provided prior to the Board taking action. If the CCAP agreement provides for CTE pathways, the Board shall consult with and consider input from appropriate local workforce board(s) to determine the extent to which the pathways are aligned with regional and statewide employment needs. (Education Code 76004)

Program Evaluation

Note: The following optional section should be revised to reflect indicators agreed upon by the Board and Superintendent for evaluating the district's program.

NO

The Superintendent or designee shall regularly report to the Board regarding the number and demographics of district students participating in the concurrent enrollment option, their success in completing college preparatory courses ("a-g" courses) and postsecondary courses, and any impact on their achievement in district courses and graduation rates.

(cf. 0500 - Accountability)
(cf. 6162.5 - Student Assessment)
(cf. 6190 - Evaluation of the Instructional Program)

Legal Reference:

EDUCATION CODE

- 11300-11302 Early and middle college high schools
- 42238.02 Definition of unduplicated student
- 46141 Minimum day, high school
- 46145-46147 Minimum day, high school
- 48800-48802 Enrollment of gifted students in community college
- 51225.3 Alternative means of satisfying graduation requirements
- 52620 Adult education and attendance at community college
- 76000-76002 76004 Enrollment in community college
- 76140 No community college fee/tuition for special part-time students
- 87010 Definition of sex offense
- 87011 Definition of controlled substance offense

Management Resources:

WEB SITES

- California Community Colleges System: <http://www.cccco.edu>
- California Department of Education: <http://www.cde.ca.gov>
- California Postsecondary Education Commission: <http://www.cpec.ca.gov>
- California State University: <http://www.calstate.edu>
- Foundation for California Community Colleges, Early College High School Initiative: <http://www.foundationccc.org> ECHS <https://foundationccc.org>
- University of California: <http://www.universityofcalifornia.edu>

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CSBA Sample Administrative Regulation

Instruction

AR 6172.1(a)

CONCURRENT ENROLLMENT IN COLLEGE CLASSES

Credit

Note: Pursuant to Education Code 48800-48802 and 76001-76002, and as a result of the repeal of 5 CCR 1630 in 2005, the district has discretion to determine whether to grant credit for completion of postsecondary courses; see the accompanying Board policy. Education Code 51225.3 authorizes the Governing Board to grant credit for such postsecondary courses as an alternative means of satisfying high school graduation requirements.; See BP 6146.11 - Alternative Credits Toward Graduation. Pursuant to Education Code 48800, 76001, and 76003, a student shall receive credit for community college courses that the student completes at the level determined appropriate by the Board and the governing board of the community college district.

Pursuant to Education Code 76004, a special part-time student participating in a College and Career Access Pathways (CCAP) partnership agreement may enroll in up to 15 units per term if specified circumstances are satisfied. See the section "College and Career Access Pathways Partnerships" below.

Unless enrolled as part of a College and Career Access Pathways (CCAP) partnership agreement in which students are authorized to take up to 15 units per term in a community college, as described below, district students enrolled in a community college as special part-time students may enroll in up to 11 units per semester, or the equivalent, in a community college. Such students shall receive credit for community college courses that they complete in an amount jointly determined appropriate by the district and the community college governing board. (Education Code 48800, 76001, 76004)

(cf. 6146.11 - Alternative Credits Toward Graduation)

Note: According to the California Department of Education, concurrent enrollment requires an agreement between the parties on appropriate forms provided by the postsecondary institution. The following optional paragraph may be revised to reflect district practice.

A written agreement regarding the student's enrollment in postsecondary courses and the credits to be awarded for successful completion shall be signed by the student, parent/guardian, principal, and college representative. The student shall be informed whether the credits to be earned are considered academic credits or elective credits, whether the credits count towards high school graduation requirements, and whether the course would need to be completed again during the college years to satisfy college graduation requirements.

To receive district credit for coursework completed at a community college or four-year college, the student or parent/guardian shall submit a transcript showing completion of the course with a passing grade.

CONCURRENT ENROLLMENT IN COLLEGE CLASSES (continued)

(cf. 5125 - Student Records)

College and Career Access Pathways Partnerships

Note: The following optional section is for districts that have entered into a CCAP agreement with the board of a community college district. For further information about approval of the CCAP agreement, see the accompanying Board policy.

The district may enter into a CCAP agreement, in accordance with Education Code 76004, which includes terms regarding course offerings, student eligibility, protocols for sharing information, joint facilities use, and staff qualifications.

A copy of the CCAP agreement shall be filed with the Office of the Chancellor of the California Community Colleges and with the California Department of Education before the start of the agreement. (Education Code 76004)

Only courses that provide career technical education or preparation for transfer, assist in improving high school graduation rates, or help high school students achieve college and career readiness shall be offered, and physical education courses shall not be provided. (Education Code 76004)

Students may enroll in up to 15 units of community college courses per term if all of the following circumstances are satisfied: (Education Code 76004)

- 1. The units constitute no more than four community college courses per term.**
- 2. The units are part of an academic program that is part of a CCAP agreement.**
- 3. The units are part of an academic program that is designed to award students both a high school diploma and an associate degree or a certificate or credential.**

Note: As amended by AB 30 (Ch. 510, Statutes of 2019). Education Code 76004 requires only one parental consent and principal recommendation for the duration of the student's participation.

A high school student shall submit one parental consent form and principal recommendation for the duration of the student's concurrent enrollment under a CCAP partnership. (Education Code 76004)

The district shall report information annually to the office of the Chancellor of the California Community Colleges as specified in Education Code 76004.

Minimum School Day

Except under the conditions specified in Education Code 46146, the minimum day of attendance in district schools shall be 180 minutes for any student who is enrolled part-time

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CONCURRENT ENROLLMENT IN COLLEGE CLASSES (continued)

in a community college and any student in grades 11-12 who is enrolled part-time in the California State University or University of California, when the student is enrolled in classes for which academic credit will be provided upon satisfactory completion of enrolled courses. (Education Code 46146, 48801)

(cf. 6112 - School Day)

A student enrolled full-time at a community college shall be exempted from full-time attendance in the district's regular education program. (Education Code 48800.5)

(cf. 5112.1 - Exemptions from Attendance)

However, both part-time and full-time community college students shall be required to undertake courses of instruction of a scope and duration sufficient to satisfy the requirements of law. (Education Code 48800.5, 48801)

Community College Classes on High School Campus

Note: The following **optional** section is for use by districts that maintain high schools. Education Code 76002 details criteria that must be satisfied before the community college district can claim state apportionment for high school students, including the fact that any community college class offered on a high school campus cannot be held during the time the campus is closed to the general public, as defined by the Board at a regularly scheduled meeting. **The Board should adopt a resolution or policy language specifying the time periods at which community college classes may be offered and open to the general public. Boards that adopt such a resolution or policy should establish procedures for members of the general public who are enrolled in community college classes to register immediately upon entering school buildings or grounds, and may want to review their policies regarding visitors to campus, student and staff safety, and campus security, including BP/AR 0450 - Comprehensive Safety Plan, BP/AR 1250 - Visitors/Outsiders, BP/AR 3515 - Campus Security, BP/AR 4157/4257/4357 - Employee Safety, and BP/AR 5142 - Safety.**

If a community college class is to be offered at a district high school campus, the class shall not be held during the time the campus is closed to the general public. (Education Code 76002)

be held during the time the campus is open to the general public as determined by the Governing Board. Members of the public who are enrolled in community college class(es) shall register immediately upon entering school buildings or grounds.

- (cf. 0450 - Comprehensive Safety Plan)*
- (cf. 1250 - Visitors/Outsiders)*
- (cf. 3515 - Campus Security)*
- (cf. 4157/4257/4357 - Employee Safety)*
- (cf. 5142 - Safety)*

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