San Ysidro School District
Governing Board

AGENDA

Thursday
May 13, 2021
5:00 p.m.
Via Zoom Teleconference

Pursuant to Governor Newsom's Executive Order N-29-20, this Regular Meeting of the San Ysidro School District Board shall be held by teleconference. Trustees of San Ysidro School District Board and the public shall participate in this meeting via teleconference. The Public may view this meeting by accessing the following link https://www.youtube.com/channel/UCGyF01068pwbhe-B5xnyl-A/videos. Public comment may be submitted by email to publiccomment@sysdschools.org on or before Thursday, May 13, 2021 at 3:00 p.m. Public wanting to address the Governing Board telephonically may submit the Public Comment Request Form: https://forms.gle/3kiCsgKBjXkZRtAj6 on or before Thursday, May 13, 2021 at 3:00 p.m. Any meeting participant who engages in disorderly conduct which disturbs the peace and good order of the meeting, or refuses to comply with the lawful orders of the Board may be ordered removed from the meeting, and may be guilty of a misdemeanor (Cal. Penal Code Sec. 403). To listen to this meeting in Spanish, please call 1 (443) 563-1381 and enter the access code 712 361 355#. Closed Session to be held at 5:00 p.m. to 6:00 p.m., and will reconvene into Open Session at 6:00 p.m. Closed Session will be conducted in accordance with applicable sections of California Law.

GENERAL ADMINISTRATION

SAN YSIDRO SCHOOL DISTRICT
4350 Otay Mesa Road San Ysidro, CA 92173
Phone Number: (619) 428-4476 Fax Number: (619) 428-1505

REGULAR MEETING OF THE GOVERNING BOARD
THURSDAY, APRIL 15, 2021
5:00 p.m.
Via Zoom Teleconference

Pursuant to Governor Newsom's Executive Order N-29-20, this Regular Meeting of the San Ysidro School District Board was held by teleconference. Trustees of San Ysidro School District Board and the public participated in this meeting via teleconference. The Public may view this meeting by accessing the following link https://www.youtube.com/channel/UCGyF01068pwbhe-B5xnyl-A/videos. Public comment may be submitted by email to publiccomment@sysdschools.org on or before Thursday, April 15, 2021 at 3:00 p.m. Public wanting to address the Governing Board telephonically may submit the Public Comment Request Form: https://forms.gle/Q89x5toMRtUwn5qM8 on or before Thursday, April 15, 2021 at 3:00 p.m. Any meeting participant who engages in disorderly conduct which disturbs the peace and good order of the meeting, or refuses to comply with the lawful orders of the Board may be ordered removed from the meeting, and may be guilty of a misdemeanor (Cal. Penal Code Sec. 403). To listen to this meeting in Spanish, please call 1 (812) 727-7671 and enter the access code 723 932 246#. Closed Session was held at 5:00 p.m. to 6:00 p.m., and reconvened into Open Session at 6:00 p.m. Closed Session was conducted in accordance with applicable sections of California Law.

MINUTES

1. CALL TO ORDER Who: President Martinez Time: 5:00 p.m.

President Martinez announced that this Governing Board meeting is conducted pursuant to Governor Newsom's Executive Order N-29-20.

2. ROLL CALL by Gina A. Potter, Ed.D., Superintendent & Secretary to the Board
Board Members Present:
Mr. Antonio Martinez, Board President
Mr. Rudy Lopez, Board Vice-President
Mrs. Rosaleah Pallasigue, Board Clerk
Mr. Humberto Gurmilan, Member
Mrs. Irene Lopez, Member

All votes during this meeting were completed by roll call.

3. AGENDA
The Board approved the agenda with the following corrections:
1) Pulled Consent Calendar Item 14B.1 from the agenda.

Motion: Gurmilan Second: Pallasigue Vote: 5-0

4. PUBLIC COMMENT/COMMUNICATIONS ON CLOSED SESSION ITEMS
Persons who wish to comment on topics included on the Closed Session Agenda item were invited to submit comments via email to the following email address publiccomment@sysdschools.org on or before Thursday, April 15, 2021 at 3:00 pm. Public wanting to address the Governing Board telephonically may submit the Public Comment Request Form: https://forms.gle/Q89x5toMRtUwn5qM8 on or before Thursday, April 15, 2021 at 3:00 p.m. Please limit comments to 300 words or less. All comments submitted will be read aloud

during the meeting. Please note, all email correspondence relating to this meeting will become part of the Board minutes.

There were no public comments.

Board Member Irene Lopez made a motion to recess to Closed Session, seconded by Board Clerk Pallasigue. The vote was 5-0.

5. GOVERNING BOARD – RECESSED to CLOSED SESSION at 5:05 p.m. in accordance with section 54954.5 regarding:

5.1 GOVERNMENT CODE SECTION 54957 (Gonzales)
PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE/REASSIGNMENT

5.2 GOVERNMENT CODE SECTION 54957.6 (Gonzales)
CONFERENCE WITH LABOR NEGOTIATORS
Agency Negotiators: Linda Gonzales, Executive Director of Human Resources
Employee Organizations:
San Ysidro Education Association/CTA
California School Employees Association, Chapter 154
Unrepresented:
Administrators, Classified Management, Confidential/Supervisory

RECONVENED into OPEN SESSION at 6:01 p.m. to take action on items discussed in closed session, or to make disclosures of action taken in closed session, if any, as required by Government Code section 54957.7 and section 54957.1.

The Board had nothing to report from Closed Session.

6. CALL TO ORDER Who: President Martinez Time: 6:01 p.m.

President Martinez announced that this Governing Board meeting is conducted pursuant to Governor Newsom's Executive Order N-29-20.

7. ROLL CALL by Gina A. Potter, Ed.D., Superintendent & Secretary to the Board
Board Members Present:
Mr. Antonio Martinez, Board President
Mr. Rudy Lopez, Board Vice-President
Mrs. Rosaleah Pallasigue, Board Clerk
Mr. Humberto Gurmilan, Member
Mrs. Irene Lopez, Member

Superintendent Potter commented that Cox internet went down in San Ysidro this afternoon. We had hoped to run the Board meeting virtually out of the district office but had to relocate everyone to a teleworking situation.

8. FLAG SALUTE by Antonio Martinez, Board President

9. BOARD RECOGNITIONS - DISTINGUISHED CHAMPION AWARDS (Mata)
9.1 My Favorite Sci Phy STEM Project of the Year by Kinder Students
- Sci Phy Teacher Patricia Burch
- La Mirada Student: Sophia Morales

- Ocean View Hills Student: Kaileena Sebastian
- Willow Student: Oscar Quintanilla

9.2 San Ysidro Middle School Spelling Bee Winner: Valentina Romero - *Was not present.*
9.3 District Federal Program Monitoring Team
9.4 District Virtual Event & Zoom Planners: Director of Education Technology Todd Lewis and Administrative Confidential Secretary Miguel Ortega

10. PUBLIC COMMENT/COMMUNICATIONS ON OPEN SESSION ITEMS

Persons who want to comment on topics not included on the agenda or comment on agendized topics were invited to submit comments via email to the following email address publiccomment@sysdschools.org on or before Thursday, April 15, 2021 at 3:00 pm. Please limit comments to 300 words or less. Public wanting to address the Governing Board telephonically may submit the Public Comment Request Form: https://forms.gle/Q89x5toMRtUwn5qM8 on or before Thursday, April 15, 2021 at 3:00 p.m. All comments submitted will be read aloud during the meeting. Please note, all email correspondence relating to this meeting will become part of the Board minutes. If your comment is related to a specific Agenda item, please identify the Agenda item in the subject of your email.

There were no public comments.

11. ITEMS FROM THE BOARD & SUPERINTENDENT

Board Member Irene Lopez, Commented: 1) Thanked staff for their support. 2) We have suffered through this pandemic but we need to move forward for our student's sake. We are a family and together we can make a change. 3) Thanked everyone for all the work they've done. We will put San Ysidro back on the map and it's beginning to show.

Board Member Gurmilan, Commented: 1) Congratulated the students and teachers that participated in the meeting. It's a testament of what is going on in the virtual classroom and in the district. 2) Visited Smythe School and was excited to see the students in the classroom. With safety in mind, hopes that soon we see our schools full. 3) Students have adapted so well. 4) Students are resilient and are able to adapt to changing environments. Let's make our schools and district better to serve students in a variety of ways pushing them forward so they can become amazing professionals. 5) He is grateful to all the teachers, classified staff, principals, leadership and parents for navigating this pandemic with us. 6) He is honored to be a part of this board and district. He's always said, we can become the best district in the state if we continue working together.

Board Clerk Pallasigue, Commented: 1) The first day of school felt like a day of victory. This is a major step of taking our lives back from this egregious virus. 2) Some students didn't do well with distance learning and struggled emotionally and mentally. School has always been a place of safety for every child. 3) Appreciates certificated, classified staff and this board.

Board Vice-President Rudy Lopez, Commented: 1) Congratulated all Distinguished Champions. 2) Visited La Mirada School. It was great to see all the hard work that went into the opening of schools from teachers and classified staff. Students can see their classmates who continue on distance learning. 3) He is happy to see his son at school and engaged. One of the things that got us to this point is access to vaccinations. 4) There will be a vaccination event on Saturday that we are hosting at San Ysidro Middle School. 5) Welcomed everyone back.

Board President Martinez, Commented: 1) Would like to see more Distinguished Champions at Board meetings. Seeing the work the kids have done virtually is an honor. This shows the great work that teachers and classified staff have done throughout the school year. 2) He had the opportunity to be at Vista

Del Mar Middle and San Ysidro Middle Schools. Every parent was happy to have their kids back in school. Dr. Potter and her team did a fantastic job. 3) He is looking forward to full time in class instruction when everything is safe. Safety continues to be the priority. 4) This was one step towards normality and we will get there. 5) Would like to see Mr. Mata receive a Distinguished Champion Award next month. Mr. Mata has been the hero in making sure that positivity goes out in every message and in everything he does.

Superintendent Potter, Commented: 1) The communication from Mr Mata this pandemic year has been remarkable and much needed with the pandemic. 2) We pulled together as a family for the children and opened our schools after a year and a month. 3) For many of the students, it was the first time they saw their school and physically saw their friends. 4) We took a step towards healing. Thanked the San Ysidro family for pulling together and giving this special moment back to our children.

12. CONFERENCE SESSION

Reports/Presentations

12.1 Draft of the Long Range Master Facility Plan Presentation - WLC Architects, Inc. President Jim DiCamillo

12.2 Annual Financial Audit Report 2019-2020 - Wilkinson, Hadley, King & Co. Auditor Michael Mears

13. GENERAL ADMINISTRATION

13.1 MINUTES

The Board approved the minutes of the Regular Board Meeting of March 11, 2021 and minutes of the Special Board Meeting of March 4, 2021.

Motion: I. Lopez Second: Pallasigue Vote: 5-0

13.2 RESOLUTION NO. 20/21-0030 - DAY/WEEK OF THE TEACHER (Gonzales)

The Board adopted Resolution No. 20/21-0030 declaring the observance of Wednesday, May 12, 2021, as the San Ysidro "Day of the Teacher" and the week of May 9-15, 2021, as "Week of the Teacher."

Motion: I. Lopez Second: Pallasigue Vote: 5-0

13.3 RESOLUTION NO. 20/21-0031 - CLASSIFIED/CONFIDENTIAL SCHOOL EMPLOYEE WEEK (Gonzales)

The Board adopted Resolution No. 20/21-0031 recognizing the week of May 16-22, 2021, as "Classified and Confidential School Employee Week."

Motion: I. Lopez Second: Gurmilan Vote: 5-0

13.4 ANNUAL FINANCIAL AUDIT REPORT FOR 2019-20 (Adrianzen)

The Board approved the 2019-20 Annual Financial Audit Report. *(A representative of Wilkinson Hadley King LLC, Mr. Michael Mears was present to answer questions from the Board.)*

Motion: I. Lopez Second: Gurmilan Vote: 5-0

13.5 2021-2022 STUDENT CALENDAR (Gonzales)

The Board approved the 2021-2022 Student Calendar.

Motion: Pallasigue Second: I. Lopez Vote: 5-0

13.6 2021-2022 CERTIFICATED DIRECTORS/COORDINATORS WORK CALENDAR (Gonzales)
The Board approved the 2021-2022 Certificated Directors/Coordinators Work Calendar.

Motion: Gurmilan Second: I. Lopez Vote: 5-0

13.7 2021-2022 CLASSIFIED EMPLOYEE 10 MONTH (209 DAYS) WORK CALENDAR (Gonzales)
The Board approved the 2021-2022 Classified Employee 10 Month (209 days) Work Calendar.

Motion: I. Lopez Second: Pallasigue Vote: 5-0

13.8 2021-2022 CLASSIFIED EMPLOYEE 10 MONTH (213 DAYS) WORK CALENDAR (Gonzales)
The Board approved the 2021-2022 Classified Employee 10 Month (213 days) Work Calendar.

Motion: I. Lopez Second: Pallasigue Vote: 5-0

13.9 2021-2022 CLASSIFIED EMPLOYEE 11 MONTH WORK CALENDAR (Gonzales)
The Board approved the 2021-2022 Classified Employee 11 Month Work Calendar.

Motion: I. Lopez Second: Gurmilan Vote: 5-0

13.10 2021-2022 CLASSIFIED EMPLOYEE 12 MONTH WORK CALENDAR (Gonzales)
The Board approved the 2021-2022 Classified Employee 12 Month Work Calendar.

Motion: I. Lopez Second: Gurmilan Vote: 5-0

13.11 2021-2022 CLASSIFIED MANAGEMENT & CONFIDENTIAL WORK CALENDAR (Gonzales)
The Board approved the 2021-2022 Classified Management & Confidential Work Calendar.

Motion: I. Lopez Second: Pallasigue Vote: 5-0

13.12 2021-2022 PRINCIPAL/ASSISTANT PRINCIPAL WORK CALENDAR (Gonzales)
The Board approved the 2021-2022 Principal/Assistant Principal Work Calendar.

Motion: I. Lopez Second: Pallasigue Vote: 5-0

13.13 2021-2022 TEACHER WORK CALENDAR (Gonzales)
The Board approved the 2021-2022 Teacher Work Calendar.

Motion: Gurmilan Second: I. Lopez Vote: 5-0

13.14 DECLARATION OF NEED FOR FULLY QUALIFIED EDUCATORS (Gonzales)
The Board approved the 'Declaration of Need' for Fully Qualified Educators, in specific areas which are difficult to fill for the 2021-2022 school year.

Motion: I. Lopez Second: Pallasigue Vote: 5-0

13.15 RESOLUTION NO. 20/21-0029 – LAYOFF OF CLASSIFIED STAFF (Gonzales)

The Board approved Resolution No. 20/21-0029 authorizing the District to reduce and/or eliminate the following particular kinds of services of vacant positions in the District at the close of the 2020-2021 school year for fiscal and budgetary reasons.

Motion: I. Lopez Second: Pallasigue Vote: 5-0

13.16 LONG RANGE MASTER FACILITIES PLAN - DRAFT NO. 1 (Adrianzen)

Information and discussion only. A comprehensive Long Range Master Facilities Plan (LRMFP) is an essential element of a district's planning process. The LRMFP provides the district with information regarding current and future facility needs to include facilities renovation and expansion requirements to support the district's educational and programmatic goals, safety and security. Additionally, the LRMFP also assists a district in identifying funding needs for capital improvement and developing financing options and includes accurate projections regarding enrollment, careful determination of school site capacity, consideration of educational specifications, a detailed needs assessment and conclusions and recommendations about the availability and timing of financing and funding.

14. CONSENT CALENDAR

The Board approved the Consent Calendar with the following changes:

1) Pulled Consent Calendar Item 14B.1 from the agenda.

Motion: I. Lopez Second: Pallasigue Vote: 5-0

14A. PERSONNEL

CLASSIFIED RETIREMENT (Gonzales)

The Board approved/ratified the retirement for the following as recommended by staff:

14A.1 Instructional Aide

RESIGNATION (Gonzales)

The Board approved/ratified the resignation for the following as recommended by staff:

14A.2 Campus Aide

LEAVE OF ABSENCE (Gonzales)

The Board approved the leave of absence without pay for the following as recommended by staff:

14A.3 Custodian

14B. PERSONNEL

CERTIFICATED RETIREMENT (Gonzales)

The Board approved/ratified the retirement for the following as recommended by staff:

14B.1 Classroom Teachers - *Pulled*
14B.2 Special Day Class Teachers
14B.3 Substitute Teacher

RESIGNATION (Gonzales)

The Board approved/ratified the resignation for the following as recommended by staff:

14B.4 Classroom Teacher
14B.5 Special Day Class Teacher (Early Childhood)

14C. CURRICULUM & INSTRUCTION

14C.1 COUNTYWIDE AND SAN YSIDRO SCHOOL DISTRICT'S 3-YEAR PLAN 2021-2024 FOR EXPELLED STUDENTS (Farkas/González)
The Board approved the Countywide and San Ysidro School District's 3-Year Plan 2021-2024 for Expelled Students.

14C.2 PURCHASE OF DELTAMATH PLUS ONLINE SUBSCRIPTION FOR SAN YSIDRO MIDDLE SCHOOL (González/Rodriguez)
The Board approved the purchase of the DeltaMath Plus subscription for San Ysidro Middle School at the total cost of $135.00 from the school's General Fund.

14C.3 PROFESSIONAL DEVELOPMENTS - APRIL (González)
The Board approved/ratified the attendance and participation of District staff to the different professional developments as attached.

14D. BUSINESS

14D.1 PURCHASING REPORT (Adrianzen)
The Board approved/ratified the following purchase orders incurred by the District during the period March 2, 2021 through April 2, 2021.

14D.2 EXPENDITURE REPORT (Adrianzen)
The Board approved/ratified the expenditures incurred by the District during the period of March 2, 2021 through April 2, 2021 for a total expenditure of $1,053,711.88.

14D.3 ACCEPTANCE OF DONATIONS (Adrianzen)
The Board accepted donations valued at $26,320.35 to help support and enrich our educational programs.

14D.4 THIRD QUARTERLY COMPLAINT REPORT FOR WILLIAMS SETTLEMENT RELATED ISSUES FOR SCHOOL YEAR 2020-21 (Adrianzen)
The Board accepted the Report of William's Settlement related complaints for the third quarter from January 1, 2021 to March 31, 2021 of the 2020-21 school year for submission to the San Diego County Office of Education.

14D.5 AGREEMENT WITH AARDVARK ANT AND PEST CONTROL – ADDENDUM NO. 4 (Farkas/Azevedo)
The Board approved/ratified Addendum No. 4 to the agreement with Aardvark Ant & Pest Control for pest control service at San Ysidro Middle School at an estimated cost of $3,000.00 from the Routine Restricted Maintenance Account.

14D.6 AGREEMENT WITH CODESP FOR 2021-2022 WITH CODESP WEBSITE SERVICES (Gonzales)
The Board approved the Member Service Agreement and the Agency Security Agreement with the Cooperative Organization for the Development of Employee Selection Procedures (CODESP) to cooperatively develop selection procedures which comply with state and federal requirements to include interview and test materials for the 2021-22 subscription at a cost estimated at $2,300.00 from the General fund.

14D.7 AGREEMENT WITH NINYO & MOORE GEOTECHNICAL & ENVIRONMENTAL SERVICES CONSULTANTS (Farkas/Azevedo)
The Board approved/ratified the agreement with Ninyo & Moore Geotechnical and Environmental Services Consultants to perform a Microbial Investigation at La Mirada School at cost of $3,065.00 from the Routine Restricted Maintenance Account.

14D.8 ADDENDUM NO. 1 TO THE STANLEY CONVERGENT SECURITY SOLUTIONS INC. AGREEMENT (Farkas/Azevedo)
The Board approved/ratified Addendum No. 1 to the 5-year Equipment and Service Agreement with Stanley Convergent Security Solutions, Inc. for Cell Back Up at La Mirada and Smythe Elementary Schools at no additional cost to the District.

14D.9 PURCHASE AGREEMENT WITH COMMON GOAL SYSTEMS, INC. FOR THE FULL TEACHEREASE SOFTWARE PROGRAM FOR THE 2021-22 SCHOOL YEAR (González)
The Board approved the purchase agreement with Common Goal System, Inc. for the Full TeacherEase Software Program to serve as a parent communication portal for San Ysidro Middle and Vista Del Mar Middle Schools during 2021-22 at the total cost of $7,066.60 from the Supplemental and Concentration Fund.

14D.10 MEMORANDUM OF UNDERSTANDING WITH "RESEARCHERS" FOR THE EVALUATION OF THE NETWORK FOR SCHOOL IMPROVEMENT INITIATIVE (González)
The approved the Memorandum of Understanding with "Researchers" (Mathematica Inc., RAND Corporation and American Institutes for Research) for the evaluation of the Network for School Improvement Initiative from April 2021 to June 2025.

14D.11 AGREEMENT WITH THE SAN DIEGO COUNTY OFFICE OF EDUCATION FOR THE OUTDOOR EDUCATION PROGRAM 6TH GRADE CAMP - ELEMENTARY SCHOOLS FOR 2021-22 (González)
The Board approved the agreement with the San Diego County Office of Education for our Elementary Schools' sixth grade students to attend the Cuyamaca Camp during school year 2021-22 at an estimated annual cost of $101,026.40 from student fees, school fundraisers and Supplemental & Concentration funds. The contract allows for flexibility in the case of limitations or discontinuation for the program in the 2021-22 school year.

14D.12 INTERDISTRICT ATTENDANCE AGREEMENTS (Farkas/Aviles)
The Board approved the Interdistrict Attendance Agreements with Alpine, Cajon Valley, Carlsbad, Coronado, Encinitas, Jamul-Dulzura, La Mesa-Spring Valley, Lemon Grove, Menifee, Mountain Empire, National, Ramona, San Dieguito, Santee, South Bay, Vista and Warner School Districts. Interdistrict Attendance Agreements will be valid for school years 2021-22 through 2025-26.

14D.13 AGREEMENT WITH VARIOUS INDEPENDENT EDUCATIONAL EVALUATORS (González/Madera)
The Board approved the agreement with various independent educational evaluators to provide independent educational evaluations to a student with special needs at a total amount up to $6,260.00 from Special Education fund.

14D.14 PURCHASE AGREEMENT WITH BENCHMARK EDUCATION COMPANY FOR SUPPLEMENTAL ENGLISH LANGUAGE ARTS MATERIALS FOR SPECIAL EDUCATION (Gonzalez/Madera)

The Board approved the purchase agreement with Benchmark Education Company for supplemental ELA materials at the total cost of $232,721.10 from the C.A.R.E.S. Fund.

14D.15 PURCHASE AGREEMENT WITH THE COLLEGE BOARD FOR SPRINGBOARD MATHEMATICS MATERIALS FOR GRADES 6TH – 8TH (Gonzalez)

The Board approved the purchase agreement with College Board for the 2021-22 SpringBoard Math Program for grades 6th to 8th at the cost of $32,619.52 to be paid from the General fund.

14D.16 AGREEMENT WITH WILKINSON HADLEY KING & CO. LLP FOR AUDITING SERVICES (Adrianzen)

The Board approved the agreement with Wilkinson Hadley King & Co. LLP for auditing services for the next three fiscal years at an estimated cost of $59,100.00 from the General fund.

14D.17 LICENSE AND MAINTENANCE AGREEMENT WITH LUCID8 LLC (Adrianzen/Lewis)

The Board approved the agreement with Lucid8 LLC for the DigiScope Perpetual License and 3-year maintenance support to update the email server at a cost of $1,495.00 from the General Fund.

14D.18 MEMORANDUM OF UNDERSTANDING WITH THE STUART FOUNDATION IN PARTNERSHIP WITH THE CALIFORNIA DEPARTMENT OF EDUCATION (CDE) AND THE CALIFORNIANS DEDICATED TO EDUCATION FOUNDATION (CDEF) - EQUITY MINI GRANT (Farkas)

The Board approved/ratified the Memorandum of Understanding with the Stuart Foundation in partnership with the California Department of Education (CDE) and the Californians Dedicated to Education Foundation (CDEF) awarding the Equity Mini Grant to the San Ysidro School District in the amount of $20,000.00. These funds will provide support services to students and families to address the academic and technological needs of students and families.

14D.19 ACCEPTANCE OF THE HEROES GRANT AND APPROVAL OF THE LEARNING GENIE INC. AGREEMENT (Gonzalez/Reed)

The Board accepted the Heroes Grant in the amount of $2,100.00 and approved the agreement with Learning Genie Inc. to provide Contactless Modules for attendance and reporting solutions from April 2021 to June 2022 at a cost of $4,550.00 from the Preschool & Child Development Funds.

14D.20 AGREEMENT WITH AARDVARK ANT AND PEST CONTROL – LA MIRADA SCHOOL (Farkas/Azevedo)

The Board approved/ratified the agreement with Aardvark Ant & Pest Control for pest control service at La Mirada School at an estimated annual cost of $3,000.00 from the Routine Restricted Maintenance Account.

Board Member Irene Lopez made a motion to adjourn, seconded by Board Member Gurmilan. The vote was 5-0.

15. ADJOURNMENT Time: 8:45 p.m.

Respectfully Submitted,

Gina A. Potter, Ed.D., Secretary
Governing Board

PLEASE NOTE THAT THE CORPORATION'S MEETING WILL TAKE PLACE FOLLOWING THE REGULAR BOARD MEETING. THANK YOU

SAN YSIDRO SCHOOL DISTRICT
4350 Otay Mesa Road San Ysidro, CA 92173
Phone Number: (619) 428-4476 Fax Number: (619) 428-1505

SPECIAL MEETING OF THE GOVERNING BOARD
THURSDAY, APRIL 15, 2021
3:00 p.m.
Via Zoom Teleconference

Pursuant to Governor Newsom's Executive Order N-29-20, this Special Meeting of the San Ysidro School District Board was held by teleconference. Trustees of San Ysidro School District Board and the public participated in this meeting via teleconference. The Public may view this meeting by accessing the following link https://www.youtube.com/channel/UCGyF01068pwbhe-B5xnyl-A/videos. Public comment may be submitted by email to publiccomment@sysdschools.org on or before Thursday, April 15, 2021 at 1:00 p.m. Public wanting to address the Governing Board telephonically may submit the Public Comment Request Form: https://forms.gle/A77fCRRpeJmftuty9 on or before Thursday, April 15, 2021 at 1:00 p.m. Any meeting participant who engages in disorderly conduct which disturbs the peace and good order of the meeting, or refuses to comply with the lawful orders of the Board may be ordered removed from the meeting, and may be guilty of a misdemeanor (Cal. Penal Code Sec. 403). To listen to this meeting in Spanish, please call 1 (812) 727-7671 and enter the access code 723 932 246#. Closed Session was conducted in accordance with applicable sections of California Law.

MINUTES

1. CALL TO ORDER Who: President Martinez Time: 3:02 p.m.

President Martinez announced that this Governing Board meeting is conducted pursuant to Governor Newsom's Executive Order N-29-20.

2. ROLL CALL by Gina A. Potter, Ed.D., Superintendent & Secretary to the Board
Board Members Present:
Mr. Antonio Martinez, Board President
Mr. Rudy Lopez, Board Vice-President
Mrs. Rosaleah Pallasigue, Board Clerk
Mr. Humberto Gurmilan, Member
Mrs. Irene Lopez, Member

3. FLAG SALUTE by Antonio Martinez, Board President

4. AGENDA
The Board approved the agenda.

Motion: I. Lopez Second: Pallasigue Vote: 5-0

All votes during this meeting were completed by roll call.

5. PUBLIC COMMENT/COMMUNICATIONS ON CLOSED SESSION ITEMS
Persons who wish to comment on topics included on the Closed Session Agenda item were invited to submit comments via email to the following email address publiccomment@sysdschools.org on or before Thursday, April 15, 2021 at 1:00 pm. Please limit comments to 300 words or less. Public wanting to address the Governing Board telephonically may submit the Public Comment Request Form: https://forms.gle/A77fCRRpeJmftuty9 on or before Thursday, April 15, 2021 at 1:00 p.m. All comments submitted will be read aloud during the meeting. Please note, all email correspondence relating to this meeting will become part of the Board minutes. If your comment is related to a specific Agenda item, please identify the Agenda item in the subject of your email.

There were no public comments.

Board Member Gurmilan made a motion to recess to Closed Session, seconded by Board Member Irene Lopez. The vote was 5-0.

6. GOVERNING BOARD – RECESSED to CLOSED SESSION at 3:07 p.m. in accordance with section 54954.5 regarding:

6.1 *Government Code Section 54957*
PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Title: Superintendent

RECONVENED into OPEN SESSION at 4:37 p.m. to take action on items discussed in closed session, or to make disclosures of action taken in closed session, if any, as required by Government Code section 54957.7 and section 54957.1.

The Board had nothing to report from Closed Session.

ROLL CALL by Gina A. Potter, Ed.D., Superintendent & Secretary to the Board
Board Members Present:
Mr. Antonio Martinez, Board President
Mr. Rudy Lopez, Board Vice-President
Mrs. Rosaleah Pallasigue, Board Clerk
Mr. Humberto Gurmilan, Member
Mrs. Irene Lopez, Member

Board Member Irene Lopez made a motion to adjourn, seconded by Board Clerk Pallasigue. The vote was 5-0.

7. ADJOURNMENT Time: 4:39 p.m.

Respectfully Submitted,

Gina A. Potter, Ed.D., Secretary
Governing Board

SAN YSIDRO SCHOOL DISTRICT
4350 Otay Mesa Road San Ysidro, CA 92173
Phone Number: (619) 428-4476 Fax Number: (619) 428-1505

SPECIAL MEETING OF THE GOVERNING BOARD
MONDAY, APRIL 5, 2021
5:00 p.m.
Via Zoom Teleconference

Pursuant to Governor Newsom's Executive Order N-29-20, this Special Meeting of the San Ysidro School District Board was held by teleconference. Trustees of San Ysidro School District Board and the public participated in this meeting via teleconference. The Public may view this meeting by accessing the following link https://www.youtube.com/channel/UCGyF01068pwbhe-B5xnyl-A/videos. Public comment may be submitted by email to publiccomment@sysdschools.org on or before Monday, April 5, 2021 at 3:00 p.m. Public wanting to address the Governing Board telephonically submitted the Public Comment Request Form: https://forms.gle/qGVj2skQ6Nt4xijK7 on or before Monday, April 5, 2021 at 3:00 p.m. Any meeting participant who engages in disorderly conduct which disturbs the peace and good order of the meeting, or refuses to comply with the lawful orders of the Board may be ordered removed from the meeting, and may be guilty of a misdemeanor (Cal. Penal Code Sec. 403). To listen to this meeting in Spanish, please call 1 (321) 351-6795 and enter the access code 828 507 684#. Closed Session was held at 5:00 p.m. to 6:00 p.m., and reconvened into Open Session at 6:00 p.m. Closed Session was conducted in accordance with applicable sections of California Law.

MINUTES

1. CALL TO ORDER Who: President Martinez Time: 5:00 p.m.

President Martinez announced that this Governing Board meeting is conducted pursuant to Governor Newsom's Executive Order N-29-20.

2. ROLL CALL by Gina A. Potter, Ed.D., Superintendent & Secretary to the Board
Board Members Present:
Mr. Antonio Martinez, Board President
Mr. Rudy Lopez, Board Vice-President
Mrs. Rosaleah Pallasigue, Board Clerk
Mr. Humberto Gurmilan, Member
Mrs. Irene Lopez, Member

3. FLAG SALUTE by Antonio Martinez, Board President

4. AGENDA
The Board approved the agenda for the meeting.

Motion: Pallasigue Second: Gurmilan Vote: 5-0

All votes during this meeting were completed by roll call.

5. PUBLIC COMMENT/COMMUNICATIONS ON CLOSED SESSION ITEMS
Persons who wish to comment on topics included on the Closed Session Agenda item were invited to submit comments via email to the following email address publiccomment@sysdschools.org on or before Monday, April 5, 2021 at 3:00 pm. Please limit comments to 300 words or less. Public wanting to address the Governing Board telephonically may submit the Public Comment Request Form: https://forms.gle/qGVj2skQ6Nt4xijK7 on or before Monday, April 5, 2021 at 3:00 p.m. All comments submitted will be read aloud during the meeting. Please note, all email correspondence relating to this meeting will become part of the Board minutes. If your comment is related to a specific Agenda item, please identify the Agenda item in the subject of your email.

There were no public comments.

Board Member Gurmilan made a motion to recess to Closed Session, seconded by Board Member Irene Lopez. The vote was 5-0.

6. GOVERNING BOARD – RECESSED to CLOSED SESSION at 5:05 p.m. in accordance with section 54954.5 regarding:

6.1 CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION (Potter)
Pursuant to Government Code Section 54956.9(d)(1)
Case: San Diegans for Open Government vs. San Ysidro School District, et. al.
Case No. 37-2017-00048800-CU-MC-CTL

6.2 GOVERNMENT CODE SECTION 54957 (Gonzales)
PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE/REASSIGNMENT

6.3 GOVERNMENT CODE SECTION 54957.6 (Adrianzen/Gonzales)
CONFERENCE WITH LABOR NEGOTIATORS
Agency Negotiators: Linda Gonzales, Executive Director of Human Resources
Employee Organizations:
San Ysidro Education Association/CTA
California School Employees Association, Chapter 154
Unrepresented:
Administrators, Classified Management, Confidential/Supervisory

RECONVENED into OPEN SESSION at 6:01 p.m. to take action on items discussed in closed session, or to make disclosures of action taken in closed session, if any, as required by Government Code section 54957.7 and section 54957.1.

The Board took no action in Closed Session.

ROLL CALL by Gina A. Potter, Ed.D., Superintendent & Secretary to the Board
Board Members Present:
Mr. Antonio Martinez, Board President
Mr. Rudy Lopez, Board Vice-President
Mrs. Rosaleah Pallasigue, Board Clerk
Mr. Humberto Gurmilan, Member
Mrs. Irene Lopez, Member - *Joined at 6:03 p.m.*

7. PUBLIC COMMENT/COMMUNICATIONS ON OPEN SESSION ITEMS
Persons who wish to comment on topics included on the Open Session Agenda item were invited to submit comments via email to the following email address publiccomment@sysdschools.org on or before Monday, April 5, 2021 at 3:00 pm. Please limit comments to 300 words or less. Public wanting to address the Governing Board telephonically submitted the Public Comment Request Form: https://forms.gle/qGVj2skQ6Nt4xijK7 on or before Monday, April 5, 2021 at 3:00 p.m. All comments submitted will be read aloud during the meeting. Please note, all email correspondence relating to this meeting will become part of the Board minutes. If your comment is related to a specific Agenda item, please identify the Agenda item in the subject of your email.

Telephonic Public Comment:
Todd Madison, Commented: 1) Shared some concerns regarding agenda item 8.3. 2) There is a request to approve an off schedule bonus for the members of the San Ysidro Education Association. We greatly appreciate the work the teachers have done educating our kids during the pandemic. 3) In making this decision, the board

needs to consider several financial facts.

Todd Madison, Commented: 1) Shared some concerns regarding agenda item 8.4., a bonus approval for certificated management and classified confidential staff. 2) Referenced financial data regarding the district.

8. GENERAL ADMINISTRATION

8.1 AGREEMENT WITH PRIMARY HEALTH FOR COVID-19 APPLICATION SERVICES (Farkas)
The Board approved the agreement with Primary Health for services related to COVID-19 testing. Primary provides applications for electronic consent and reporting tests results to individuals at a cost up to $25,000.00 for fiscal year 2020-21 paid from CARES Act and ESSER funds.

Motion: R. Lopez Second: Pallasigue Vote: 5-0

8.2 AGREEMENT WITH THE REGENTS OF THE UNIVERSITY OF CALIFORNIA FOR MEDICAL CONSULTING SERVICES (Farkas)
The Board approved/ratified the agreement with the Regents of the University of California to appoint physicians to provide medical consultation services on an "as needed" basis, at a fee of $280.00 per hour from the CARES and ESSER funds.

Motion: Gurmilan Second: R. Lopez Vote: 5-0

8.3 AB1200 AND AMENDMENT NO. 2 TO THE COLLECTIVE BARGAINING MEMORANDUM OF UNDERSTANDING WITH THE SAN YSIDRO EDUCATION ASSOCIATION (Adrianzen)
The Board approved/ratified the submittal of AB1200 to the San Diego County Office of Education and Amendment No. 2 to the Collective Bargaining Agreement with San Ysidro Education Association (SYEA) to implement the Hybrid Learning Program. The funding source for this Memorandum of Understanding with SYEA is the State Reopening In Person Instruction Grant.

Motion: R. Lopez Second: Gurmilan Vote: 5-0

8.4 AB1200 FOR CLASSIFIED/CERTIFICATED MANAGEMENT AND CLASSIFIED CONFIDENTIAL STAFF (Adrianzen)
The Board approved the AB1200 for Classified/Certificated Management and Classified Confidential staff for the 2020-2021 school year and the submittal of AB1200 to the San Diego County Office of Education to implement the Hybrid Learning Program and to extend the Families First Coronavirus Relief Act. The Elementary and Secondary School Relief (ESSER II) fund is the funding source for the AB1200 for Classified/Certificated Management and Classified Confidential Staff.

Motion: Pallasigue Second: Gurmilan Vote: 5-0

Board Member Gurmilan made a motion to adjourn, seconded by Board Clerk Pallasigue. The vote was 5-0.

9. ADJOURNMENT Time: 6:13 p.m.

Respectfully Submitted,

Gina A. Potter, Ed.D., Secretary
Governing Board

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Educational Services
Cynthia González, Executive Director

☐ Informational
☒ Action

AGENDA ITEM: AUTHORIZE INSTRUCTIONAL PROGRAMS FOR THE 2021-2022 SCHOOL YEAR AND 2021 SUMMER PROGRAMS

BACKGROUND INFORMATION:
In response to the COVD-19 pandemic, and the needs of our community to best serve our students, the District has determined a need to broaden the scope of our instructional programming for the 2021-2022 school year.

With that intention, San Ysidro School District would like to offer the following TK – 8th grade instructional programs, if allowable by State and County guidelines in coordination with all applicable State regulations and board policies:
1) Full In-Person Instruction
2) Independent Study
3) Virtual Learning Academy
4) Intervention Support Programs

Additionally, we want to offer summer school programs in a full in-person instructional model beginning June 2021.

RECOMMENDATION:
Authorize the district to provide the following TK-8th grade instructional programs for the 2021-2022 school year in response to the COVID pandemic, if allowable by state and county health guidelines along with applicable state regulations and board policies: 1) Full In Person Instruction; 2) Independent Study; 3) Virtual Learning Academy; and 4) Intervention Support Programs. Authorize the district summer school programs to be provided in a full in person instructional model beginning June 2021.

LCAP GOAL AND ACTION/SERVICE:
Goal 1: Student Achievement and Goal 2: Safety, Climate and Student Engagement.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2021-2022 Budget?	Requisition #
☐ Yes ☒ No	☐ Yes ☐ No	

N/A	
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

Instructional Programs

2021 Summer Program Following all State & County Health & Safety Guidelines		
Program	**Timeline**	**Description**

In Person
Summer Program
	June 15th-July 2nd	• Entering TK-GR 8
		• To Include:
		  ○ Sports Pathways
		  ○ STEAM
		  ○ Career Technical
		  ○ Academic Bridge

2021 - 2022 School Year Following all State & County Health & Safety Guidelines		
Program	**Timeline**	**Description**
In Person Instruction	July 2021 - June 2022	• PK-Gr 8 • Full In-Person Instructional Model
Independent Study	Temporary Contract as Appropriate on Case by Case Basis	• K-Gr 8 • Temporary based on individual need & term • Typically based on independent packet completion • Revision may be necessary to meet needs of students with longer term need
Virtual Learning Academy	July 2021 - June 2022	• K-Gr 8 • Meets instructional minutes requirements • Includes daily live instruction for students

Intervention Support Program	July 2021 - June 2022	• PK-Gr 8
		• Support Program:
		  ○ Increased Instruction
		  ○ Accelerate learning to bridge gap
		  ○ Support access to core instruction

SAN YSIDRO SCHOOL DISTRICT

GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
David Farkas, Ed.D.
Assistant Superintendent of Education
Leadership, Pupil Services and Safety

☐ Informational
☒ Action

AGENDA ITEM: ADOPT BOARD POLICY 6181 - ALTERNATIVE SCHOOLS AND PROGRAMS OF CHOICE

BACKGROUND INFORMATION:
By adopting Board Policy 6181, San Ysidro School District would authorize the establishment of alternative schools and/or programs of choice pursuant to Education Code 58500 et seq. These programs may include a Virtual Learning Academy.

RECOMMENDATION:
Approve the First Reading and Adoption of New Board Policy 6181 to generally authorize the establishment of alternative schools and/or programs of choice in the District, pursuant to Education Code 58500 et seq. Alternative schools of choice may be established by the Board to provide educational options for parents and students. These schools or programs may include, for example, an independent study school and/or a Virtual Learning Academy that is conducted online. Separate Board action would be required to establish specific new schools or programs under this policy.

LCAP GOAL AND ACTION/SERVICE:
Goal 1: Student Achievement and Goal 2: Safety, Climate and Student Engagement.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2021-2022 Budget?	Requisition #
☐ Yes ☒ No	☐ Yes ☐ No	
N/A		
(Amount)	(Name of funding source and/or location)	
Recommended for: ☒ Approval ☐ Denial	Certification Requested ☐ Yes ☐ No	

Instruction

The Board of Trustees recognizes the need for innovation in providing educational options to students and families in response to a changing world. The Board further recognizes that the effective use of instructional strategies such as independent study, focused or thematic education, and flexible scheduling may increase attendance and improve performance while fostering student engagement.

In order to maximize opportunities for students, parents, and teachers, the Board may establish alternative schools or programs of choice in accordance with law. (Educ. Code § 58500 et seq.) The Board authorizes the Superintendent or designee to establish administrative regulations to implement this policy.

Alternative schools and programs of choice may offer a different structure, learning philosophy, or academic emphasis to accommodate different student needs, interests, and learning styles. Alternative schools and programs of choice may be established in each attendance area or on a districtwide basis, with enrollment open to all students districtwide, or any combination thereof. (Educ. Code § 58505)

<u>Alternative Schools of Choice</u>

The Board of Trustees may establish and maintain one or more alternative schools of choice within the District. Alternative schools may include, but are not limited to, magnet schools, online learning, independent study schools, thematic schools organized around a curricular theme such as the humanities or the arts, and multi-age classrooms.

An alternative school of choice is a school (or separate class group within a school) which is operated in a non-traditional manner and is designed to:

a) Maximize the opportunity for students to develop the positive values of self-reliance, initiative, kindness, spontaneity, resourcefulness, courage, creativity, responsibility, and joy.

b) Recognize that the best learning takes place when the student learns because of his desire to learn.

c) Maintain a learning situation maximizing student self-motivation and encouraging students in their own time to follow their own interests. These interests may be conceived by students independently or may result in whole or in part from a presentation by teachers of choices of learning projects.

d) Maximize the opportunity for teachers, parents and students to cooperatively develop the learning process and its subject matter.

e) Maximize the opportunity for students, teachers, and parents to continuously react to the changing world, including to the community in which the school is located. (Educ. Code § 58500)

Legal Requirements

An alternative school of choice must meet the requirements of law, including the following:

· Student and teacher participation in the alternative school or program must be voluntary. (Educ. Code § 58503)

· Previous classroom performance shall not be a criterion limiting any student from the opportunity of attending an alternative school. (Educ. Code § 58504)

· Alternative schools shall be operated in a manner to maximize the opportunity for improvement of the general school curriculum by innovative methods and ideas developed within the alternative school operation. (Educ. Code § 58507)

· Alternative schools of choice shall be maintained and funded by the District at the same level of support as other educational programs for pupils of the same grade level operated by the District. (Educ. Code § 58507)

· Alternative schools and programs of choice shall meet the same standards for curriculum, instruction, and student performance as traditional schools.

· The District shall annually notify parents/guardians of the existence of alternative schools of choice in accordance with law. (Educ. Code § 58501)

· The District must annually evaluate alternative schools in accordance with law and standards established by the California Department of Education. (Educ. Code § 58510)

Waiver of Education Code Requirements

For the operation of alternative schools, the State Superintendent of Public Instruction may, upon application by the District, waive any provisions of the California Education Code other than those relating to earthquake safety and the provisions relating to alternative schools under Education Code section 58500 et seq. (Educ. Code § 58509) The Board of Trustees may approve applications to the State Superintendent of Public Instruction to request waiver(s) of Education Code provision(s) as it deems necessary for the successful operation of its alternative schools or programs.

Annual Evaluation and Report

The District shall annually evaluate any alternative school(s) of choice it has established as outlined by law. (Educ. Code § 58510) The evaluation shall include testing of basic skills for student participants, and must identify the variables which may have affected student academic achievement. The evaluation process shall also include teacher, parent, and student input from the alternative school. The evaluation report for each alternative school shall be sent to the Superintendent of Public Instruction on or before August 1 following the close of the school year, and after presentation to the District Board of Trustees.

The annual evaluation report shall be prepared and submitted in accordance with guidelines developed by the California Department of Education, Educational Options Office.

The annual evaluation report should, among other things, (a) show how well the alternative school or program of choice is helping students achieve grade-level proficiency; (b) track changes in the school or program over time; (c) identify any assistance needed in meeting its objectives; and (d) provide community-wide information about its accomplishments

Independent Study

Any alternative school or program of choice based on an independent study model (fully or partially) must meet all legal requirements relating to Independent Study, unless a waiver is obtained from the Superintendent of Public Instruction. (Educ. Code § 51745 et seq., 5 CCR § 11700 et seq.)

By law, participation in an independent study program must be voluntary and requires compliance with an independent study contract signed by parent/guardian. If a student fails to turn in work as prescribed, the District will evaluate whether independent study continues to be appropriate for that student, and may exit the student from the program if the terms of the contract are not fulfilled.

No student with an individualized education program may participate in any independent study program unless his or her individualized education program specifically provides for that participation because the student is able to receive a free appropriate public education in the program. (Educ. Code § 51745(c))

Establishment of New School (CDS Code)

If a new alternative school (rather than a program within a school) is established, the District may apply for a new County-District-School (CDS) Code in accordance with the standards and procedures established by the California Department of Education. In order to qualify as a "school," the following generally applies:

1. The Board has taken action to establish the school
2. The Board has named the school or established a process by which the school will be named.

3. The school has an appropriately credentialed administrator (usually a principal) who is responsible for all aspects of school administration (e.g., hiring staff, fiscal responsibility) and who is treated the same as other principals in the District.

4. The school has an approved budget as a separate school, and the budget structure is consistent with the budget structure of other schools operated by the District.

5. The school has appropriately credentialed teachers and clerical support staff.

6. A facility, consisting of one or more buildings, or an identified set of rooms, has been acquired, with a street address. The school facility is "Field Act safe" or necessary exceptions have been obtained.

7. Students are enrolled in the school, unless the school is in the last stages of formation.

8. School records are kept separately from those of other schools.

9. The school implements a curriculum that fully meets state requirements as specified in the Education Code relating to required courses of study.

10. The school administers California statewide assessment tests to its students at the required grade levels.

REFERENCES:

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
David Farkas, Ed.D.
Assistant Superintendent

☐ Informational
☒ Action

AGENDA ITEM: AUTHORIZE THE FORMATION AND ESTABLISHMENT OF A VIRTUAL LEARNING ACADEMY BEGINNING IN THE FALL 2021 AS A NEW ALTERNATIVE SCHOOL OF CHOICE

BACKGROUND INFORMATION:

According to the California Department of Education (CDE), the term "school" is used to refer to all educational institutions that have one or more teachers to give instruction, an assigned administrator, based in one or more buildings, and contain enrolled or prospectively enrolled students.

The application for a CDS (County-District-School) Code is to be used by local educational agencies (LEAs) to notify CDE of the establishment of a California **public** school and to apply for a CDS code for the newly established school. A CDS Code is a unique number assigned to a school and used by the CDE for directory and tracking purposes in relation to funding, assessment, accountability, grant applications, and data reporting. CDS codes are not assigned to programs. Evidence that the entity is a school rather than a program is provided by the governing board action approving formation of the school and board action establishing the school.

In response to an increased interest from families to continue their students in a Virtual Learning Academy, the San Ysidro School District is seeking authorization to establish a new public school that will function as a virtual learning academy. If the application for a CDS code is approved in a timely manner, it is the intention of the District to open the school on July 26, 2021 for the start of the 2021-22 school year.

RECOMMENDATION:

Authorize the formation and establishment of the Virtual Learning Academy, beginning in the Fall of 2021, as an alternative school or program of choice (BP 6181), consistent with applicable Board policies and regulations and State law. The Virtual Learning Academy would provide an online, distance learning option for students who do not wish to return to in-person instruction at the start of the 2021-22 school year. The District's Independent Study policy and regulation (BP/AR 6158) may be used to support such a program in the event the State Legislature does not pass legislation authorizing distance learning in the Fall as implemented during the 2020-21 school year. If the Board approves this item, District staff will pursue a new County District School (CDS) code from the California Department of Education for the Virtual Learning Academy.

LCAP GOAL AND ACTION/SERVICE:

Goal 1: Student Achievement and Goal 2: Safety, Climate and Student Engagement.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2021-2022 Budget?	Requisition #
☐ Yes ☒ No	☐ Yes ☐ No	
N/A		
(Amount)	(Name of funding source and/or location)	

Recommended for: ☒ Approval ☐ Denial	Certification Requested ☐ Yes ☐ No

Application for a New School CDS Code

This application is to be used by local educational agencies (LEAs) to notify the California Department of Education (CDE) of the establishment of a California public school and to apply for a County-District-School (CDS) code for the newly established school. LEAs may apply for a CDS code twelve months prior to the school's opening date. To apply for a CDS code for a private school, please refer to the CDE Filing the Private School Affidavit web page.

Prior to completing this application, please ensure that you have all of the required information and have read the Application for a CDS Code Instructions.

Complete the Application for a CDS Code by populating all of the required fields, which are denoted with an asterisk (*). Once the form is complete, select the "Submit Application" button. Upon submission of your application, you will be routed to a confirmation page and will receive a confirmation email, which will include instructions for completing the application process.

You will not be able to save this application and complete it at a later time.

School Information

1. ***State Board of Education Charter or Regional Occupation Center/Program**
   Yes ○ **No** ○

2. ***County**
   -- Select --

3. ***District**
   -- Select --

4. ***School**

5. ***School Type**
   -- Select --

6. ***Educational Program**
   -- Select --

7. ***Open Date**
   mm/dd/yyyy

8. ***Estimated Enrollment**

9. *Low Grade

-- Select --

10. *High Grade

-- Select --

11. *Virtual Status

-- Select --

12. *Year Round

Yes ○ No ○

13. *Magnet

Yes ○ No ○

14. Email

15. Website

16. *Phone Number

555-555-5555

17. Phone Extension

18. Fax

Education Code Authority

19. *Education Code

○ General Authority

○ Special Authorities (Select to expand)

You selected:

School Addresses

Physical Address

20. *Street

21. *City

22. *State

-- Select --

23. *Zip

24. Zip4

Mailing Address Copy Physical Address

25. Street

26. City

27. State

-- Select --

28. Zip

29. Zip4

Principal Information

30. *First Name

31. *Last Name

32. *Job Title

33. *Email

34. *Phone Number

555-555-5555

35. Phone Extension

Charter School Information

36. *Charter School

Yes ○ **No** ○

Applicant's Information

This information will be used to provide you with a confirmation of the receipt of your application and for CDE staff to follow up with you regarding any questions with your application or supporting documentation.

***Applicant's Name**

***Applicant's Email**

☐ **By checking this box, I declare that I am acting under the direction of the district superintendent, and that the information contained herein is true and accurate.**

Note:(*) are required fields.

Cancel

Confirmation

After submitting your application, you will receive an email containing a confirmation number, links to the application summary and upload pages, and further instructions on how to complete the application process.

Submission of Supporting Documentation

In order to complete the CDS code application process, you will need to submit the following supporting documentation:

1. Local governing board meeting minutes describing the approval to form and establish the school. This may include items pertaining to budget approval, acquisition/designation of a facility, staffing, contract awarded for construction of a facility, school type, and/or date of opening. Note that if the board meeting minutes are lengthy, you may extract the pertinent information and submit only the portion of the board minutes that pertain to the approval to form the school and the account of the formal voting process of board members.
2. A copy of the Application for a CDS Code: Summary signature page that has been signed by the district superintendent. For charter schools, the signature page must be signed by the authorizing agency's superintendent. To obtain a copy of the signature page, please visit the Application for a CDS Code: Summary web page, which will be provided via a confirmation email.

Additional documentation may also be requested by CDE staff depending on information provided in your application and/or supporting documentation.

Supporting documentation may be submitted to the CDE by:

- Using the Application for a CDS Code: File Upload feature. A link to this feature will be provided via a confirmation email.
- Emailing cdsadmin@cde.ca.gov
- Faxing to 916-327-0195
- Mailing to:

  CDS Administration
  CBEDS/CDS Support Office
  1430 N Street, Suite 6308
  Sacramento, CA 95814

Instructions for Correcting Applications

Should you need to correct information contained in your application once it has submitted, please provide your corrections to CDS Administration staff via the email address provided below. CDS Administration staff will update your application for you and the corrections will be visible on your

Application for a CDS Code: Summary. If the corrections are substantial, you may be asked to provide an updated signed copy of the Application for a CDS Code: Summary signature page.

Questions: CDS Administration | cdsadmin@cde.ca.gov | 916-327-4014

Last Reviewed: Friday, February 19, 2021

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Assistant Superintendent of Educational Leadership, Pupil Services and Safety, David Farkas, Ed.D.

☐ Informational
☒ Action

AGENDA ITEM: FIRST READING AND ADOPTION OF REVISED BOARD POLICY 0420.42 - CHARTER SCHOOL RENEWAL

BACKGROUND INFORMATION:

The San Ysidro School District has a current agreement with the California School Boards Association (CSBA) for the maintenance of its Board Policy manual. This subscription service provides policy updates and ongoing consulting.

Governing Boards are responsible for the development and compliance of its board policies. They are responsible for adopting and revising policies in keeping with new laws and legislation that impact specific policies and administrative regulations.

Below is the list of revised Board Policies (BP) and Administrative Regulations (AR) in the 0000 Series Business and Noninstructional Operations sections:

- BP 0420.40 - Charter School Renewal

RECOMMENDATION:
Approve the First Reading and Adoption of Revised Board Policy 0420.40 - Charter School Renewal.

LCAP GOAL AND ACTION/SERVICE (please indicate):

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications? ☐ Yes ☒ No

Are funds for this item available in the 2020-2021 Budget? ☐ Yes ☐ No

Requisition #

N/A	N/A
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

CSBA Sample REVISED

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~~.

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**, consistent with the timelines set out in the Education Code**. The Board shall consider renewal petitions only of charters originally authorized by the Board itself or by the State Board of Education **(SBE)** 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)

The Board shall deny the renewal petition of any charter school operated as or 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)

Note: The following **optional** paragraph may be revised to reflect district timelines for the submission of charter renewal petitions. 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 90 days of receiving the petition; 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 nine months before the term of the charter is due to expire) so that, in the event that the Board denies the renewal, the charter school may 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.

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 renewals 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. **See AR 0420.4 - Charter School Authorization for more information regarding the standards and criteria for initial charter authorizations and renewals.**

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

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

Note: Pursuant to Education Code 47607.2, the review of the charter school's **academic** performance must be based on "verified data" **from assessments and other indicators approved by SBE.** ~~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 November 2020, SBE approved a list of valid and reliable indicators of academic progress and postsecondary outcomes that may be used to demonstrate a charter school's academic performance. Such indicators are available on CDE's web site.**

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. **The Board shall only consider data from sources adopted by SBE.** (Education Code 47607**, 47607.2**)

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:

Note: Pursuant to Education Code 47607, as amended by SB 98 (Ch. 24, Statutes of 2020), the criteria described in item #1 below may be achieved for two of the three years immediately preceding the renewal, rather than for the two consecutive years immediately preceding the renewal, if the two consecutive years immediately preceding the renewal include the 2019-20 school year.

1. Renewal of Five to Seven Years

a. 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 **shall be granted renewal for a period of five to seven years when,** ~~and that,~~ for two consecutive years immediately preceding the renewal, **or for two of the three years immediately preceding the renewal for any renewal submitted in the 2020-21 or 2021-22 school year, the charter school** achieved either of the following: (Education Code 47607)

(1) Received the two highest performance levels schoolwide on all the state indicators included in the Dashboard for which the charter school receives performance levels**, provided the charter school has schoolwide performance levels on at least two measurements of academic performance per year in each of the two years**

(2) 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**, provided that the charter school has performance levels on at least two measurements of academic performance for at least two subgroups**

b. If the charter school satisfies the above criteria, it shall only be required to update the renewal petition to include a reasonably comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed and, as necessary, to reflect the current program offered by the charter school. (Education Code 47607)

2. Renewal of Five Years

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)

Note: Education Code 47607.2, as amended by SB 98, authorizes the Board to deny renewal of a charter if the criteria described in item #3 below apply in two of the three years immediately preceding the renewal, rather than for two consecutive years immediately preceding the renewal, if the two consecutive years immediately preceding the renewal include the 2019-20 school year.

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, **or for two of the three years immediately preceding the renewal for any renewal submitted in the 2020-21 or 2021-22 school year,** 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~~.~~**, provided the charter school has schoolwide performance levels on at least two measurements of academic performance per year in each of the two years**

CHARTER SCHOOL RENEWAL (continued)

(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~~.~~**, provided that the charter school has performance levels on at least two measurements of academic performance for at least two subgroups**

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: **(Education Code 47607.2)**

(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 renewal, 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 **Board may deny the** renewal ~~shall be denied if the Board finds either that~~ **for these reasons only upon a finding that either** 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 **47607** ~~46607, as amended by AB 1505~~.

A charter school that ~~is eligible~~ **qualifies** 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)

Timelines for Board Action

Note: 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 60 days of receiving the renewal petition, the Board shall hold a public hearing to review documentation submitted by the charter school**, determine the level of support for the petition,** 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)

The Board shall either grant or deny the charter renewal within 90 days of receiving the petition ~~or within 120 days with the consent of both the petitioner and the Board~~. **The date may be extended by an additional 30 days if both the petitioner and the Board agree to the extension.** (Education Code 47605)

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 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)

The Superintendent or designee shall provide notification to 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 within 30 days of the Board's written factual findings supporting the denial. (Education Code 47605, 47607.5)

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 **shall be implemented**. (Education Code ~~47603.32~~ **47604.32, 47605**)

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*~~
11962-11962.1 Definitions
11966.4 Submission of charter renewal petition
11966.5 Charter petitions that have not been renewed; submission to county board of education
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 Authorizing Professionals: https://calauthorizers.org
California Charter Schools Association: ~~*http://www.calcharters.org*~~ ***https://www.ccsa.org***
California Department of Education, Charter Schools: http://www.cde.ca.gov/sp/~~***cs***~~***ch***
National Association of Charter School Authorizers: ~~*http://www.charterauthorizers.org*~~ ***https://www.qualitycharters.org***
U.S. Department of Education: http://www.ed.gov

(10/18 3/20) 3/21

Policy Reference UPDATE Service
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Policy 0420.42: Charter School Renewal

Status: ADOPTED

Original Adopted Date: 02/11/2021 **| Last Reviewed Date:** 02/11/2021

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.

The Board shall deny the renewal petition of any charter school operated as or 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)

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.

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

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

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

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

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:

(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 renewal, 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)

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)

Timelines for Board Action

Within 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)

The Board shall either grant or deny the 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 47605)

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 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)

The Superintendent or designee shall provide notification to 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 within 30 days of the Board's written factual findings supporting the denial. (Education Code 47605, 47607.5)

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)

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

State References	Description
5 CCR 11960-11969	Charter schools
Ed. Code 47600-47616.7	Charter Schools Act of 1992
Ed. Code 52052	Accountability; numerically significant student subgroups
Ed. Code 56145-56146	Special education services in charter schools
Ed. Code 60600-60649	Assessment of academic achievement

Federal References	Description
20 USC 7223-7225	Charter schools

Management Resources References	Description
CSBA Publication	Charter Schools: A Guide for Governance Teams, rev. 2016
CSBA Publication	The Role of the Charter School Authorizer, Online Course
Website	California Department of Education, Charter Schools - https://simbli.eboardsolutions.com/SU/7ntJI2JXplusQiCtk6H8qzoIg==
Website	National Association of Charter School Authorizers - https://simbli.eboardsolutions.com/SU/9nzhOG5X2VVH42kMJnO6kg==
Website	California Charter Schools Association - https://simbli.eboardsolutions.com/SU/aplushtDM8pluszN2tpwTckx11kA==
Website	CSBA - https://simbli.eboardsolutions.com/SU/W3QxkK2FPsDsQBnMIENxGg==

Website	U.S. Department of Education - https://simbli.eboardsolutions.com/SU/XcSsJimoslsh3XhJKy4tplus7wplusA==

Cross References	Description
0420.4	Charter School Authorization - https://simbli.eboardsolutions.com/SU/N2NPHhZkoR4HzmLplusslshGJIqg==
0420.4	Charter School Authorization - https://simbli.eboardsolutions.com/SU/xHeL5G0lW17kzaIFS7slshdzA==
0420.41	Charter School Oversight - https://simbli.eboardsolutions.com/SU/z6rkvP9islshqlxTJHeU6PmTA==
0420.41-E(1)	Charter School Oversight - https://simbli.eboardsolutions.com/SU/LysOPM557YPs92qbRXq8pg==
0420.43	Charter School Revocation - https://simbli.eboardsolutions.com/SU/rjslshfFVMvuEUjslshFQ0V2b0TQ==
0500	Accountability - https://simbli.eboardsolutions.com/SU/8OSp14MQoBm0c5h903CVjA==
6162.51	State Academic Achievement Tests - https://simbli.eboardsolutions.com/SU/TmZ3V9hBhQTlZzpfmXIKEg==
6162.51	State Academic Achievement Tests - https://simbli.eboardsolutions.com/SU/u6gYJvgPtwEeqGZ5tL3plusWw==

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business Services
Marilyn Adrianzen, Chief Business Official

☐ Informational
☒ Action

AGENDA ITEM: FIRST READING AND ADOPTION OF REVISED BOARD POLICIES AND ADMINISTRATIVE REGULATIONS – 3000 SERIES

BACKGROUND INFORMATION:
The San Ysidro School District has a current agreement with the California School Boards Association (CSBA) for the maintenance of its Board Policy manual. This subscription service provides policy updates and ongoing consulting.

Governing Boards are responsible for the development and compliance of its board policies. They are responsible for adopting and revising policies in keeping with new laws and legislation that impact specific policies and administrative regulations.

Below is the list of revised Board Policies (BP) and Administrative Regulations (AR) in the 3000 Series sections:

3000 Series - Business and Noninstructional Operations

- BP 3110 Transfer of Funds
- BP 3230 Federal Grant Funds
- BP 3452 Student Activity Funds
- BP 3515.3 District Police/Security Dept.
- BP 3600 Consultants
- AR 3311.2 Lease-Leaseback Contracts
- AR 3311.3 Design-Build Contracts
- AR 3320 Claims & Actions Against the District
- AR 3230 Federal Grant Funds
- AR 3515.3 District Police/Security Dept.

RECOMMENDATION:
Approve the First Reading and Adoption of Revised Board Policies and Administrative Regulations - 3000 series: Revised BP 3110 - Transfer of Funds, Revised BP 3230 - Federal Grant Funds, Revised AR 3230 - Federal Grant Funds, Revised AR 3311.2 - Lease-Leaseback Contracts, Revised AR 3311.3 - Design-Build Contracts, Revised AR 3320 - Claims and Actions Against the District, Revised BP 3452 - Student Activity Funds, Revised BP/AR 3515.3 - District Police/Security Department and Revised BP 3600 - Consultants.

LCAP GOAL AND ACTION/SERVICE (please indicate):

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?	Requisition #
☐ Yes ☒ No	☐ Yes ☐ No	

N/A	N/A
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

Business and Noninstructional Operations BP 3110(a)

TRANSFER OF FUNDS

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

(cf. 0460 - Local Control and Accountability Plan)
(cf. 3100 - Budget)
(cf. 3400 - Management of District Assets/Accounts)
(cf. 3460 - Financial Reports and Accountability)

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

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

1. At any time, adopt a written resolution providing for transfers from the designated fund balance or the unappropriated fund balance to any expenditure classification or between classifications. The resolution shall be filed with the County Superintendent of Schools and the County Auditor. (Education Code 42600)
(cf. 9323.2 - Actions by the Board)

2. Direct the temporary transfer of monies held in any district fund or account to another fund or account as necessary for the payment of obligations. Such borrowing shall occur only when the fund or account receiving the money will earn sufficient income during the current fiscal year to repay the amount transferred. No more than 75 percent of the maximum amount held in any fund or account during the current fiscal year may be transferred. Amounts transferred shall be repaid in the same fiscal year, or in the following fiscal year if the transfer takes place within the final 120 calendar days of a fiscal year. (Education Code 42603)

Education Code 42603.1, as added by SB 98 (Ch. 23, Statutes of 2020), adds the following authorization for the temporary transfer of funds for the 2020-21 and 2021-22 fiscal years, if the state defers any payments owed to districts.

TRANSFER OF FUNDS (continued)

For the 2020-21 and 2021-22 fiscal years only, if the state defers any payments owed to districts, the Board may direct the temporary transfer of up to 85 percent of the maximum amount held in any fund or account during the current fiscal year for the payment of obligations. Such borrowing shall occur only when the fund or account receiving the money will earn sufficient income during the current fiscal year to repay the amount transferred. Prior to exercising this authority, the Board shall hold a public hearing and adopt a resolution authorizing such transfer. (Education Code 42603.1)

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

3. At the close of a school year, request that the County Superintendent make transfers between the designated fund balance or the unappropriated fund balance and any expenditure classification(s), or balance any expenditure classifications of the district budget as necessary for the payment of obligations incurred during that school year. (Education Code 42601)

4. If any special reserve funds that are maintained for capital outlay or other purposes pursuant to Education Code 42842 are not actually encumbered for ongoing expenses, transfer those monies into the general fund for the general operating purposes of the district. If any monies remain in the special reserve fund at the conclusion of a project, the Board may submit a written request to the County Superintendent, Auditor, and Treasurer to discontinue the special reserve fund and transfer those monies to the district's general fund. (Education Code 42841-42843)

5. Transfer monies between other funds or accounts when authorized by law.

TRANSFER OF FUNDS (continued)

Legal Reference:

EDUCATION CODE
78 Definition, governing board
5200 Districts governed by boards of education
16095 Transfer of district funds to district state school building fund
41010 California School Accounting Manual
41301 Section A state school fund allocation schedule
42125 Designated and unappropriated fund balances
42238-42251 Apportionments to districts, especially:
42238.01-42238.07 Local control funding formula
42600 District budget limitation on expenditure
42601 Transfers between funds to permit payment of obligations at close of year
42603 Temporary Transfer of monies held in any fund or account to another fund; repayment
42603.1 Temporary transfer of monies held in any fund or account to another fund; state deferrals; fiscal years 2020-21 and 2021-22
42840-42843 Special reserve fund
52616.4 Expenditures from adult education fund

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS
California School Accounting Manual
WEB SITES
CSBA: http://www.csba.org
California Department of Education: http://www.cde.ca.gov
Fiscal Crisis and Management Assistance Team: http://www.fcmat.org

(11/11 10/13) 3/21

Policy Reference UPDATE Service
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Policy 3110: Transfer Of Funds

Status: ADOPTED

Original Adopted Date: 05/09/2019 **| Last Reviewed Date:** 05/09/2019

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

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

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

1. At any time, adopt a written resolution providing for transfers from the designated fund balance or the unappropriated fund balance to any expenditure classification or between classifications. The resolution shall be filed with the County Superintendent of Schools and the county auditor. (Education Code 42600)

2. Direct the temporary transfer of monies held in any district fund or account to another fund or account as necessary for the payment of obligations. Such borrowing shall occur only when the fund or account receiving the money will earn sufficient income during the current fiscal year to repay the amount transferred. No more than 75 percent of the maximum amount held in any fund or account during the current fiscal year may be transferred. Amounts transferred shall be repaid in the same fiscal year, or in the following fiscal year if the transfer takes place within the final 120 calendar days of a fiscal year. (Education Code 42603)

3. At the close of a school year, request that the County Superintendent make transfers between the designated fund balance or the unappropriated fund balance and any expenditure classification(s), or balance any expenditure classifications of the district budget as necessary for the payment of obligations incurred during that school year. (Education Code 42601)

4. Specify amounts to be transferred by the county auditor and treasurer from the district's general fund to the special reserve fund during the fiscal year. If any special reserve funds are maintained for purposes other than capital outlay or if monies in the special reserve fund are not actually encumbered for ongoing expenses, the Board may transfer those monies into the general fund for the general operating purposes of the district. If any monies remain in the special reserve fund at the conclusion of a project, the Board may, by written request to the County Superintendent, auditor, and treasurer, transfer those monies to the district's general fund. (Education Code 42841-42843)

5. Transfer monies between other funds or accounts when authorized by law.

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

State References	Description
Ed. Code 16095	Transfer of district funds to district state school building fund - https://simbli.eboardsolutions.com/SU/DckNjgplus9tDnTa0uS0C6Kdw==
Ed. Code 41301	Section A state school fund allocation schedule
Ed. Code 42125	Designated and unappropriated fund balances
Ed. Code 42238-42251	Apportionments to districts
Ed. Code 42238.01-42238.07	Local control funding formula
Ed. Code 42600	District budget limitation on expenditure
Ed. Code 42601	Transfers between funds to permit payment of obligations at close of year
Ed. Code 42603	Transfer of monies held in any fund or account to another fund; repayment
Ed. Code 42840-42843	Special reserve fund
Ed. Code 5200	Districts governed by boards of education
Ed. Code 52616.4	Expenditures from adult education fund

Ed. Code 78	Definition, governing board

Management Resources References	Description
Website	Fiscal Crisis and Management Assistance Team - https://simbli.eboardsolutions.com/SU/1KDBnxplus9GCiDTyFvbLOOxQ==
Website	CSBA - https://simbli.eboardsolutions.com/SU/W3QxkK2FPsDsQBnMIENxGg==
Website	California Department of Education - https://simbli.eboardsolutions.com/SU/os2jq5DcA2RawmY2VZ5FZQ==

Cross References	Description
0460	Local Control And Accountability Plan - https://simbli.eboardsolutions.com/SU/JU6fL4mHayb1JLGtxvl6lw==
0460	Local Control And Accountability Plan - https://simbli.eboardsolutions.com/SU/sZkb9Nz3OJir5gwy5HSXOA==
3000	Concepts And Roles - https://simbli.eboardsolutions.com/SU/koBYB6aFeYqPaslsh55nD9MkA==
3100	Budget - https://simbli.eboardsolutions.com/SU/WqoJEr0tGYguCZ0kbpoDOw==
3100	Budget - https://simbli.eboardsolutions.com/SU/0onvwoV1fxbpJr5OyAa8nA==
3300	Expenditures And Purchases - https://simbli.eboardsolutions.com/SU/PiJMZVvpjV1P1BWzGWwzAA==
3350	Travel Expenses - https://simbli.eboardsolutions.com/SU/087zrkdokqcaplusql1dBgftA==
3350	Travel Expenses - https://simbli.eboardsolutions.com/SU/MvpluskhlslshXsYDnkV7G409slshEg==
3400	Management Of District Assets/Accounts - https://simbli.eboardsolutions.com/SU/clm77Hslsh9RplusDUndTMnG5tLg==
3400	Management Of District Assets/Accounts - https://simbli.eboardsolutions.com/SU/Eh4AWcSQOckQHzhhNrRWBQ==
3460	Financial Reports And Accountability - https://simbli.eboardsolutions.com/SU/TxBv420C0XX2RcvhFVuwTQ==
3460	Financial Reports And Accountability - https://simbli.eboardsolutions.com/SU/oxbbplusKiWBOkgDVv4ZA7DqA==
3470	Debt Issuance And Management - https://simbli.eboardsolutions.com/SU/xMB5SSaSDujcCk9t8CcU4A==
3551	Food Service Operations/Cafeteria Fund - https://simbli.eboardsolutions.com/SU/fslshTOZSOCJYAeecwHFRcBZQ==
3551	Food Service Operations/Cafeteria Fund - https://simbli.eboardsolutions.com/SU/yyuRz0EALXR0Dv3bnSl2ow==

FEDERAL GRANT FUNDS

Pursuant to 2 CFR 200.302, 200.318, and 200.319, the district is **mandated** to adopt written procedures related to procurement, conflict of interest, cash management, payments, and allowable costs. In addition to the following policy, it is recommended that districts maintain a detailed administrative regulation or procedures manual addressing the mandated components.

The Governing Board recognizes the district's responsibility to maintain fiscal integrity and transparency in the use of all funds awarded through federal grants. The district shall comply with all requirements detailed in any grant agreement with an awarding agency and with the federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards specified in 2 CFR 200.0-200.521 and any stricter state laws and district policy.

Any goods or services purchased with federal funds shall be reasonable in cost and necessary for the proper and efficient performance or administration of the program.

The Superintendent or designee shall ensure that the district's financial management systems and procedures provide for the following: (2 CFR 200.302)

1. Identification in district accounts of each federal award received and expended and the federal program under which it was received

(cf. 3100 - Budget)

2. Accurate, current, and complete disclosure of the financial results of each federal award or program in accordance with the reporting requirements of 2 CFR 200.328 and 200.329

(cf. 3460 - Financial Reports and Accountability)

3. Records and supporting documentation that adequately identify the source and application of funds for federally funded activities, including information pertaining to federal awards, authorizations, financial obligations, unobligated balances, assets, expenditures, income, and interest

(cf. 1340 - Access to District Records)
(cf. 3580 - District Records)

4. Effective control over and accountability for all funds, property, and other assets and assurance that all assets are used solely for authorized purposes

FEDERAL GRANT FUNDS (continued)

5. Comparison of actual expenditures with budgeted amounts for each federal award

6. Written procedures to implement provisions governing payments as specified in 2 CFR 200.305

7. Written procedures for determining the allowability of costs in accordance with 2 CFR 200.400-200.475 and the terms and conditions of the federal grant award

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

The Superintendent or designee shall develop and implement appropriate internal control processes to reasonably assure that transactions are properly executed, recorded, and accounted for so that the district can prepare reliable financial statements and federal reports, maintain accountability over assets, and demonstrate compliance with federal laws, regulations, and conditions of the federal award. (2 CFR 200.61, 200.62, 200.303)

Equipment purchased with federal funds shall be properly inventoried and adequately maintained to safeguard against loss, damage, or theft of the property.

(cf. 3270 - Sale and Disposal of Books, Equipment and Supplies)
(cf. 3440 - Inventories)
(cf. 3512 - Equipment)

All staff involved in the administration or implementation of programs and activities supported by federal funds shall receive information and training on the allowable use of federal funds, purchasing procedures, and reporting processes commensurate with their duties.

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

Pursuant to 2 CFR 200.328 and 200.329, districts must submit financial and performance reports at the interval required by the awarding agency, which shall be at least annually but no more often than quarterly except in unusual circumstances. Status reports due annually must be submitted no later than 90 calendar days after the reporting period, and reports due quarterly or semi-annually must be submitted no later than 30 calendar days after the reporting period. As amended by 85 Fed. Reg. 49506, 2 CFR 200.329 increases the time period for submitting final performance reports from 90 to 120 days after the performance end date. The district may request an extension of the due date for any performance report for justifiable reasons.

FEDERAL GRANT FUNDS (continued)

In addition, the California Department of Education (CDE) is required under Education Code 64001 to monitor districts' compliance with legal requirements for federal categorical programs. This monitoring is accomplished through the Federal Program Monitoring process, which is based on a combination of data and document reviews and on-site visits. For further information, see the CDE's website and BP 6190 - Evaluation of the Instructional Program.

The district shall submit financial and performance reports to the awarding agency in accordance with the schedule and indicators required for that federal grant by law and the awarding agency. As required, such reports may include a comparison of actual accomplishments to the objectives of the federal award, the relationship between financial data and performance accomplishments, the reasons that established goals were not met if applicable, cost information to demonstrate cost-effective practices, analysis and explanation of any cost overruns or high unit costs, and other relevant information. The final performance report shall be submitted no later than 120 calendar days after the ending date of the grant. (2 CFR 200.301, 200.328, 200.329)

(cf. 0500 - Accountability)
(cf. 6190 - Evaluation of the Instructional Program)

Legal Reference: (see next page)

FEDERAL GRANT FUNDS (continued)

Legal Reference:

EDUCATION CODE
42122-42129 Budget requirements
64001 School plan for student achievement, consolidated application programs
CODE OF FEDERAL REGULATIONS, TITLE 2
180.220 Amount of contract subject to suspension and debarment rules
200.0-200.521 Federal uniform grant guidance, especially:
200.1-200.99 Definitions
200.100-200.113 General provisions
200.317-200.326 Procurement standards
200.327-200.329 Monitoring and reporting
200.333-200.337 Record retention
200.400-200.475 Cost principles
200.500-200.521 Audit requirements
CODE OF FEDERAL REGULATIONS, TITLE 34
76.730-76.731 Records related to federal grant programs
CODE OF FEDERAL REGULATIONS, TITLE 48
2.101 Federal acquisition regulation; definitions

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS
California Department of Education Audit Guide
California School Accounting Manual
EDUCATION AUDIT APPEALS PANEL PUBLICATIONS
Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS
Questions and Answers Regarding 2 CFR Part 200
WEB SITES
California Department of Education: http://www.cde.ca.gov
Education Audit Appeals Panel: http://www.eaap.ca.gov
Office of Management and Budget, Uniform Guidance: https://www.whitehouse.gov/omb
State Controller's Office: http://www.sco.ca.gov
System for Award Management (SAM): http://www.sam.gov/SAM
U.S. Department of Education: http://www.ed.gov
U.S. Government Accountability Office: http://www.gao.gov

(9/16) 3/21

Policy Reference UPDATE Service
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Policy 3230: Federal Grant Funds

Status: ADOPTED

Original Adopted Date: 05/09/2019 **| Last Reviewed Date:** 05/09/2019

The Board of Education recognizes the district's responsibility to maintain fiscal integrity and transparency in the use of all funds awarded through federal grants. The district shall comply with all requirements detailed in any grant agreement with an awarding agency and with the federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards specified in 2 CFR 200.0-200.521 and any stricter state laws and district policy.

Any goods or services purchased with federal funds shall be reasonable in cost and necessary for the proper and efficient performance or administration of the program.

The Superintendent or designee shall ensure that the district's financial management systems and procedures provide for the following: (2 CFR 200.302)

1. Identification in district accounts of each federal award received and expended and the federal program under which it was received

2. Accurate, current, and complete disclosure of the financial and performance results of each federal award or program in accordance with the reporting requirements of 2 CFR 200.327 and 200.328

3. Records and supporting documentation that adequately identify the source and application of funds for federally funded activities, including information pertaining to federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income, and interest

4. Effective controls and accountability for all funds, property, and other assets and assurance that all assets are used solely for authorized purposes

5. Comparison of actual expenditures with budgeted amounts for each federal award

6. Written procedures to implement provisions governing payments as specified in 2 CFR 200.305

7. Written procedures for determining the allowability of costs in accordance with 2 CFR 200.400-200.475 and the terms and conditions of the federal grant award

The Superintendent or designee shall develop and implement appropriate internal control processes to reasonably assure that transactions are properly executed, recorded, and accounted for so that the district can prepare reliable financial statements and federal reports, maintain accountability over assets, and demonstrate compliance with federal laws, regulations, and conditions of the federal award. (2 CFR 200.61, 200.62, 200.303)

Equipment purchased with federal funds shall be properly inventoried and adequately maintained to safeguard against loss, damage, or theft of the property.

All staff involved in the administration or implementation of programs and activities supported by federal funds shall receive information and training on the allowable use of federal funds, purchasing procedures, and reporting processes commensurate with their duties.

The district shall submit performance reports to the awarding agency in accordance with the schedule and indicators required for that federal grant by law and the awarding agency. As required, such reports may include a comparison of actual accomplishments to the objectives of the federal award, the relationship between financial data and performance accomplishments, the reasons that established goals were not met if applicable, cost information to demonstrate cost effective practices, analysis and explanation of any cost overruns or high unit costs, and other relevant information. The final performance report shall be submitted within 90 days after the ending date of the grant. (2 CFR 200.301, 200.328)

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

State References	Description

Ed. Code 42122-42129	Budget requirements
Ed. Code 64001	School plan for student achievement, consolidated application programs

Federal References	**Description**
2 CFR 180.220	Amount of contract subject to suspension and debarment rules
2 CFR 200.0-200.521	Federal uniform grant guidance
2 CFR 200.1-200.99	Definitions
2 CFR 200.100-200.113	General provisions
2 CFR 200.317-200.326	Procurement standards
2 CFR 200.327-200.329	Monitoring and reporting
2 CFR 200.333-200.337	Record retention
2 CFR 200.400-200.475	Cost principles
2 CFR 200.500-200.521	Audit requirements
34 CFR 76.730-76.731	Records related to federal grant programs
48 CFR 2.101	Federal acquisition regulation; definitions

Management Resources References	**Description**
California Department of Education Publication	California Department of Education Audit Guide
California Department of Education Publication	California School Accounting Manual
Education Audit Appeals Panel Publication	Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting
U.S. Department of Education Publication	Questions and Answers Regarding 2 CFR Part 200, March 17, 2016
Website	Office of Management and Budget, Uniform Guidance - https://simbli.eboardsolutions.com/SU/YplusplusmPflcVzuBkWxQHXMfcg==
Website	State Controller's Office - https://simbli.eboardsolutions.com/SU/GDLauCiDFl4Ms1eIPGARvA==
Website	System for Award Management (SAM) - https://simbli.eboardsolutions.com/SU/ozEzhm45zQ6VZAsl5BBOHQ==
Website	U.S. Government Accountability Office - https://simbli.eboardsolutions.com/SU/HvuRwrdop7OnnXlYFVN3Mw==
Website	Education Audit Appeals Panel - https://simbli.eboardsolutions.com/SU/6VovW08Qz3ek2v0oFNslshtMg==
Website	U.S. Department of Education - https://simbli.eboardsolutions.com/SU/XcSsJimoslsh3XhJKy4tplus7wplusA==
Website	California Department of Education - https://simbli.eboardsolutions.com/SU/os2jq5DcA2RawmY2VZ5FZQ==

Cross References	**Description**
0500	Accountability - https://simbli.eboardsolutions.com/SU/8OSp14MQoBm0c5h903CVjA==
1340	Access To District Records - https://simbli.eboardsolutions.com/SU/cXGxpZRquYId0nKebslshBk4Q==
1340	Access To District Records - https://simbli.eboardsolutions.com/SU/YUJTRiiy5YvfA2F87SiMsg==
3100	Budget - https://simbli.eboardsolutions.com/SU/WqoJEr0tGYguCZ0kbpoDOw==
3100	Budget - https://simbli.eboardsolutions.com/SU/0onvwoV1fxbpJr5OyAa8nA==

3231	Impact Aid - https://simbli.eboardsolutions.com/SU/7Ap579LQSLQa4LplussekuIFA==
3270	Sale And Disposal Of Books, Equipment And Supplies - https://simbli.eboardsolutions.com/SU/Rd2EzAo5Lxplusf6Cg370zXgw==
3270	Sale And Disposal Of Books, Equipment And Supplies - https://simbli.eboardsolutions.com/SU/SZFqSD5qqUtFNBzslshcplusKhZg==
3300	Expenditures And Purchases - https://simbli.eboardsolutions.com/SU/PiJMZVvpjV1P1BWzGWwzAA==
3311	Bids - https://simbli.eboardsolutions.com/SU/TXCclHAPO4AvqlRkslshIGT6g==
3311	Bids - https://simbli.eboardsolutions.com/SU/YtGjBb8AeKJBCbTEVI6JKg==
3311.4	Procurement Of Technological Equipment - https://simbli.eboardsolutions.com/SU/kkByhADGN5ByMPu5xtLaslshA==
3312	Contracts - https://simbli.eboardsolutions.com/SU/ypySW5bYSpEyYt3f9slshq8XA==
3314	Payment For Goods And Services - https://simbli.eboardsolutions.com/SU/MbHA9gIHxrKze4lIPVE9plusg==
3314	Payment For Goods And Services - https://simbli.eboardsolutions.com/SU/PKOZIdoJTQSbrFsmrxxIIw==
3350	Travel Expenses - https://simbli.eboardsolutions.com/SU/087zrkdokqcaplusqI1dBgftA==
3350	Travel Expenses - https://simbli.eboardsolutions.com/SU/MvpluskhlslshXsYDnkV7G409slshEg==
3400	Management Of District Assets/Accounts - https://simbli.eboardsolutions.com/SU/clm77Hslsh9RplusDUndTMnG5tLg==
3400	Management Of District Assets/Accounts - https://simbli.eboardsolutions.com/SU/Eh4AWcSQOckQHzhhNrRWBQ==
3440	Inventories - https://simbli.eboardsolutions.com/SU/qIoGYSIslsh1O3sXdLa5sXyiA==
3460	Financial Reports And Accountability - https://simbli.eboardsolutions.com/SU/TxBv420C0XX2RcvhFVuwTQ==
3460	Financial Reports And Accountability - https://simbli.eboardsolutions.com/SU/oxbbplusKiWBOkgDVv4ZA7DqA==
3512	Equipment - https://simbli.eboardsolutions.com/SU/UBrCXG8OqeYRH9B77XDYrQ==
3551	Food Service Operations/Cafeteria Fund - https://simbli.eboardsolutions.com/SU/fslshTOZSOCJYAeecwHFRcBZQ==
3551	Food Service Operations/Cafeteria Fund - https://simbli.eboardsolutions.com/SU/yyuRz0EALXR0Dv3bnSl2ow==
3580	District Records - https://simbli.eboardsolutions.com/SU/slGJYA28YslshNTQCMslshGcplusm0g==
3580	District Records - https://simbli.eboardsolutions.com/SU/BEy9zuPlfTW5TQjPpTt55Q==
4131	Staff Development - https://simbli.eboardsolutions.com/SU/kJqyGLZ6NEslsht0VJCcrln0A==
4231	Staff Development - https://simbli.eboardsolutions.com/SU/L8yP6LVj9KCY0vQ8PORzvA==
4331	Staff Development - https://simbli.eboardsolutions.com/SU/r3FjtcyWYRzoggplusAxgZfEw==
6190	Evaluation Of The Instructional Program - https://simbli.eboardsolutions.com/SU/SsYiNF0LslshseiRm7GRp9z9g==

9270-B	Conflict Of Interest - https://simbli.eboardsolutions.com/SU/yL3P0tPJ0zk3Pb2VzUm1Ig==
9270-B-E(1)	Conflict Of Interest - https://simbli.eboardsolutions.com/SU/QAs43mF3Ha1cSCaMPjplusysg==
9270-B-E(2)	Conflict Of Interest - https://simbli.eboardsolutions.com/SU/QQsaQfrlVWBrVwyxqLyXZw==

CSBA Sample REVISED

Board Policy

Business and Noninstructional Operations BP 3452(a)

STUDENT ACTIVITY FUNDS

Pursuant to Education Code 48930, the Governing Board may approve the formation of associated student body organizations (ASBs), which are composed entirely of students and are subject to the Board's control and regulation. Generally, there are two types of ASBs. ASBs in high schools and middle schools are referred to as "organized ASBs" since the students, organizing their activities around student clubs and/or a student council, have primary responsibility for the ASB, with the assistance, oversight, and co-approval of an district-employed advisor. In elementary schools, ASBs are considered to be "unorganized" because there is no student council and the principal or designee usually oversees the fundraising and spending decisions, with more limited involvement from the students.

ASBs, which are subject to the Board's control and regulation pursuant to Education Code 48930, are legally considered part of the district. In contrast, booster clubs, education foundations, parent-teacher associations, and other parent-run organizations operate independently of the district. See BP /AR 1230 - School-Connected Organizations. Districts with questions regarding the distinction between an ASB and a school-connected organization should consult legal counsel.

The Governing Board recognizes that student organizations can provide students with an opportunity to conduct worthwhile co curricular activities while helping students learn about effective financial practices and develop leadership and management skills. To that end, the Board may approve the formation of associated student body organizations which are composed entirely of students, operate under the oversight of the principal or other district-employed advisor, and are subject to the control and regulation of the Board. Student organizations may raise and spend funds to support activities that promote the general welfare, morale, and educational experiences of the student body.

(cf. 1230 - School Connected Organizations)
(cf. 6145 - Extracurricular and Cocurricular Activities)
(cf. 6145.5 - Student Organizations and Equal Access)

Fundraising

Education Code 48932 requires the Board to approve a student organization's fundraising events and to determine whether fundraising activities that are held on school property during school hours will interfere with the normal conduct of the schools.

For a list of activities that may be prohibited on school grounds because of safety concerns, see AR 5142 - Safety. For information regarding online fundraising, see BP 3290 - Gifts, Grants and Bequests.

At the beginning of each school year, each principal or designee shall submit to the Superintendent or designee a list of the fundraising events that each student organization proposes to hold that year. The Superintendent or designee shall review the proposed events and determine whether the events contribute to the educational experience and do not conflict with or detract from the school's educational program.

STUDENT ACTIVITY FUNDS (continued)

When reviewing proposed events, the Superintendent or designee shall consider the effects of the activities on student health and safety, evaluate the risk of liability to the district, and ensure that the proposed activities are in compliance with law, Board policy, and administrative regulation.

(cf. 1321 - Solicitation of Funds from and by Students)
(cf. 3290 - Gifts, Grants and Bequests)
(cf. 3530 - Risk Management/Insurance)
(cf. 5030 - Student Wellness)
(cf. 5142 - Safety)
(cf. 5143 - Insurance)

Fundraising events that involve the sale of food and/or beverages shall comply with applicable state and/or federal nutrition standards and BP/AR 3554 - Other Food Sales. If the fundraising event involves the sale of noncompliant food and/or beverages, it shall not take place from midnight until at least one-half hour after the end of the school day, or not be conducted on school premises.

(cf. 3554 - Other Food Sales)

Management and Reporting of Funds

Student body funds shall be managed in accordance with law, regulations, Board policies, and sound business procedures designed to encourage the largest possible educational return to students without sacrificing the security of funds.

The Superintendent or designee shall develop internal control procedures to safeguard the organization's assets, promote the success of fundraising ventures, provide reliable financial information, protect employees and volunteers from accusations of impropriety, and reduce the risk and promote the detection of fraud and abuse. These procedures shall detail the oversight of activities and funds including, but not limited to, the appropriate role and provision of training for staff and students, parameters for events on campus, appropriate and prohibited uses of funds, and accounting and record-keeping processes, including procedures for handling questionable expenditures.

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

The principal or designee shall be responsible for the proper conduct of all student organization financial activities. The budget adopted by the student body organization should serve as the financial plan for the school year and shall be submitted to the Superintendent or designee at the beginning of each school year. The

STUDENT ACTIVITY FUNDS (continued)

Superintendent or designee shall monitor the budget and periodically review the organization's use of funds to ensure compliance with the district's internal control procedures.

Funds derived from the student body shall be expended according to procedures established by the student organization. All expenditures must be approved by a Board-designated employee or official, the certificated employee who is the designated student organization advisor, and a student organization representative. (Education Code 48933)

When student body funds are expended for equipment, supplies, or activities that support the district's athletic program, the Superintendent or designee shall ensure that the expenditures are aligned with the district's commitment to provide equitable opportunities for males and females.

(cf. 6145.2 - Athletic Competition)

Because of the district's administrative and/or direct financial involvement in the assets of the student organization, the student activity fund shall be reported within the district's fund in accordance with Governmental Accounting Standards Board Statement 84.

The Board shall provide an annual audit of student organization accounts by a certified public accountant or licensed public accountant. The cost of the audit shall be paid from district funds. (Education Code 41020)

(cf. 3460 - Financial Reports and Accountability)

Legal Reference: (see next page)

STUDENT ACTIVITY FUNDS (continued)

Legal Reference:

EDUCATION CODE
35182.5 Non-nutritious foods and beverages, vending machines
35564 Funds, obligations of the student body
41020 Requirement for annual audit
48930-48938 Student body organization
49431 Sale of food- elementary school
49431.2 Sale of food, middle and high schools
49431.5 Sale of beverages, elementary, middle, and high schools
51520 School premise, prohibited solicitations
51521 Fundraising projects
CODE OF REGULATIONS, TITLE 5
4922 Nondiscrimination in intramural, interscholastic, and club activities
15500 Food sales, elementary schools
15501 Food sales, high schools and junior high schools
CODE OF FEDERAL REGULATIONS, TITLE 34
106.41 Nondiscrimination in athletic programs
COURT DECISIONS
Prince v. Jacoby, (2002) 303 F.3d 1074

Management Resources:

FISCAL CRISIS MANAGEMENT & ASSISTANCE TEAM PUBLICATIONS
Fiscal Alert: GASB 84 and Its Impact on Associated Student Body Accounts, May 2020
Associated Student Body Accounting Manual, Fraud Prevention Guide and Desk Reference, 2015
GOVERNMENTAL ACCOUNTING STANDARDS BOARD PUBLICATIONS
Implementation Guide No. 2019-2, Fiduciary Activities, June 2019
Statement No. 84, January 2017
WEB SITES
California Department of Education: http://www.cde.ca.gov
Fiscal Crisis Management & Assistance Team: http://www.fcmat.org
Governmental Accounting Standards Board: www.gasb.org

(9/88 7/07) 3/21

Policy Reference UPDATE Service
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Policy 3452: Student Activity Funds

Status: ADOPTED

Original Adopted Date: 05/09/2019 **| Last Reviewed Date:** 05/09/2019

The Board of Education recognizes that student organizations can provide students with an opportunity to conduct worthwhile cocurricular activities beyond those provided by the district and can also help students learn about effective financial practices. To that end, student organizations may raise and spend funds to support activities that promote the general welfare, morale, and educational experiences of the student body.

Fund-Raising Events

At the beginning of each school year, each principal or designee shall submit to the Superintendent or designee a list of the fund-raising events that each student organization proposes to hold that year. The Superintendent or designee shall review the proposed events and determine whether the events contribute to the educational experience and are not in conflict with or detract from the school's educational program. When reviewing proposed events, the Superintendent or designee shall consider the effects of the activities on student health and safety, evaluate the risk of liability to the district, and ensure that the proposed activities are in compliance with law, Board policy, and administrative regulation.

Management of Funds

Student body funds shall be managed in accordance with law and sound business procedures designed to encourage the largest possible educational return to students without sacrificing the security of funds.

The Superintendent or designee shall develop internal control procedures to safeguard the organization's assets, promote the success of fund-raising ventures, provide reliable financial information, and reduce the risk of fraud and abuse. These procedures shall detail the oversight of activities and funds including, but not limited to, the appropriate role and provision of training for staff and students, parameters for events on campus, appropriate and prohibited uses of funds, and accounting and record-keeping processes, including procedures for handling questionable expenditures.

The principal or designee shall be responsible for the proper conduct of all student organization financial activities. The budget adopted by the student body organization should serve as the financial plan for the school year and shall be submitted to the Superintendent or designee at the beginning of each school year. The Superintendent or designee shall periodically review the organization's use of funds to ensure compliance with the district's internal control procedures.

Funds derived from the student body shall be disbursed according to procedures established by the student organization. All disbursements must be approved by a Board-designated official, the certificated employee who is the student organization advisor, and a student organization representative. (Education Code 48933)

The Board shall provide an annual audit of student accounts by a certified public accountant or licensed public accountant. The cost of the audit shall be paid from district funds. (Education Code 41020)

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

State References	Description
5 CCR 15500	Food sales in elementary schools
5 CCR 15501	Food sales in high schools and junior high schools
Ed. Code 35182.5	Contracts for advertising
Ed. Code 35564	Funds, obligation of the student body
Ed. Code 41020	Requirement for annual audit
Ed. Code 48930-48938	Student organizations
Ed. Code 49431	Sale of food and beverages, elementary school
Ed. Code 49431.5	Sale of food and beverages, middle and high schools

Ed. Code 51520	Prohibited solicitations on school premises
Ed. Code 51521	Fund-raising project

Management Resources References	**Description**
Court Decision	Prince v. Jacoby, (2002) 303 F.3d 1074
Fiscal Crisis & Management Assistance Team Pub.	Associated Student Body Accounting Manual & Desk Reference, 2005
Website	California Department of Education - https://simbli.eboardsolutions.com/SU/os2jq5DcA2RawmY2VZ5FZQ==
Website	Fiscal Crisis and Management Assistance Team - https://simbli.eboardsolutions.com/SU/1KDBnxplus9GCiDTyFvbLOOxQ==

Cross References	**Description**
1230	School-Connected Organizations - https://simbli.eboardsolutions.com/SU/F5tgpslshZS6CSXl2D7P2pmmw==
1230	School-Connected Organizations - https://simbli.eboardsolutions.com/SU/H0xq0dXqw6RtT55qw5UHcw==
1321	Solicitation Of Funds From And By Students - https://simbli.eboardsolutions.com/SU/iQpS8iwgyslshmeFBIItPa4RQ==
1321	Solicitation Of Funds From And By Students - https://simbli.eboardsolutions.com/SU/NIBQXN33YGNcAsKdUgAWmg==
3260	Fees And Charges - https://simbli.eboardsolutions.com/SU/WkUrNM2FzVVkLqFLyxiZng==
3260	Fees And Charges - https://simbli.eboardsolutions.com/SU/GfUJ9DGdIfWd1d1YKcqBTg==
3400	Management Of District Assets/Accounts - https://simbli.eboardsolutions.com/SU/clm77Hslsh9RplusDUndTMnG5tLg==
3400	Management Of District Assets/Accounts - https://simbli.eboardsolutions.com/SU/Eh4AWcSQOckQHzhhNrRWBQ==
3460	Financial Reports And Accountability - https://simbli.eboardsolutions.com/SU/TxBv420C0XX2RcvhFVuwTQ==
3460	Financial Reports And Accountability - https://simbli.eboardsolutions.com/SU/oxbbplusKiWBOkgDVv4ZA7DqA==
3530	Risk Management/Insurance - https://simbli.eboardsolutions.com/SU/hESWDzNlCVBL4CkwCS2oqQ==
3530	Risk Management/Insurance - https://simbli.eboardsolutions.com/SU/Jq6plusqrzxnKCsHCplusF6tVuQw==
3554	Other Food Sales - https://simbli.eboardsolutions.com/SU/kcOX6SlPfyxWNeRTpX9plusfQ==
3554	Other Food Sales - https://simbli.eboardsolutions.com/SU/POLxjZdR0CP3GapblIBHwg==
3580	District Records - https://simbli.eboardsolutions.com/SU/slGJYA28YslshNTQCMslshGcplusm0g==
3580	District Records - https://simbli.eboardsolutions.com/SU/BEy9zuPlfTW5TQjPpTt55Q==
5000	Concepts And Roles - https://simbli.eboardsolutions.com/SU/PM9eVpzRwVudJrXBb51NlA==
5030	Student Wellness - https://simbli.eboardsolutions.com/SU/kP3RA9Bro1n3d1MplusS6lm9g==
5142	Safety - https://simbli.eboardsolutions.com/SU/SjoP4JM2HsDNDslshVqZXOKTw==

5142	Safety - https://simbli.eboardsolutions.com/SU/ISJ9nGnYOiMYI2pD60k02A==
5143	Insurance - https://simbli.eboardsolutions.com/SU/pESmAhlrKvCt9TDDzpASWA==
5143	Insurance - https://simbli.eboardsolutions.com/SU/vvDhX4MjDrJ0DrsR0yaAxw==
6145	Extracurricular And Cocurricular Activities - https://simbli.eboardsolutions.com/SU/pmsd7bmpISu6Rm8EpxeyPw==
6145	Extracurricular And Cocurricular Activities - https://simbli.eboardsolutions.com/SU/plusgYNOM1LVUk8aYpddRKtGg==
6145.5	Student Organizations And Equal Access - https://simbli.eboardsolutions.com/SU/xwR9J1MuLjwNwebVxTLzdw==
6145.5	Student Organizations And Equal Access - https://simbli.eboardsolutions.com/SU/zmu4xslshIGQmKBzcNslsh9tdWXw==

CSBA Sample REVISED

Board Policy

Business and Noninstructional Operations BP 3515.3(a)

DISTRICT POLICE/SECURITY DEPARTMENT

Note: Education Code 38000 authorizes the **Governing** Board to establish a **district** police or security department and to employ personnel to ensure the safety of district students and staff and the security of district real and personal property. ~~The following optional policy may be revised as desired, including appropriate modifications to indicate whether the district has a "police" or "security" department.~~ **However, as amended by SB 98 (Ch. 24, Statutes of 2020), Education Code 38000 expresses legislative intent to encourage districts to redirect resources currently allocated to district police departments or to contracts with local law enforcement into student support services (e.g., mental health services) and professional development on cultural competency and restorative justice, if found to be a more appropriate use of resources based on student and school needs.**

This policy and accompanying administrative regulation are for use by districts that choose to establish a district police or security department and may be revised to reflect district practice, including appropriate modifications to indicate whether the district has a "police" or "security" department. **Pursuant to Government Code 7286, district police departments are required to establish policy on the use of force. See the section "Conduct of Officers" below and in the accompanying administrative regulation.**

Districts that elect not to establish a police or security department, but instead contract with local law enforcement, should consider additional training requirements for any contracted peace officers to include, but not be limited to, professional development focused on cultural competency, restorative justice, and adolescent development as applied in public schools.

To help ~~ensure~~ **protect** the safety of district students and staff and the security of district property, the Governing Board shall maintain a district police or security department. **The Board commits to providing a positive school climate, mental health services, other student support services, and restorative justice practices to resolve conflicts and reduce law enforcement interactions with students.**

(cf. 0450 - Comprehensive Safety Plan)
(cf. 1250 - Visitors/Outsiders)
(cf. 3515 - Campus Security)
(cf. 3515.2 - Disruptions)
(cf. 3515.5 - Sex Offender Notification)
(cf. 3516.2 - Bomb Threats)
(cf. 5131.4 - Student Disturbances)
(cf. 5131.5 - Vandalism and Graffiti)
(cf. 5131.6 - Alcohol and Other Drugs)
(cf. 5131.7 - Weapons and Dangerous Instruments)
(cf. 5136 - Gangs)
(cf. 5141.5 - Mental Health)
(cf. 5142.1 - Identification and Reporting of Missing Children)
(cf. 5145.11 - Questioning and Apprehension by Law Enforcement)
(cf. 5145.12 - Search and Seizure)

DISTRICT POLICE/SECURITY DEPARTMENT (continued)

The Superintendent or designee shall provide training to staff regarding the role of district police or security officers and the appropriate circumstances for contacting such officers.

Note: Pursuant to Penal Code 13651, as added by AB 846 (Ch. 322, Statutes of 2020), entities that employ peace officers are required to review the job description that is used in recruitment and hiring and make changes that emphasize community-based policing, familiarization between law enforcement and community residents, and collaborative problem solving while de-emphasizing the paramilitary aspects of the job.

In addition, the U.S. Department of Education's Guiding Principles: A Resource Guide for Improving School Climate and Discipline recommends that educators, rather than police or security officers, should handle student discipline issues.

Duties of district police ~~officers~~ or security officers shall be delineated in a job description developed by the Superintendent or designee. **Such duties shall focus on collaborative problem solving and, when circumstances warrant intervention with students, the use of positive and restorative approaches in accordance with Penal Code 13651. Job duties shall not include the handling of routine student disciplinary matters.**

(cf. 4158/4258/4358 - Employee Security)
(cf. 4200 - Classified Personnel)
(cf. 5144 - Discipline)
(cf. 5144.1 - Suspension and Expulsion/Due Process)

Note: The district may select either or both options below depending on whether it has a "security" and/or "police" department.

OPTION 1: (Security Department)

Persons employed or assigned as school security officers shall serve as watchpersons, security guards, or patrolpersons on or about district premises to protect persons or property, prevent the theft or unlawful taking of district property, or report unlawful activity to the district and local law enforcement agencies. (Education Code 38001.5)

When district security officers are unable to perform their duties because of an emergency, including, but not be limited to, war, epidemic, fire, flood, or work stoppage, or when the emergency necessitates additional security services, the Board may contract with a private licensed security agency. In such cases, the Board shall make a specific finding that an emergency exists and shall include this finding in the Board minutes. (Education Code 38005)

DISTRICT POLICE/SECURITY DEPARTMENT (continued)

OPTION 2: (Police Department)

Persons employed as members of the district police department, when appointed and duly sworn, are peace officers for the purposes of carrying out their duties pursuant to Penal Code 830.32. (Education Code 38001)

Note: ~~AB 1436 (Ch. 292, Statutes of 2003) amended Education Code 35021.5 to delete the requirement that a school police reserve officer corps consist of unpaid volunteers. However, Education Code 35021.5 continues to express legislative intent that districts be allowed to use volunteer reserve officers to the extent necessary to provide a safe and secure school environment.~~ The following **optional** paragraph is for use by districts that **have a police department and** choose to establish a reserve officer corps, and may be revised to reflect district practice. Education Code 35021.5 expresses legislative intent that districts be allowed to use volunteer reserve officers to the extent necessary to provide a safe and secure school environment.

The district's police department may be supplemented by a school police reserve officer corps, which may include unpaid volunteer reserve police officers. For the duration of their specific assignment, school police reserve officers shall have the same powers and duties as other school police officers. (Education Code 35021.5; Penal Code 830.6)

(cf. 1240 - Volunteer Assistance)

Conduct of Officers

The Board expects district police or security officers to cooperate and regularly communicate with local law enforcement agencies, and to work collaboratively with other district staff and community members to develop long-term, proactive approaches that address the conditions affecting school safety.

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

District police or security officers shall conduct themselves in ways that promote goodwill and cooperation on the part of students, district staff, and the general public. **District police or security officers shall not discriminate against or treat any person differently on the basis race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, age, religion, marital status, pregnancy, parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information; a perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.**

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

District police or security officers shall not solicit or collect information or documents

DISTRICT POLICE/SECURITY DEPARTMENT (continued)

regarding the citizenship or immigration status of students or their family members or provide assistance with immigration enforcement at district schools, except as may be required by state and/or federal law. (Education Code 234.7)

(cf. 5145.13 - Response to Immigration Enforcement)

Note: Pursuant to Government Code 7286, district police departments are required to adopt a policy by January 1, 2021 that provides a minimum standard on the use of force. See the accompanying administrative regulation for information about the required components of such policy.

Whenever possible, district police or security officers shall use tactics such as de-escalation techniques to mitigate the use of force. The district police department shall maintain and make accessible to the public a policy on the use of force in accordance with Government Code 7286 and consistent with district policy and administrative regulation. Officers shall periodically receive training regarding applicable district policies and the guidelines from the Commission on Peace Officer Standards and Training.

~~Firearms~~ Equipment

Note: **Penal Code 626.9 exempts peace officers from the Gun Free Schools Act, which prohibits the possession of a firearm on school grounds.** Pursuant to Penal Code 830.32, the Board may determine whether or not its police officers will carry firearms. Education Code 38001.5 implies that security officers also may or may not be permitted to carry firearms.

OPTION 1: The Board authorizes district police or security officers to carry firearms in accordance with law, Board policy**,** and administrative regulations.

(cf. 3515.7 - Firearms on School Grounds)

OPTION 2: District police or security officers shall not carry firearms.

Note: The following paragraph may be used by all districts that maintain a police department.

The district police department shall be eligible to receive surplus military equipment pursuant to 10 USC 2576a only if, at a regularly scheduled public Board meeting, the Board approves the acquisition of such equipment after providing parents/guardians and members of the public an opportunity to comment on the proposed acquisition. The Board shall provide a detailed description of the function and purpose of the surplus military equipment, identify safe and secure storage for the equipment, and ensure that district police officers have adequate training in the safe use and handling of the equipment to be received. (Education Code 38004.5)

DISTRICT POLICE/SECURITY DEPARTMENT (continued)

Records

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

(cf. 5125 - Student Records)

Records created and maintained by the district police or security department for a law enforcement purpose are not considered disclosable student records under the Family Educational Rights and Privacy Act. (34 CFR 99.3)

Legal Reference:

EDUCATION CODE
234.7 Student protections relating to immigration and citizenship status
35021.5 School police reserve corps
38000-38005 Security and police departments
39672 School peace officers, fingerprinting
45122.1 Classified employees, conviction of a violent or serious felony
45133.5 School police department, work schedule
49076 Student records
49079 Notification to teacher; student who has engaged in acts constituting grounds for suspension or expulsion
BUSINESS AND PROFESSIONS CODE
7583-7583.46 Private patrol operators
FAMILY CODE
6240-6274 Emergency protective orders
GOVERNMENT CODE
3300-3312 Public safety officers, rights and protections
7286-7286.5 Law enforcement use of force policies
8597-8598 Peace officers
12525.2 Reports of incidents involving peace officers
PENAL CODE
290.45 Sex offenders, authority of peace officers
626.9 Gun Free School Zone Act
646.91 Emergency protective order for stalking
830-832.9 Peace officers, especially:
830.32 School district and community college police
830.6 Reserve police officers, powers and duties
832 Course of training prescribed by Commission on Peace Officer Standards and Training
832.2 School peace officers; training
832.7 Disclosure of personnel files in criminal or civil proceedings

Legal Reference continued: (see next page)

DISTRICT POLICE/SECURITY DEPARTMENT (continued)

Legal Reference: (continued)

PENAL CODE (continued)
832.15-832.16 Notice of prohibition against possession of firearm
836 Peace officers; warrants
12028.5 Taking custody of weapons
*13510-13519.~~9~~**10** Standards for recruitment and training*
13651 Peace officers, job descriptions
13700-13702 Response to domestic violence
WELFARE AND INSTITUTIONS CODE
707 List of crimes
828-828.1 Disclosure of information re minors by law enforcement agency
UNITED STATES CODE, TITLE 10
2576a Surplus military equipment
CODE OF FEDERAL REGULATIONS, TITLE 34
99.1-99.67 Family Educational Rights and Privacy Act
COURT DECISIONS
San Diego Police Officers Association et al. v. City of San Diego Civil Service Commission et al., (2002) 104 Cal.App.4th 275 ~~(2002)~~

Management Resources:

~~CDE PUBLICATIONS~~
~~Safe Schools: A Planning Guide for Action, 2002~~
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING PUBLICATIONS
POST Use of Force Standards and Guidelines, November 2020
U.S. DEPARTMENT OF EDUCATION PUBLICATIONS
Guiding Principles: A Resource Guide for Improving School Climate and Discipline, 2014
WEB SITES
~~Commission on Peace Officer Standards and Training: http://www.post.ca.gov~~
California Attorney General's Office: http://www.oag.ca.gov
California Department of Education, Safe Schools ~~and Violence Prevention Office~~: http://www.cde.ca.gov/ls/ss
~~Attorney General's Office, Crime and Violence Prevention Center: http://www.safestate.org~~
Commission on Peace Officer Standards and Training: http://www.post.ca.gov

Policy Reference UPDATE Service
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Policy 3515.3: District Police/Security Department

Status: ADOPTED

Original Adopted Date: 05/09/2019 | **Last Reviewed Date:** 05/09/2019

To help ensure the safety of district students and staff and the security of district property, the Board of Education shall maintain a district police or security department.

Duties of district of security officers shall be delineated in a job description developed by the Superintendent or designee.

Security

Persons employed or assigned as school security officers shall serve as watchpersons, security guards, or patrolpersons on or about district premises to protect persons or property, prevent the theft or unlawful taking of district property, or report unlawful activity to the district and local law enforcement agencies. (Education Code 38001.5)

When district security officers are unable to perform their duties because of an emergency, including, but not be limited to, war, epidemic, fire, flood or work stoppage, or when the emergency necessitates additional security services, the Board may contract with a private licensed security agency. In such cases, the Board shall make a specific finding that an emergency exists and shall include this finding in the Board minutes. (Education Code 38005)

Firearms

District security officers shall not carry firearms.

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

State References	Description
Bus. Code 7583-7583.4	Private patrol operators - https://simbli.eboardsolutions.com/SU/kBDCgRBUWNgP7GLr6TxJHw==
Ed. Code 35021.5	School police reserve corps
Ed. Code 38000-38005	Security departments
Ed. Code 39672	School peace officers, fingerprinting
Ed. Code 45122.1	Classified employees, conviction of a violent or serious felony
Ed. Code 49079	Notification to teacher; student act constituting grounds for suspension or expulsion
Fam. Code 6240-6274	Emergency protective orders
Gov. Code 3300-3312	Public safety officers, rights and protections
Gov. Code 8597-8598	Peace officers
Pen. Code 12028.5	Taking custody of weapons
Pen. Code 13510-13519.9	Standards for recruitment and training
Pen. Code 13700-13702	Response to domestic violence
Pen. Code 290.45	Sex offenders, authority of peace officers
Pen. Code 646.91	Emergency protective order for stalking
Pen. Code 830-832.9	Peace officers
Pen. Code 830.32	School district and community college police
Pen. Code 830.6	Reserve police officers, powers and duties
Pen. Code 832	Course of training prescribed by Commission on Peace Officer Standards and Training
Pen. Code 832.2	School peace officers; training

Pen. Code 832.7	Disclosure of personnel files in criminal or civil proceedings
Pen. Code 836	Peace officers; warrants
W&I Code 707	List of crimes
W&I Code 828-828.1	Disclosure of information re minors by law enforcement agency

Management Resources References	**Description**
CDE Publication	Safe Schools: A Planning Guide for Action, 2002
Court Case	San Diego Police Officers Association et al. v. City of San Diego Civil Service Commission et al., 104 Cal.App.4th 275 (2002)
Website	Commission on Peace Officer Standards and Training - https://simbli.eboardsolutions.com/SU/Vt9GngNyfZb0gB4c21Z9mg==
Website	Attorney General's Office, Crime and Violence Prevention Center - https://simbli.eboardsolutions.com/SU/39pJjvdP0qJO2kAkdd3h8A==
Website	California Department of Education, Safe Schools - https://simbli.eboardsolutions.com/SU/AxdFslshFpyQ1QPo821fOy9pg==

Cross References	**Description**
0450	Comprehensive Safety Plan - https://simbli.eboardsolutions.com/SU/ymrUEwzwRGOLmy5dybtyiw==
0450	Comprehensive Safety Plan - https://simbli.eboardsolutions.com/SU/yqXemeWgpAB1z0mjDmESfw==
1113	District And School Web Sites - https://simbli.eboardsolutions.com/SU/ODMDFmaqATGsLixNUqGgYg==
1113	District And School Web Sites - https://simbli.eboardsolutions.com/SU/92wfmcN541FlED53K1C2Uw==
1113-E(1)	District And School Web Sites - https://simbli.eboardsolutions.com/SU/w7nYKjqtVfwCcpawAntpluspg==
1250	Visitors/Outsiders - https://simbli.eboardsolutions.com/SU/KqtAfhnyYmNOMmUFSbWaJg==
1250	Visitors/Outsiders - https://simbli.eboardsolutions.com/SU/lUhL9TtJxlH7YZdpa5UJHg==
3515	Campus Security - https://simbli.eboardsolutions.com/SU/DeifKNzy8ewCAslshHo7IKtHA==
3515	Campus Security - https://simbli.eboardsolutions.com/SU/pCh2U58n8XLo7sdGMLSujQ==
3515.2	Disruptions - https://simbli.eboardsolutions.com/SU/GF8ydoNVfCW4zYYv5PkXpg==
3515.2	Disruptions - https://simbli.eboardsolutions.com/SU/NFzTA81FLqplus82yVmHQRriQ==
3515.4	Recovery For Property Loss Or Damage - https://simbli.eboardsolutions.com/SU/XswpsOM6AvMPamfzbI8Vug==
3515.4	Recovery For Property Loss Or Damage - https://simbli.eboardsolutions.com/SU/KsmdzZgR1dWrqykgpaG2Kg==
3515.5	Sex Offender Notification - https://simbli.eboardsolutions.com/SU/0KkyiKHKB37aBu7j8RCXzw==
3515.5	Sex Offender Notification - https://simbli.eboardsolutions.com/SU/HrrQHaa9VD9ZyjOc3E0UdQ==
3515.6	Criminal Background Checks For Contractors - https://simbli.eboardsolutions.com/SU/aKFdC6JdcplusupcWSprpWFpA==

3515.7	Firearms On School Grounds - https://simbli.eboardsolutions.com/SU/DXNlpT9yDOcakygQyXu7Ig==
3516.2	Bomb Threats - https://simbli.eboardsolutions.com/SU/3wslshdUoktzDlfUwxZXBmR1g==
4112.4	Health Examinations - https://simbli.eboardsolutions.com/SU/VHv28XDwUWTDmgNmplusYhAUA==
4112.5	Criminal Record Check - https://simbli.eboardsolutions.com/SU/IDaVyYyEsX2uuayPhodYCw==
4112.5-E(1)	Criminal Record Check - https://simbli.eboardsolutions.com/SU/RwoubYUMsslsh7slshAUvWrC2HpQ==
4112.6	Personnel Files - https://simbli.eboardsolutions.com/SU/emYqUlClLEpQ3N9wg0E4Bg==
4119.43	Universal Precautions - https://simbli.eboardsolutions.com/SU/5vxslshSc21DjNGzgzUinCXdA==
4119.43	Universal Precautions - https://simbli.eboardsolutions.com/SU/0fBMLlgInYCghPZBY2sRLQ==
4158	Employee Security - https://simbli.eboardsolutions.com/SU/KCzi0tNdI594jPAVCTeo6w==
4158	Employee Security - https://simbli.eboardsolutions.com/SU/XMJLZQDB8XYc7b2l9njexg==
4200	Classified Personnel - https://simbli.eboardsolutions.com/SU/Gfarf9slshWqzkn8n8quY1slsh1g==
4200	Classified Personnel - https://simbli.eboardsolutions.com/SU/jhplusY9B5OsA5a9pmo0NV8wg==
4211	Recruitment And Selection - https://simbli.eboardsolutions.com/SU/cDFj5C3slsh0spRWKmYYpRyLA==
4212	Appointment And Conditions Of Employment - https://simbli.eboardsolutions.com/SU/NpFplusnESCyvrT6FLrecexYA==
4212.4	Health Examinations - https://simbli.eboardsolutions.com/SU/j5KgsEwkbz0zSguAkgsplusOA==
4212.5	Criminal Record Check - https://simbli.eboardsolutions.com/SU/K2kSL91OyCcPJiCAGQlplusMw==
4212.5-E(1)	Criminal Record Check - https://simbli.eboardsolutions.com/SU/elWezLExrodwsXFsrcssdw==
4212.6	Personnel Files - https://simbli.eboardsolutions.com/SU/uNiu75vyJXMvsclI7slshOVGg==
4215	Evaluation/Supervision - https://simbli.eboardsolutions.com/SU/BGk7cxSb7N8plusXwplusAAzaUlQ==
4218	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/GUSwT3xmpPplusYjslshd8ehBu0A==
4218	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/k8nuiD3Tt4tRNVM02yUplus4Q==
4219.43	Universal Precautions - https://simbli.eboardsolutions.com/SU/eYTANWH0QslshLHQAJZ5iplusghA==
4219.43	Universal Precautions - https://simbli.eboardsolutions.com/SU/QplusfoUYdpUlxfam7muyACpg==
4231	Staff Development - https://simbli.eboardsolutions.com/SU/L8yP6LVj9KCY0vQ8PORzvA==
4258	Employee Security - https://simbli.eboardsolutions.com/SU/cGXWadkQLplusHneBM7EZHqAw==

4258	Employee Security - https://simbli.eboardsolutions.com/SU/NqOtjmvUnN1v9BJQxbVksA==
4312.4	Health Examinations - https://simbli.eboardsolutions.com/SU/n2s4CeoDPdaplusBzy0QkOCSw==
4312.5	Criminal Record Check - https://simbli.eboardsolutions.com/SU/hslshQwvW7ctM8plus871gvslshe29A==
4312.5-E(1)	Criminal Record Check - https://simbli.eboardsolutions.com/SU/HdBqOe93olNlDwSZ3dCnUQ==
4312.6	Personnel Files - https://simbli.eboardsolutions.com/SU/slshQ37eOVLFslshfF0try0wpUNA==
4319.43	Universal Precautions - https://simbli.eboardsolutions.com/SU/9aslshWj5Vmwx5Tplus3UcdOeRIA==
4319.43	Universal Precautions - https://simbli.eboardsolutions.com/SU/fjdmJlSoeKjiNzfxEXbslshsA==
4358	Employee Security - https://simbli.eboardsolutions.com/SU/5EWHTaLgxESHuiTlOpCctw==
4358	Employee Security - https://simbli.eboardsolutions.com/SU/g0yslsh76plusfSuifL9jeXM4UBg==
5131.4	Student Disturbances - https://simbli.eboardsolutions.com/SU/zvGNUsTplusJZ9Idu4nMrJMVg==
5131.4	Student Disturbances - https://simbli.eboardsolutions.com/SU/eYRNPN71dua4LIcF91qU5w==
5131.5	Vandalism And Graffiti - https://simbli.eboardsolutions.com/SU/XlDmdaf8Z5OMmxytVn78Bg==
5131.6	Alcohol And Other Drugs - https://simbli.eboardsolutions.com/SU/2fZOgaza7FWB0KouzttxEA==
5131.6	Alcohol And Other Drugs - https://simbli.eboardsolutions.com/SU/eP7p7amj6UOAQB1iaTOjdw==
5131.7	Weapons And Dangerous Instruments - https://simbli.eboardsolutions.com/SU/1ua4GmBiqJVrDZxxZWNqLA==
5131.7	Weapons And Dangerous Instruments - https://simbli.eboardsolutions.com/SU/EewqoEClK5UDQqEKcx0plusIA==
5136	Gangs - https://simbli.eboardsolutions.com/SU/jrTieP0XDZWVHYITSQslshF5A==
5136	Gangs - https://simbli.eboardsolutions.com/SU/mmP0dNQsPkcAnZmgFeCjrg==
5141	Health Care And Emergencies - https://simbli.eboardsolutions.com/SU/q3DyJG1cykCEbvwrC4GFrw==
5141	Health Care And Emergencies - https://simbli.eboardsolutions.com/SU/2SKcqtAzQIvlXs6uFEYUKQ==
5142.1	Identification And Reporting Of Missing Children - https://simbli.eboardsolutions.com/SU/aMTsnJvszXTBPdpslshiuY5IA==
5145.11	Questioning And Apprehension By Law Enforcement - https://simbli.eboardsolutions.com/SU/XplusZplus5ZnXfeJGAEHovnlgyQ==
5145.12	Search And Seizure - https://simbli.eboardsolutions.com/SU/YEKhmItwCslsh5YZIPDR9vWMw==
5145.12	Search And Seizure - https://simbli.eboardsolutions.com/SU/kWsBhUGnqmZEopRm1e7oVA==

CSBA Sample REVISED

Board Policy

Business and Noninstructional Operations BP 3600(a)

CONSULTANTS

The Governing Board authorizes the use of consultants and other independent contractors to provide expert professional advice or specialized technical or training services which are not needed on a continuing basis and which cannot be provided by district staff because of limitations of time, experience, or knowledge. Individuals, firms, or organizations employed as independent contractors may assist management with decisions and/or project development related to financial, economic, accounting, engineering, legal, administrative, instructional, or other matters.

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

Pursuant to Labor Code 2775, a person is considered to be an independent contractor rather than an employee if the person (1) is free from the control and direction of the district in connection with the performance of the work, (2) performs work that is outside the usual course of providing educational services, (i.e. services provided by the person's own independent business and not services that ordinarily would be performed by district employees), and (3) is customarily engaged in an independently established trade, occupation, or business.

As this area of law is complex and may alter the legal and financial obligations of the district to particular workers (e.g., eligibility for workers compensation, unemployment and disability insurance benefits, and district health and welfare benefits), legal counsel should be consulted when questions arise regarding the status of those who provide services to the district for remuneration.

As part of the contract process, the Superintendent or designee shall determine that the individual, firm, or organization is properly classified as an independent contractor.

A person providing labor or services for remuneration shall be considered an employee rather than an independent contractor unless the district is able to demonstrate that all of the following conditions have been met: (Labor Code 2775)

1. The person is free from the control and direction of the district in connection with the performance of the work.

2. The person is performing work that is outside the usual course of the district providing educational services.

3. The person is customarily engaged in an independently established trade, occupation, or business of the same nature as the work to be performed.

CONSULTANTS (continued)

The determination of whether an individual acting as a sole proprietor or a firm or other business organization is an independent contractor shall be made in accordance with Labor Code 2775-2785, as applicable.

All consultant contracts shall be brought to the Board for approval.

(cf. 3311 - Bids)
(cf. 3312 - Contracts)
(cf. 4132/4232/4332 - Publication or Creation of Materials)

All qualified independent contractors shall be accorded equal opportunity for contracts regardless of actual or perceived race, ethnicity, color, national origin, ancestry, age, religious creed, marital status, pregnancy, physical or mental disability, medical condition, genetic information, veteran or military status, sex, sexual orientation, gender, gender identity, gender expression, immigration status, or association with a person or group with one or more of these actual or perceived characteristics. (Education Code 220; Government Code 12940)

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 0415 - Equity)
(cf. 4030 - Nondiscrimination in Employment)

Independent contractors shall submit a written conflict of interest statement disclosing financial interests as determined necessary by the Superintendent or designee, depending on the range of duties to be performed by the consultant. The Superintendent or designee shall consider this statement when deciding whether to recommend approval of the contract.

Any consultant hired by the district who is subject to the filing requirements in the district's conflict of interest code shall file a Statement of Economic Interests within the time period required by law. (Government Code 87302)

(cf. 9270 - Conflict of Interest)

When employees of a public university, county office of education, or other public agency serve as consultants or independent contractors in other capacities for the district, they shall certify as part of the agreement that they will not receive salary or remuneration other than vacation pay from any other public agency for the specific days when they work for the district.

The Board prohibits the harassment of an independent contractor by any district employee or by any other person with whom the independent contractor comes in contact during the course of employment with the district. Additionally, the Board prohibits the harassment of a district employee by an independent contractor.

CONSULTANTS (continued)

Any complaint of harassment shall be investigated and resolved in accordance with applicable district complaint procedures. (Government Code 12940)

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)
(cf. 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures)

Legal Reference:

EDUCATION CODE
220 Prohibition of discrimination
10400-10407 Cooperative improvement programs
17596 Limit on continuing contracts
35010 Control of districts; prescription and enforcement of rules
35172 Promotional activities
35204 Contract with attorney
44925 Part-time readers employed as independent contractors
45103 Classified service in districts not incorporating the merit system
45103.5 Contracts for food service consulting services
45134-45135 Employment of retired classified employee
45256 Merit system districts; classified service; positions established for professional experts on a temporary basis
GOVERNMENT CODE
12940 Unlawful employment practices
53060 Contract for special services and advice
82019 Designated employee; definition
87302 Conflict of interest code
LABOR CODE
2775-2787 Worker status: employees
UNEMPLOYMENT INSURANCE CODE
606.5 Determination of employment status
621 Employee defined
CODE OF REGULATIONS, TITLE 2
18700.3 Consultant
COURT DECISIONS
Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4 Cal. 5th 903
S.G. Borello & Sons, Inc. v. Department of Industrial Relations (1989) 48 Cal. 3d 341

(10/96 12/19) 3/21

Policy Reference UPDATE Service
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Policy 3600: Consultants

Status: ADOPTED

Original Adopted Date: 05/09/2019 **| Last Revised Date:** 10/15/2020 **| Last Reviewed Date:** 10/15/2020

The Governing Board authorizes the use of consultants and other independent contractors to provide expert professional advice or specialized technical or training services which are not needed on a continuing basis and which cannot be provided by district staff because of limitations of time, experience, or knowledge. Individuals, firms, or organizations employed as independent contractors may assist management with decisions and/or project development related to financial, economic, accounting, engineering, legal, administrative, instructional, or other matters.

As part of the contract process, the Superintendent or designee shall determine that the individual, firm, or organization is properly classified as an independent contractor. A person, firm, or organization shall be considered an employee rather than an independent contractor unless the district is able to demonstrate that all of the following conditions have been met: (Labor Code 2750.3)

1. The person or entity is free from the control and direction of the district in connection with the performance of the work.

2. The person or entity is performing work that is outside the usual course of the district providing educational services.

3. The person or entity is customarily engaged in an independently established trade, occupation, or business of the same nature as the work to be performed.

Specific statutory exceptions to this analysis for the determination of whether a person, firm, or organization is an independent contractor may apply. (Labor Code 2750.3)

All consultant contracts shall be brought to the Board for approval.

As this area of law is complex and may alter the legal and financial obligations of the district to particular workers (e.g., eligibility for workers compensation, unemployment and disability insurance benefits, and district health and welfare benefits), legal counsel should be consulted when questions arise regarding the status of those who provide services to the district for remuneration.

All qualified independent contractors shall be accorded equal opportunity for contracts regardless of actual or perceived race, color, national origin, ancestry, age, religious creed, marital status, pregnancy, physical or mental disability, medical condition, genetic information, military and veteran status, sex, sexual orientation, gender, gender identity, gender expression, immigration status, or association with a person or group with one or more of these actual or perceived characteristics. (Education Code 220; Government Code 12940)

Independent contractors shall submit a written conflict of interest statement disclosing financial interests as determined necessary by the Superintendent or designee, depending on the range of duties to be performed by the consultant. The Superintendent or designee shall consider this statement when deciding whether to recommend approval of the contract.

Any consultant hired by the district who is subject to the filing requirements in the district's conflict of interest code shall file a Statement of Economic Interests within the time period required by law. (Government Code 87302)

When employees of a public university, county office of education, or other public agency serve as consultants or independent contractors in other capacities for the district, they shall certify as part of the agreement that they will not receive salary or remuneration other than vacation pay from any other public agency for the specific days when they work for the district.

The Board prohibits the harassment of an independent contractor by any district employee or by any other person with whom the independent contractor comes in contact during the course of employment with the district. Additionally, the Board prohibits the harassment of a district employee by an independent contractor. Any complaint of harassment shall be investigated and resolved in accordance with applicable district complaint procedures. (Government Code 12940)

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

State References	Description
2 CCR 18700-18760	Conflicts of Interest - https://simbli.eboardsolutions.com/SU/h6CnVsMHk2STR4xUUmLXdQ==
Ed. Code 10400-10407	Cooperative improvement programs - https://simbli.eboardsolutions.com/SU/7fvn0nUuu7rwqQI0ax6FRA==
Ed. Code 17596	Limit on continuing contracts
Ed. Code 220	Prohibition of discrimination
Ed. Code 35010	Control of district; prescription and enforcement of rules
Ed. Code 35172	Promotional activities
Ed. Code 35204	Contract with attorney in private practice
Ed. Code 44925	Part-time readers employed as independent contractors
Ed. Code 45103	Classified service in districts not incorporating the merit system
Ed. Code 45103.5	Contracts for management consulting services; restrictions
Ed. Code 45134-45135	Employment of retired classified employee
Ed. Code 45256	Merit system districts; classified service; positions established for professional experts on a temporary basis
Gov. Code 12940-12952	Unlawful employment practices
Gov. Code 53060	Special services and advice
Gov. Code 82019	Definition, designated employee - https://simbli.eboardsolutions.com/SU/zplus8Q3o2R2NLwPmnxGAmkxg==
Gov. Code 87300-87313	Conflict of interest code - https://simbli.eboardsolutions.com/SU/YaObxMYA749OVplusgURs6YDA==
Lab. Code 2750.3	ABC three-part test: employees and independent contractors
Unemp. Ins. Code 606.5	Determination of employment status - https://simbli.eboardsolutions.com/SU/vunJ6ZjAgfPAlsPuyTf9slshA==
Unemp. Ins. Code 621	Employer and employee defined - https://simbli.eboardsolutions.com/SU/OZhUQFP2kaV5yBqJXD8TgQ==

Management Resources References	Description
Court Decision	Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4 Cal. 5th 903
Court Decision	S.G. Borello & Sons, Inc. v. Department of Industrial Relations (1989) 48 Cal. 3d 341

Cross References	Description
0410	Nondiscrimination In District Programs And Activities - https://simbli.eboardsolutions.com/SU/ngt3fUOS2yQJJKmjn5yXsQ==
0415	Equity - https://simbli.eboardsolutions.com/SU/3HcjCJkXOwFBX0NUyV6GWw==
3312	Contracts - https://simbli.eboardsolutions.com/SU/ypySW5bYSpEyYt3f9slshq8XA==
3470	Debt Issuance And Management - https://simbli.eboardsolutions.com/SU/xMB5SSaSDujcCk9t8CcU4A==
3515.6	Criminal Background Checks For Contractors - https://simbli.eboardsolutions.com/SU/aKFdC6JdcplusupcWSprpWFpA==

4030	Nondiscrimination In Employment - https://simbli.eboardsolutions.com/SU/0K9SXG925gTiNj2pRtMpXQ==
4030	Nondiscrimination In Employment - https://simbli.eboardsolutions.com/SU/slshVbQa5lcplus7jCyplusN0vaOJnw==
4112.23	Special Education Staff - https://simbli.eboardsolutions.com/SU/gmZgmCslshLxxBI7mz2rvcd7A==
4119.11	Sexual Harassment - https://simbli.eboardsolutions.com/SU/HB2HeqMBXSMgKkN7qDdbTg==
4119.11	Sexual Harassment - https://simbli.eboardsolutions.com/SU/x8F1H2UfKQMfdn7pnQ6x8g==
4219.11	Sexual Harassment - https://simbli.eboardsolutions.com/SU/S1rxBDfYWqqAm2rPCHwq6Q==
4219.11	Sexual Harassment - https://simbli.eboardsolutions.com/SU/7bTIsmhaUQ3VLGe4EKSpqg==
4319.11	Sexual Harassment - https://simbli.eboardsolutions.com/SU/u6cA5VQBqBsdKEDEeLOttg==
4319.11	Sexual Harassment - https://simbli.eboardsolutions.com/SU/68sGhg7LUxslshWe9gjslshGKMcA==
9270-B	Conflict Of Interest - https://simbli.eboardsolutions.com/SU/yL3P0tPJ0zk3Pb2VzUm1Ig==
9270-B-E(1)	Conflict Of Interest - https://simbli.eboardsolutions.com/SU/QAs43mF3Ha1cSCaMPjplusysg==
9270-B-E(2)	Conflict Of Interest - https://simbli.eboardsolutions.com/SU/QQsaQfrIVWBrVwyxqLyXZw==

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Administrative Regulation

Business and Noninstructional Operations AR 3311.2(a)

LEASE-LEASEBACK CONTRACTS

The district may lease currently owned district property to any person, firm, or corporation for a minimum of $1 per year for a term not to exceed 99 years, as long as the lease requires the person, firm, or corporation to construct a building or buildings on the property for the district's use during the lease and the property and building(s) will vest in the district at the expiration of the lease ("lease-leaseback"). (Education Code 17403, 17406)

(cf. 3280 - Sale or Lease of District-Owned Real Property)
(cf. 3312 - Contracts)

Before the district enters into such a lease or agreement, it shall have available a site upon which a building may be constructed for use by the district, shall have complied with requirements related to the selection and approval of sites, and shall have prepared and adopted plans and specifications for the building that have been approved in accordance with Education Code 17280-17316. (Education Code 17402)

(cf. 7150 - Site Selection and Development)

Procedures for Awarding the Contract

The district's intent to enter into a lease-leaseback contract may be described in a resolution adopted by the Governing Board which includes, but is not be limited to, a description of the available site and the building to be constructed, the amount and term of the lease, and where to obtain information about the procedures for submitting a proposal.

Any lease-leaseback contract shall be awarded through a competitive "best value" procurement process whereby a person, firm, or corporation is selected on the basis of objective criteria for evaluating the qualifications of proposers, with the resulting selection representing the best combination of price and qualifications. (Education Code 17400, 17406)

To make this determination, the district shall use the following procedures: (Education Code 17406; Public Contract Code 2600)

1. **Request for Sealed Proposals:** The Superintendent or designee shall prepare a request for sealed proposals which shall include:

   a. An estimate of the project's price

LEASE-LEASEBACK CONTRACTS (continued)

b. A clear, precise description of any preconstruction services that may be required and the facilities to be constructed

c. The key elements of the contract to be awarded

d. A description of the format that proposals shall follow and the elements they shall contain

e. The standards the district will use in evaluating proposals and the qualifications of the proposers, including:

(1) Relevant experience

(2) Safety record

(3) Price proposal, including, at the district's discretion, either a lump-sum price for the contract to be awarded or the proposer's proposed fee to perform the services requested, including the proposer's proposed fee to perform preconstruction services or any other work related to the facilities to be constructed, as requested by the district

(4) Whether each criterion will be evaluated on a pass-fail basis or will be scored as part of the "best value" score, and whether proposers must achieve any minimum qualification score for award of the contract

(5) For each scored criterion, the methodology and rating or weighting system that will be used by the district in evaluating the criterion, including the weight assigned to the criterion and any minimum acceptable score

(6) Other factors established by the district

f. The date on which proposals are due

g. The timetable the district will follow in reviewing and evaluating proposals

h. A statement that the project is subject to the skilled and trained workforce requirements specified in Public Contract Code 2600-2603

LEASE-LEASEBACK CONTRACTS (continued)

2. **Notice:** At least 10 days before the date for receipt of the proposals, the Superintendent or designee shall give notice of the request for sealed proposals using both of the following methods:

a. Providing notice at least once a week for two weeks in a local newspaper of general circulation pursuant to Public Contract Code 20112

b. Providing notice in a trade paper of general circulation published in the county where the project is located

The Superintendent or designee also may post the notice on the district's web site or through an electronic portal.

3. **Prequalification:** A proposer shall be prequalified in accordance with Public Contract Code 20111.6(b)-(m) in order to submit a proposal. Any electrical, mechanical, and plumbing subcontractors shall be subject to the same prequalification requirements.

(cf. 3311 - Bids)

4. **Evaluation of Proposals:** All proposals received shall be reviewed to determine whether they meet the format requirements and the standards specified in the request for sealed proposals. The district shall evaluate the qualifications of the proposers based solely upon the criteria and evaluation methodology set forth in the request for sealed proposals, and shall assign a best value score to each proposal. Once the evaluation is complete, all responsive proposals shall be ranked from the highest best value to the lowest best value to the district.

5. **Award of Contract:** The award of the contract shall be made by the Board to the responsive proposer whose proposal is determined, in writing by the Board, to be the best value to the district.

If the selected proposer refuses or fails to execute the tendered contract, the Board may award the contract to the proposer with the second highest best value score, if deemed in the best interest of the district. If that proposer then refuses or fails to execute the tendered contract, the Board may award the contract to the proposer with the third highest best value score.

Upon issuance of a contract award, the district shall publicly announce its award, identifying the entity to which the award is made, along with a statement regarding the basis of the award. The statement regarding the contract award and the contract file shall provide sufficient information to satisfy an external audit.

LEASE-LEASEBACK CONTRACTS (continued)

6. **Rejection of Proposals:** At its discretion, the Board may reject all proposals and request new proposals.

Any lease-leaseback agreement shall be reviewed by the district's legal counsel to ensure that all required terms, including a lease term that provides for the district's occupancy of the building or improved property during the lease and an appropriate financing component, are included in the agreement.

Skilled and Trained Workforce

Prior to entering into a lease-leaseback agreement, the Superintendent or designee shall have on file the contractor's enforceable commitment that the contractor and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades. The entity may demonstrate such commitment through a project labor agreement, by becoming a party to the district's project labor agreement, or through an agreement with the district to provide evidence of compliance on a monthly basis during the performance of the project or contract. (Education Code 17407.5; Public Contract Code 2602)

Skilled and trained workforce means that all the workers performing the work are either skilled journeypersons or apprentices registered in a state-approved apprenticeship program. At least 60 percent of the skilled journeypersons employed to perform the work shall be graduates of an apprenticeship program for the applicable occupation or at least 60 percent of the hours worked by skilled journeypersons shall be performed by graduates of an apprenticeship program, with the exception of certain occupations specified in Public Contract Code 2601 which are subject to a 30 percent threshold. (Public Contract Code 2601)

If the contractor fails to provide the monthly report demonstrating compliance with the skilled and trained workforce requirements or provides an incomplete report, the district shall withhold further payments until a complete report is provided. If a report does not demonstrate compliance with the skilled and trained workforce requirements, the district shall withhold further payments until the contractor provides a sufficient plan to achieve substantial compliance with respect to the relevant apprenticeable occupation, prior to completion of the contract or project. In addition, the district shall forward to the Labor Commissioner a copy of the monthly report, any plan to achieve compliance, and the district's response to that plan. (Public Contract Code 2602)

(cf. 9124 - Attorney)

LEASE-LEASEBACK CONTRACTS (continued)

Legal Reference:

EDUCATION CODE
17280-17316 Construction of school buildings; approvals
17400-17429 Leasing property, especially:
17400 Definitions
17403 Term of lease or agreement
17406 Lease-leaseback contract
17407.5 Use of a skilled and trained workforce
PUBLIC CONTRACT CODE
2600-2603 Skilled and trained workforce requirements
20111.6 Prequalification procedures
20112 Notices
COURT DECISIONS
McGee v. Balfour Beatty Construction, LLC, et al. (2016) 247 Cal. App. 4th 235
Davis v. Fresno Unified School District, (2015) 237 Cal.App.4th 261

Management Resources:

WEB SITES
CSBA: http:// www.csba.org
California Association of School Business Officials: http://www.casbo.org

(12/16) 3/21

Policy Reference UPDATE Service
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Regulation 3311.2: Lease-Leaseback Contracts

Status: ADOPTED

Original Adopted Date: 05/09/2019 **| Last Reviewed Date:** 05/09/2019

The district may lease currently owned district property to any person, firm, or corporation for a minimum of $1 per year, as long as the lease requires the person, firm, or corporation to construct a building or buildings on the property for the district's use during the lease and the property and building(s) will vest in the district at the expiration of the lease ("lease-leaseback"). (Education Code 17406)

Any lease-leaseback contract shall be awarded through a competitive "best value" procurement process whereby a person, firm, or corporation is selected on the basis of objective criteria for evaluating the qualifications of proposers, with the resulting selection representing the best combination of price and qualifications. To make this determination, the district shall use the following procedures: (Education Code 17400, 17406)

1. Request for Sealed Proposals: The Superintendent or designee shall prepare a request for sealed proposals which shall include:

    a. An estimate of the project's price

    b. A clear, precise description of any preconstruction services that may be required and the facilities to be constructed

    c. The key elements of the contract to be awarded

    d. A description of the format that proposals shall follow and the elements they shall contain

    e. The standards the district will use in evaluating proposals

    f. The date on which proposals are due

    g. The timetable the district will follow in reviewing and evaluating proposals

2. Notice: At least 10 days before the date for receipt of the proposals, the Superintendent or designee shall give notice of the request for sealed proposals using both of the following methods:

    a. Providing notice at least once a week for two weeks in a local newspaper of general circulation pursuant to Public Contract Code 20112

    b. Providing notice in a trade paper of general circulation published in the county where the project is located

    The Superintendent or designee also may post the notice on the district's web site or through an electronic portal.

3. Prequalification: A proposer shall be prequalified in accordance with Public Contract Code 20111.6(b)-(m) in order to submit a proposal. Any electrical, mechanical, and plumbing subcontractors shall be subject to the same prequalification requirements.

4. Evaluation Criteria: The request for sealed proposals shall identify all criteria that the district will consider in evaluating the proposals and qualifications of the proposers, including relevant experience, safety record, price proposal, and other factors specified by the district. The price proposal shall include, at the district's discretion, either a lump-sum price for the contract to be awarded or the proposer's proposed fee to perform the services requested, including the proposer's proposed fee to perform preconstruction services or any other work related to the facilities to be constructed, as requested by the district.

    The request for sealed proposals shall specify whether each criterion will be evaluated on a pass-fail basis or will be scored as part of the "best value" score, and whether proposers must achieve any minimum qualification score for award of the contract. For each scored criterion, the district shall identify the methodology and rating or weighting system that will be used by the district in evaluating the criterion, including the weight assigned to the criterion and any minimum acceptable score.

5. Evaluation of Proposals: All proposals received shall be reviewed to determine whether they meet the format requirements and the standards specified in the request for sealed proposals. The district shall evaluate the qualifications of the proposers based solely upon the criteria and evaluation methodology set forth in the request for sealed proposals and shall assign a best value score to each proposal. Once the evaluation is complete, all responsive proposals shall be ranked from the highest best value to the lowest best value to the district.

6. Award of Contract: The award of the contract shall be made by the Board of Education to the responsive proposer whose proposal is determined, in writing by the Board, to be the best value to the district.

   If the selected proposer refuses or fails to execute the tendered contract, the Board may award the contract to the proposer with the second highest best value score, if deemed in the best interest of the district. If that proposer then refuses or fails to execute the tendered contract, the Board may award the contract to the proposer with the third highest best value score.

   Upon issuance of a contract award, the district shall publicly announce its award, identifying the entity to which the award is made, along with a statement regarding the basis of the award. The statement regarding the contract award and the contract file shall provide sufficient information to satisfy an external audit.

7. Rejection of Proposals: At its discretion, the Board may reject all proposals and request new proposals.

Prior to entering into a lease-leaseback agreement, the Superintendent or designee shall have on file the contractor's enforceable commitment that the contractor and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades. (Education Code 17407.5)

Any lease-leaseback agreement shall be reviewed by the district's legal counsel to ensure that all required terms, including a lease term that provides for the district's occupancy of the building or improved property during the lease and an appropriate financing component, are included in the agreement.

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

State References	Description
Ed. Code 17400	Definitions
Ed. Code 17406	Lease-leaseback contract
Ed. Code 17407.5	Use of a skilled and trained workforce
Pub. Cont. Code 20111.6	Prequalification procedures
Pub. Cont. Code 20112	Notices

Management Resources References	Description
Court Decision	McGee v. Balfour Beatty Construction, LLC, et al. (4/12/16, No. B262850)
Court Decision	Davis v. Fresno Unified School District, (2015) 237 Cal.App.4th 261
Website	CSBA - https://simbli.eboardsolutions.com/SU/W3QxkK2FPsDsQBnMIENxGg==
Website	California Association of School Business Officials - https://simbli.eboardsolutions.com/SU/vplusVmEFNjoJhGgV6PRTlb0g==

Cross References	Description
3280	Sale Or Lease Of District-Owned Real Property - https://simbli.eboardsolutions.com/SU/xQsi8XCX1iXiQIrdQ6mqHw==
3280	Sale Or Lease Of District-Owned Real Property - https://simbli.eboardsolutions.com/SU/rCoU3YDeQiauvp8P9pTGvA==

3311	Bids - https://simbli.eboardsolutions.com/SU/TXCclHAPO4AvqlRkslshIGT6g==
3311	Bids - https://simbli.eboardsolutions.com/SU/YtGjBb8AeKJBCbTEVI6JKg==
3312	Contracts - https://simbli.eboardsolutions.com/SU/ypySW5bYSpEyYt3f9slshq8XA==
3541.1	Transportation For School-Related Trips - https://simbli.eboardsolutions.com/SU/YAoiPIVPekxbltDCXAjl4A==
6153	School-Sponsored Trips - https://simbli.eboardsolutions.com/SU/XyDBUL4JXDF4l0RuiCx52g==
6153	School-Sponsored Trips - https://simbli.eboardsolutions.com/SU/EG8hLnoLTljUh0pMVaxVUg==
7000	Concepts And Roles - https://simbli.eboardsolutions.com/SU/JJrOViPslshbuxP2KuqeuKM1w==
9124-B	Attorney - https://simbli.eboardsolutions.com/SU/1mm2Pwan3g2owCVSgTEStA==

CSBA Sample REVISED

Administrative Regulation

Business and Noninstructional Operations AR 3311.3(a)

DESIGN-BUILD CONTRACTS

The Governing Board may approve a contract with a single entity for both design and construction of any school facility in excess of $1,000,000, awarding the contract to either the low bid or the best value as determined by evaluation of objective criteria. (Education Code 17250.20)

(cf. 3311 - Bids)
(cf. 3312 - Contracts)
(cf. 7110 - Facilities Master Plan)
(cf. 7140 - Architectural and Engineering Services)

Design-build documents shall not include provisions for long-term project operations, but may include operations during a training or transition period. (Education Code 17250.25)

Procedures for Awarding the Contract

The procurement process for design-build projects shall be as follows: (Education Code 17250.25, 17250.35; Public Contract Code 2600)

1. Performance Specifications: The district shall prepare a set of documents setting forth the scope and estimated price of the project. The documents may include, but are not limited to:

   a. The size, type, and desired design character of the project

   b. Performance specifications that cover the quality of materials, equipment, and workmanship

   c. Preliminary plans or building layouts

   d. Any other information deemed necessary to describe adequately the district's needs

   The performance specifications and any plans shall be prepared by a design professional who is duly licensed and registered in California.

2. Prequalification: The district shall prepare and issue a request for qualifications in order to prequalify, or develop a short list of, the design-build entities whose proposals shall be evaluated for final selection. The request for qualifications shall include, but is not limited to, all of the following elements:

DESIGN-BUILD CONTRACTS (continued)

a. Identification of the basic scope and needs of the project or contract, the expected cost range, the methodology that will be used by the district to evaluate proposals, the procedure for final selection of the design-build entity, and any other information deemed necessary by the district to inform interested parties of the contracting opportunity

b. Significant factors that the district reasonably expects to consider in evaluating qualifications, including technical design and construction expertise, acceptable safety record, and all other non-price-related factors

c. A standard template request for statements of qualifications prepared by the district, which shall contain all of the information required pursuant to Education Code 17250.25

d. A notice that the project is subject to the skilled and trained workforce requirements specified in Public Contract Code 2600-2603

The district also may identify specific types of subcontractors that must be included in the statement of qualifications and proposal.

3. Request for Proposals: The district shall prepare a request for proposals (RFP) that invites prequalified or short-listed entities to submit competitive sealed proposals in a manner prescribed by the district. The RFP shall include the information identified in items #2a, 2b, and 2d above and the relative importance or weight assigned to each of the factors. If the district uses a best value selection method for a project, the district may reserve the right to request proposal revisions and hold discussions and negotiations with responsive proposers, in which case the district shall so specify in the request for proposals and shall publish separately or incorporate into the request for proposals applicable procedures to be observed by the district to ensure that any discussions or negotiations are conducted in good faith.

4. Selection Based on Low Bid: For those projects utilizing low bid as the final selection method, the bidding process shall result in lump-sum bids by the prequalified or short-listed design-build entities, and the contract shall be awarded to the lowest responsible bidder.

5. Selection Based on Best Value: For those projects utilizing best value as a selection method, the following procedures shall be used:

a. Competitive proposals shall be evaluated using only the criteria and selection procedures specifically identified in the request for proposals. Criteria shall be weighted as deemed appropriate by the district and shall, at a minimum, include price, unless a stipulated sum is

DESIGN-BUILD CONTRACTS (continued)

specified; technical design and construction experience; and life-cycle costs over 15 or more years.

b. Following any discussions or negotiations with responsive proposers and completion of the evaluation process, the responsive proposers shall be ranked on a determination of value provided, provided that no more than three proposers are required to be ranked.

c. The contract shall be awarded to the responsible entity whose proposal is determined by the district to have offered the best value to the public.

d. The district shall publicly announce the contract award, identifying the entity to which the award is made and the basis of the award. This statement and the contract file shall provide sufficient information to satisfy an external audit.

Skilled and Trained Workforce

A design-build entity shall not be prequalified or short-listed unless the entity provides an enforceable commitment to the district that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades. The entity may demonstrate such commitment through a project labor agreement, by becoming a party to the district's project labor agreement, or through an agreement with the district to provide evidence of compliance on a monthly basis during the performance of the project or contract. (Education Code 17250.25; Public Contract Code 2602)

Skilled and trained workforce means that all the workers performing the work are either skilled journeypersons or apprentices registered in a state-approved apprenticeship program. At least 60 percent of the skilled journeypersons employed to perform the work shall be graduates of an apprenticeship program for the applicable occupation or at least 60 percent of the hours worked by skilled journeypersons shall be performed by graduates of an apprenticeship program, with the exception of certain occupations specified in Public Contract Code 2601 which are subject to a 30 percent threshold. (Public Contract Code 2601)

If the contractor fails to provide the monthly report demonstrating compliance with the skilled and trained workforce requirements or provides an incomplete report, the district shall withhold further payments until a complete report is provided. If a report does not demonstrate compliance with the skilled and trained workforce requirements, the district shall withhold further payments until the contractor provides a sufficient plan to achieve substantial compliance with respect to the relevant apprenticeable occupation, prior to completion of the contract or project. In addition, the district shall forward to the Labor Commissioner a copy of the monthly report, any plan to achieve compliance, and the district's response to that plan. (Public Contract Code 2602)

Legal Reference: (see next page)

DESIGN-BUILD CONTRACTS (continued)

Legal Reference:

EDUCATION CODE
17250.10-17250.55 Design-build contracts
PUBLIC CONTRACT CODE
2600-2603 Skilled and trained workforce requirements

Management Resources:

WEB SITES
CSBA: http:// www.csba.org
California Association of School Business Officials: http://www.casbo.org
California Department of Education, Facilities: http://www.cde.ca.gov/ls/fa

Policy Reference UPDATE Service
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Regulation 3311.3: Design-Build Contracts

Status: ADOPTED

Original Adopted Date: 05/09/2019 **| Last Reviewed Date:** 05/09/2019

The Board of Education may approve a contract with a single entity for both design and construction of any school facility in excess of $1,000,000, awarding the contract to either the low bid or the best value as determined by evaluation of objective criteria. (Education Code 17250.20)

In all instances of the term district, a qualified Board of Education authorized designee may perform required tasks.

Design-build documents shall not include provisions for long-term project operations, but may include operations during a training or transition period. (Education Code 17250.25)

The procurement process for design-build projects shall be as follows: (Education Code 17250.25, 17250.35)

1. The district shall prepare a set of documents setting forth the scope and estimated price of the project. The documents may include, but are not limited to:

    a. The size, type, and desired design character of the project

    b. Performance specifications that cover the quality of materials, equipment, and workmanship

    c. Preliminary plans or building layouts

    d. Any other information deemed necessary to describe adequately the district's needs

    The performance specifications and any plans shall be prepared by a design professional who is duly licensed and registered in California.

2. The district shall prepare and issue a request for qualifications in order to prequalify, or develop a short list of, the design-build entities whose proposals shall be evaluated for final selection. The request for qualifications shall include, but is not limited to, all of the following elements:

    a. Identification of the basic scope and needs of the project or contract, the expected cost range, the methodology that will be used by the district to evaluate proposals, the procedure for final selection of the design-build entity, and any other information deemed necessary by the district to inform interested parties of the contracting opportunity

    b. Significant factors that the district reasonably expects to consider in evaluating qualifications, including technical design and construction expertise, acceptable safety record, and all other non-price-related factors

    c. A standard template request for statements of qualifications prepared by the district, which shall contain all of the information required pursuant to Education Code 17250.25

    The district also may identify specific types of subcontractors that must be included in the statement of qualifications and proposal.

    A design-build entity shall not be prequalified or short-listed unless the entity provides an enforceable commitment to the district that the entity and its subcontractors at every tier will use a skilled and trained workforce, as defined in Education Code 17250.25, to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades. The entity may demonstrate such commitment through a project labor agreement, by becoming a party to the district's project labor agreement, or through an agreement with the district to provide evidence of compliance on a monthly basis during the performance of the project or contract.

3. The district shall prepare a request for proposals (RFP) that invites prequalified or short-listed entities to submit competitive sealed proposals in a manner prescribed by the district. The RFP shall include the information identified in items #2a and 2b above and the relative importance or weight assigned to each of the factors. If the district uses a best value selection method for a project, the district may reserve the right to request proposal revisions and hold discussions and negotiations with responsive proposers, in which case the

district shall so specify in the request for proposals and shall publish separately or incorporate into the request for proposals applicable procedures to be observed by the district to ensure that any discussions or negotiations are conducted in good faith.

4. For those projects utilizing low bid as the final selection method, the bidding process shall result in lump-sum bids by the prequalified or short-listed design-build entities, and the contract shall be awarded to the lowest responsible bidder.

5. For those projects utilizing best value as a selection method, the following procedures shall be used:

    a. Competitive proposals shall be evaluated using only the criteria and selection procedures specifically identified in the request for proposals. Criteria shall be weighted as deemed appropriate by the district and shall, at a minimum, include price, unless a stipulated sum is specified; technical design and construction experience; and life-cycle costs over 15 or more years.

    b. Following any discussions or negotiations with responsive proposers and completion of the evaluation process, the responsive proposers shall be ranked on a determination of value provided, provided that no more than three proposers are required to be ranked.

    c. The contract shall be awarded to the responsible entity whose proposal is determined by the district to have offered the best value to the public.

    d. The district shall publicly announce the contract award, identifying the entity to which the award is made and the basis of the award. This statement and the contract file shall provide sufficient information to satisfy an external audit.

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

State References	Description
Ed. Code 17250.10-17250.55	Design-build contracts - https://simbli.eboardsolutions.com/SU/KyAwX1K9LOug3Oc4uUy4Rw==

Management Resources References	Description
Website	California Department of Education, School Facilities - https://simbli.eboardsolutions.com/SU/ATZTQPd7NwSB3FBNcFeslshYA==
Website	CSBA - https://simbli.eboardsolutions.com/SU/W3QxkK2FPsDsQBnMIENxGg==
Website	California Association of School Business Officials - https://simbli.eboardsolutions.com/SU/vplusVmEFNjoJhGgV6PRTlb0g==

Cross References	Description
3311	Bids - https://simbli.eboardsolutions.com/SU/TXCclHAPO4AvqlRkslshIGT6g==
3311	Bids - https://simbli.eboardsolutions.com/SU/YtGjBb8AeKJBCbTEVI6JKg==
3312	Contracts - https://simbli.eboardsolutions.com/SU/ypySW5bYSpEyYt3f9slshq8XA==
7000	Concepts And Roles - https://simbli.eboardsolutions.com/SU/JJrOViPslshbuxP2KuqeuKM1w==
7110	Facilities Master Plan - https://simbli.eboardsolutions.com/SU/ixdu4y3qRWcfMLhGojUYkA==
7140	Architectural And Engineering Services - https://simbli.eboardsolutions.com/SU/Q6fs0woslshLPybGTBwTxC67Q==
7140	Architectural And Engineering Services - https://simbli.eboardsolutions.com/SU/plusgoG0wplus1h2DTplusu68qiaEtQ==

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Board Policy

Business and Noninstructional Operations AR 3320(a)

CLAIMS AND ACTIONS AGAINST THE DISTRICT

Note: The Government Claims Act (Government Code 810-996.6) sets forth prelitigation requirements and deadlines for claims against public entities, including school districts. In City of Stockton v. Superior Court, the California Supreme Court held that the claim requirements in Government Code 900-915.4 also apply to claims for breach of contract. **For any cause of action that is excepted from the Government Claims Act pursuant to Government Code 905 but has its claim presentation procedure specified in another statute or regulation,** such as childhood sexual ~~abuse~~ **assault, a claim must be presented in accordance with that statute or regulation**. **For any cause of action that is excepted from the Government Claims Act pursuant to Government Code 905 but is not governed by any procedure in another statute or regulation, the district may establish its own claim presentation procedure in accordance with Government Code 935. The district should consult legal counsel as necessary if questions arise regarding the proper procedure.**

Because a district's insurance carrier or joint powers authority (JPA) may require the district to comply with certain claims management conditions as part of the district's contractual coverage obligation, it is strongly recommended that this administrative regulation be reviewed for consistency with any applicable conditions of coverage. A district's failure to follow those contractual conditions may result in a loss of coverage benefits. The district's risk manager and legal counsel should also be consulted, as appropriate.

~~Pursuant to Government Code 935, district claims procedures may include a requirement that a claim be presented and acted upon in accordance with those procedures as a prerequisite to a lawsuit. Failure to include such a requirement may subject the district to increased liability.~~

Any claim against the district for money or damages shall be filed and acted upon in accordance with the Government Claims Act (Government Code 810-996.6) or other applicable law. Claims that are specifically excepted from the Government Claims Act by Government Code 905 and are not governed by any other statute or regulation may be filed and acted upon in accordance with district-established procedures pursuant to Government Code 935.

Note: Pursuant to Government Code 935, ~~district~~ claims procedures **established by the district** may include a requirement that a claim be presented and acted upon in accordance with those procedures as a prerequisite to **the filing of** a lawsuit **against the district**. ~~Failure to include such a requirement may subject the district to increased liability.~~ **The following paragraph extends this requirement to claims filed under other statutes and may be revised to reflect district practice.**

Unless otherwise provided by law, ~~prior to filing a lawsuit against the district for money or damages~~, a written claim shall be ~~filed~~ **presented to and acted upon by the Governing Board** in accordance with ~~the following administrative regulation~~ **such procedures** prior to filing a lawsuit against the district for money or damages.

CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)

Time Limitations

Note: Items #1-4 below ~~list~~ **reflect** timelines for **presenting** claims **in relation to different causes of action,** pursuant to the Government Claims Act and other applicable statutes. ~~Pursuant to Government Code 935, the district's authority to adopt local claim presentation procedures for causes of action which are excepted from the Government Claims Act by Government Code 905 is not applicable to those excepted causes of action which have their claim presentation procedures specified in other statutes or regulations. such as childhood sexual abuse.~~

~~Rather, claims for childhood sexual abuse are governed by the timelines and procedures specified in Code of Civil Procedure 340.1.~~

The following time limitations apply to **the presentation of** claims **for money or damages** against the district:

~~3.~~**1.** Claims ~~for money or damages~~ relating to a cause of action for death or for injury to **a** person, personal property, or growing crops shall be presented to the Board not later than six months after the accrual of the cause of action. (Government Code 911.2)

~~4.~~**2.** Claims ~~for money or damages~~ relating to any other cause of action **subject to the Government Claims Act** shall be filed not later than one year after the accrual of the cause of action. (Government Code 911.2)

Note: ~~Rather, c~~Claims for childhood sexual ~~abuse~~ **assault** are governed by the timelines and procedures specified in Code of Civil Procedure 340.1. **Pursuant to Code of Civil Procedure 340.1, the time limit for beginning an action for recovery of damages suffered as a result of childhood sexual assault is 22 years from the date the plaintiff attains age 18 or within five years of the date the plaintiff discovers or reasonably should have discovered that psychological injury or illness occurring after age 18 was caused by sexual assault, whichever is later. A claim may be filed on or after the plaintiff's 40th birthday only if the plaintiff files certificates of merit by an attorney and a licensed mental health practitioner selected by the plaintiff setting forth the facts which support the declaration.**

~~1.~~**3.** Claims ~~for money or damages~~ relating to childhood sexual ~~abuse~~ **assault** ~~or any~~ **and** other cause**s** of action **which are** specifically excepted from the Government Claims Act by Government Code 905 ~~and for which~~ **but are subject to a claims presentation procedure in another a** statute or regulation ~~provides a claims presentation procedure~~ shall be ~~filed~~ **presented to the Board** in accordance with the applicable governing statute or regulation. (Government Code 905~~, 935~~)

(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)
(cf. 5141.4 - Child Abuse Prevention and Reporting)

Note: ~~Pursuant to Government Code 935, a district may establish its own procedure for the presentation of those claims which are excluded from the Government Claims Act as specified in Government Code 905 and which are not governed by any other applicable statutes or regulations.~~ **Optional** item #~~2~~**4** below is for

CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)

use by any district whose board has chosen to exercise the authority **in Government Code 935** to establish ~~district procedures for such claims; see~~ its own procedure for the presentation of claims which are excluded from the Government Claims Act by Government Code 905 and which are not governed by any other applicable statute or regulation. See the accompanying Board policy. ~~Item #2 provides six months as the time limitation for filing such claims, which is consistent with the requirement in~~ **Pursuant to** Government Code 935~~, that~~ the district's procedure **can**not require a shorter time for presentation of a claim than the time specified in Government Code 911.2. However, the Governing Board has the discretion to adopt a more flexible time limitation and may increase the amount of time allowed for filing such claims. If the Board adopts a more flexible time limitation, item #~~2~~**4** should be revised accordingly.

~~If a claimant misses a deadline for a claim required to be submitted in accordance with item #2 or #3 below, the claimant may present an application to present a late claim pursuant to Government Code 911.4; see section below entitled "Late Claims."~~

~~2.~~**4.** ~~In accordance with the Governing Board's authority pursuant to Government Code 935, claims for money or damages which relate to a~~ **Claims relating to any** cause of action **which is** specifically excepted from the Government Claims Act by Government Code 905 ~~and which are~~ **but is** not governed by any other claim presentation statute or regulation shall be ~~filed~~ **presented to the Board within the time limits specified in items #1 and 2 above, depending on the applicable cause of action.** ~~not later than six months after the accrual of the cause of action. (~~Government Code ~~905~~ **911.2**, 935)

~~3. Claims for money or damages relating to a cause of action for death or for injury to a person, personal property, or growing crops shall be presented to the Board not later than six months after the accrual of the cause of action. (Government Code 911.2)~~

~~4. Claims for money or damages relating to any other cause of action shall be filed not later than one year after the accrual of the cause of action. (Government Code 911.2)~~

Receipt of Claims

A claim~~, any amendment thereto, or an application to present a late claim~~ shall be deemed presented and received when delivered to the district office or deposited in a post office, mailbox, sub-post office, substation, mail chute, or other similar facility maintained by the U.S. government, in a sealed envelope properly addressed to the district office with postage paid, or when otherwise actually received in the district office or by the Board secretary or clerk**.** **(**Government Code 915, 915.2)

Note: Government Code 915, as amended by SB 1473 (Ch. 371, Statutes of 2020), authorizes a claim, amendment to a claim, or application for a late claim to be submitted through electronic means, if so authorized by a Board resolution. In practice, such electronic means involve online completion of a fillable form and/or transmission by email. The following paragraph may be revised to specify the electronic means authorized by the district. If the Board has not adopted a resolution authorizing electronic submission, the district should delete the following paragraph.

Pursuant to Government Code 915.4, as amended by SB 1473, if the Board authorizes electronic submission, then any notice required of the district in response to a claim, amendment, or application for a late claim must be sent to the electronic address from which the district received the claim or application, unless the claimant or applicant specified an alternative electronic address for that purpose.

Also see the sections "Notice of Claim Insufficiency," "Late Claims," and "Action on Claims" below.

A claim may be submitted electronically in the manner specified by the Superintendent or designee. (Government Code 915, 915.2)

Note: In most circumstances, a district's insurance provider or JPA is responsible for claims management, including investigating, defending, and managing a district's response to a claim presented under the Government Claims Act. The following paragraph requires the Superintendent or designee to immediately forward any claims received to the district's JPA or insurance provider in order to help ensure compliance with any conditions of coverage.

Upon receipt of a claim against the district pursuant to the Government Claims Act, the Superintendent or designee shall promptly provide written notice to the district's joint powers authority or insurance carrier in accordance with the applicable conditions of coverage.

Review of Contents of the Claim

Note: Most JPAs and insurance carriers provide a claim form. The person submitting the claim need not use the claim form provided by the district but, pursuant to Government Code 910 and 910.2, the claim must contain a signature and all the information listed below.

The Superintendent or designee shall review any claim received to ensure that the claim contains all of the following information as specified in Government Code 910 and 910.2:

1. The name and post office address of the claimant

2. The post office address to which the person presenting the claim desires notices to be sent

3. The date, place, and other circumstances of the occurrence or transaction which gave rise to the claim asserted

4. A general description of the indebtedness, obligation, injury, damage, or loss incurred insofar as it may be known at the time of presentation of the claim

5. The name(s) of the district employee(s) causing the injury, damage, or loss, if known

CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)

6. The amount claimed if it totals less than $10,000, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the claim, together with the basis of computation of the amount claimed. If the amount claimed exceeds $10,000, the dollar amount shall not be included in the claim and the claimant shall indicate whether the claim is a limited civil case of $25,000 or less.

7. The signature of the claimant or the person acting on the claimant's behalf

Notice of Claim Insufficiency

Note: **Pursuant to Government Code 910.8, if a claim is found insufficient, the district must notify the claimant of the defects or omission in the claim. Government Code 915.4, as amended by SB 1473, authorizes such notice to be personally delivered or mailed or, if the Board has adopted a resolution authorizing electronic submission of claims (see section "Receipt of Claims" above), then any notice of claim insufficiency must be sent to the electronic address from which the claim was sent unless the claimant specifies an alternative electronic address for that purpose.**

Pursuant to Government Code 911, if the district, or the JPA or insurance carrier acting on the district's behalf, fails to give notice that the claim is insufficient, as specified below, then the district may not later raise that issue as a defense to the claim.

If a claim is found insufficient or not to satisfy the form requirements under Government Code 910 and 910.2, the Board or its designee shall, within 20 days of receipt of the claim, ~~personally deliver or mail to the claimant, at the address stated in the claim or application,~~ **provide** a notice **in the manner specified in Government Code 915.4** that states the particular defects or omission in the claim. (Government Code 910.8, 915.4)

Note: Districts should be cautious before rejecting a claim because of insufficiency of information and consult legal counsel and/or the district's JPA or insurance provider, as appropriate. Courts have held that a claim is sufficient as long as enough information is disclosed to allow the district to adequately conduct an investigation of the claim's merits.

The Board shall not act upon the claim until at least 15 days after such notice is given. (Government Code 910.8)

Amendment to Claims

Within the time limits provided in the section "Time Limitations" above or prior to final action by the Board, whichever is later, a claim may be amended if, as amended, it relates to the same transaction or occurrence which gave rise to the original claim. (Government Code 910.6)

Late Claims

~~Note: The reference to item #2 in the following paragraph should be deleted if the district has not established district procedures pursuant to Government Code 935 for claims that are specifically exempted in Government Code 905 or adopted a time limitation that is not less than one year (see the accompanying Board policy and item #2 in the section "Time Limitations" above).~~

~~For claims under items #2 and #3 in the section "Time Limitations" above, any person who presents a claim later than six months after the accrual of the cause of action shall present, along with the claim, an application to present a late claim.~~ **When a claim that is required to be presented not later than six months after the accrual of the cause of action, as specified in the section "Time Limitations" above, is not presented within that time, an application to present a late claim may be presented to the Board, in the manner specified in Government Code 915 and 915.2, within a reasonable time not to exceed** ~~Such claim and the application to present a late claim shall be presented not later than~~ one year after the accrual of the cause of action. **The application shall include the proposed claim and shall state the reason for the delay in presenting the claim.** (Government Code ~~905,~~ 911.4**, 915, 915.2**)

Note: If the claim is presented late and is not accompanied by an application to present a late claim, the Board or its agent should notify the claimant that "no action" was taken because the claim was presented late. If the Board were to state that the claim was "rejected," this would indicate that the Board had accepted the filing of the late claim and taken action to reject it.

If the claim is presented late and is not accompanied by an application to present a late claim, the Board or its designee may, within 45 days, give written notice that the claim was not presented timely and that it is being returned without further action. (Government Code 911.3)

The Board shall grant or deny the application to present a late claim within 45 days after it is presented. This 45-day period may be extended by written agreement of the claimant and the Board provided that such agreement is made before the expiration of the 45-day period. (Government Code 911.6)

The Board shall grant the application to present a late claim where one or more of the following conditions are applicable: (Government Code 911.6)

1. The failure to present the claim was through mistake, inadvertence, surprise, or excusable neglect and the district was not prejudiced in its defense regarding the claim by the claimant's failure to present the claim within the time limit.

2. The person who sustained the alleged injury, damage, or loss was a minor during all of the time specified for presentation of the claim.

3. The person who sustained the alleged injury, damage, or loss was physically or mentally incapacitated during all of the time specified for presentation of the claim and the disability was the reason the person failed to present the claim.

4. The person who sustained the alleged injury, damage, or loss died before the expiration of the time specified for the presentation of the claim.

If the application to present a late claim is denied, the claimant shall be given notice in substantially the same form as set forth in Government Code 911.8 **and in the manner specified in Government Code 915.4**. (Government Code 911.8**, 915.4**)

If the Board does not take action on the application to present a late claim within 45 days, the application shall be deemed to have been denied on the 45th day unless the time period has been extended, in which case it shall be denied on the last day of the period specified in the extension agreement. (Government Code 911.6)

Action on Claims

Note: Pursuant to Government Code 945.6, if the Board formally acts to reject a claim and provides notice of such rejection, the claimant has only six months from the rejection to initiate a lawsuit. If the Board takes no action or fails to provide written notice rejecting the claim, the claimant then has two years to initiate a suit against the district. The notice of rejection must comply with the notification requirements of Government Code 913 unless the claim has no address on it.

Although the Board takes final action on claims as specified below, such action is based on the evaluation of the claim by the district's insurance provider or JPA.

Within 45 days after the presentation or amendment of a claim, the Board shall take action on the claim. This time limit may be extended by written agreement between the district and the claimant before the expiration of the 45-day period. If the 45-day period has expired, the time limit may be extended if legal action has not commenced or been barred by legal limitations. (Government Code 912.4)

The Board may act on the claim in one of the following ways: (Government Code 912.4, 912.6)

1. If the Board finds that the claim is not a proper charge against the district, the claim shall be rejected.

2. If the Board finds that the claim is a proper charge against the district and is for an amount justly due, the claim shall be allowed.

3. If the Board finds that the claim is a proper charge against the district but is for an amount greater than is justly due, the Board shall either reject the claim or allow it in the amount justly due and reject it as to the balance.

4. If legal liability of the district or the amount justly due is disputed, the Board may reject or compromise the claim.

5. If the Board takes no action on the claim, the claim shall be deemed rejected.

If the Board allows the claim in whole or in part or compromises the claim and the claimant accepts the amount allowed or offered to settle the claim, the Board may require the claimant to accept it in settlement of the entire claim. (Government Code 912.6)

The Board or its designee shall transmit to the claimant written notice of action taken or of inaction which is deemed rejection. The notice shall be in the form set forth in Government Code 913 **and shall be provided in the manner specified in Government Code 915.4**. ~~and shall either be personally delivered or mailed to the address stated in the claim or application~~. (Government Code 913, 915.4)

(10/18 7/19) 3/21

Policy Reference UPDATE Service
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Regulation 3320: Claims And Actions Against The District

Status: ADOPTED

Original Adopted Date: 05/09/2019 | **Last Revised Date:** 01/23/2020 | **Last Reviewed Date:** 01/23/2020

Unless otherwise provided by law, prior to filing a lawsuit against the district for money or damages, a written claim shall be filed in accordance with the following administrative regulation.

Time Limitations

The following time limitations apply to claims against the district:

1. Claims for money or damages relating to childhood sexual abuse or any other cause of action specifically excepted from the Government Claims Act by Government Code 905 and for which a statute or regulation provides a claims presentation procedure shall be filed in accordance with the applicable governing statute or regulation. (Government Code 905, 935)

2. In accordance with the Governing Board's authority pursuant to Government Code 935, claims for money or damages which relate to any cause of action specifically excepted from the Government Claims Act by Government Code 905 and which are not governed by any other claims presentation statute or regulation shall be filed not later than six months after the accrual of the cause of action. (Government Code 905, 935)

3. Claims for money or damages relating to a cause of action for death or for injury to person, personal property, or growing crops shall be presented to the Board not later than six months after the accrual of the cause of action. (Government Code 911.2)

4. Claims for money or damages relating to any other cause of action shall be filed not later than one year after the accrual of the cause of action. (Government Code 911.2)

Receipt of Claims

A claim, any amendment thereto, or an application to present a late claim shall be deemed presented and received when delivered to the district office or deposited in a post office, mailbox, sub-post office, substation, mail chute, or other similar facility maintained by the U.S. government, in a sealed envelope properly addressed to the district office with postage paid, or when otherwise actually received in the district office or by the Board secretary or clerk. (Government Code 915, 915.2)

Upon receipt of a claim against the district pursuant to the Government Claims Act, the Superintendent or designee shall promptly provide written notice to the district's joint powers authority or insurance carrier in accordance with the applicable conditions of coverage.

Review of Contents of the Claim

The Superintendent or designee shall review any claim received to ensure that the claim contains all of the following information as specified in Government Code 910 and 910.2:

1. The name and post office address of the claimant

2. The post office address to which the person presenting the claim desires notices to be sent

3. The date, place, and other circumstances of the occurrence or transaction which gave rise to the claim asserted

4. A general description of the indebtedness, obligation, injury, damage, or loss incurred insofar as it may be known at the time of presentation of the claim

5. The name(s) of the district employee(s) causing the injury, damage, or loss, if known

6. The amount claimed if it totals less than $10,000, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the claim, together with the basis of computation of the amount claimed. If the amount claimed exceeds $10,000, the dollar amount shall not be included in the claim and the claimant shall indicate whether the claim is a limited civil case of $25,000 or less.

7. The signature of the claimant or the person acting on the claimant's behalf

Notice of Claim Insufficiency

If a claim is found insufficient or not to satisfy the form requirements under Government Code 910 and 910.2, the Board or its designee shall, within 20 days of receipt of the claim, personally deliver or mail to the claimant, at the address stated in the claim or application, a notice that states the particular defects or omission in the claim. (Government Code 910.8, 915.4)

The Board shall not act upon the claim until at least 15 days after such notice is given. (Government Code 910.8)

Amendment to Claims

Within the time limits provided in the section "Time Limitations" above or prior to final action by the Board, whichever is later, a claim may be amended if, as amended, it relates to the same transaction or occurrence which gave rise to the original claim. (Government Code 910.6)

Late Claims

For claims under items #2 and #3 in the section "Time Limitations" above, any person who presents a claim later than six months after the accrual of the cause of action shall present, along with the claim, an application to present a late claim. Such claim and the application to present a late claim shall be presented not later than one year after the accrual of the cause of action. (Government Code 905, 911.4)

If the claim is presented late and is not accompanied by an application to present a late claim, the Board or its designee may, within 45 days, give written notice that the claim was not presented timely and that it is being returned without further action. (Government Code 911.3)

The Board shall grant or deny the application to present a late claim within 45 days after it is presented. This 45-day period may be extended by written agreement of the claimant and the Board provided that such agreement is made before the expiration of the 45-day period. (Government Code 911.6)

The Board shall grant the application to present a late claim where one or more of the following conditions are applicable: (Government Code 911.6)

1. The failure to present the claim was through mistake, inadvertence, surprise, or excusable neglect and the district was not prejudiced in its defense regarding the claim by the claimant's failure to present the claim within the time limit.

2. The person who sustained the alleged injury, damage, or loss was a minor during all of the time specified for presentation of the claim.

3. The person who sustained the alleged injury, damage, or loss was physically or mentally incapacitated during all of the time specified for presentation of the claim and the disability was the reason the person failed to present the claim.

4. The person who sustained the alleged injury, damage, or loss died before the expiration of the time specified for the presentation of the claim.

If the application to present a late claim is denied, the claimant shall be given notice in substantially the same form as set forth in Government Code 911.8. (Government Code 911.8)

If the Board does not take action on the application to present a late claim within 45 days, the application shall be deemed to have been denied on the 45th day unless the time period has been extended, in which case it shall be denied on the last day of the period specified in the extension agreement. (Government Code 911.6)

Action on Claims

Within 45 days after the presentation or amendment of a claim, the Board shall take action on the claim. This time limit may be extended by written agreement between the district and the claimant before the expiration of the 45-day period. If the 45-day period has expired, the time limit may be extended if legal action has not commenced or

been barred by legal limitations. (Government Code 912.4)

The Board may act on the claim in one of the following ways: (Government Code 912.4, 912.6)

1. If the Board finds that the claim is not a proper charge against the district, the claim shall be rejected.
2. If the Board finds that the claim is a proper charge against the district and is for an amount justly due, the claim shall be allowed.
3. If the Board finds that the claim is a proper charge against the district but is for an amount greater than is justly due, the Board shall either reject the claim or allow it in the amount justly due and reject it as to the balance.
4. If legal liability of the district or the amount justly due is disputed, the Board may reject or compromise the claim.
5. If the Board takes no action on the claim, the claim shall be deemed rejected.

If the Board allows the claim in whole or in part or compromises the claim and the claimant accepts the amount allowed or offered to settle the claim, the Board may require the claimant to accept it in settlement of the entire claim. (Government Code 912.6)

The Board or its designee shall transmit to the claimant written notice of action taken or of inaction which is deemed rejection. The notice shall be in the form set forth in Government Code 913 and shall either be personally delivered or mailed to the address stated in the claim or application. (Government Code 913, 915.4)

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

State References	Description
CCP. 340.1	Damages suffered as result of childhood sexual abuse - https://simbli.eboardsolutions.com/SU/BGhSMfNslshCvTtUEVoUtzrslshA==
Ed. Code 35200	Liability for debts and contracts
Ed. Code 35202	Claims against districts; applicability of Government Code
Gov. Code 53051	Information filed with secretary of state and county clerk
Gov. Code 6500-6536	Joint powers agreements
Gov. Code 800	Cost in civil actions
Gov. Code 810-996.6	Government Claims Act
Pen. Code 72	Fraudulent claims

Management Resources References	Description
Court Decision	City of Stockton v. Superior Court, (2007) 42 Cal. 4th 730
Court Decision	Connelly v. County of Fresno, (2006) 146 Cal.App.4th 29
Court Decision	CSEA v. South Orange Community College District, (2004) 123 Cal.App.4th 574
Court Decision	CSEA v. Azusa Unified School District, (1984) 152 Cal.App.3d 580
Website	California Secretary of State's Office - https://simbli.eboardsolutions.com/SU/boqYBvXk4Ayr0Vpwslsh5Z9FA==

Cross References	Description
1330.1	Joint Use Agreements - https://simbli.eboardsolutions.com/SU/Q9uum7Qie1RKlnyyMCvRYA==
1340	Access To District Records - https://simbli.eboardsolutions.com/SU/cXGxpZRquYId0nKebslshBk4Q==

1340	Access To District Records - https://simbli.eboardsolutions.com/SU/YUJTRiiy5YvfA2F87SiMsg==
3530	Risk Management/Insurance - https://simbli.eboardsolutions.com/SU/hESWDzNlCVBL4CkwCS2oqQ==
3530	Risk Management/Insurance - https://simbli.eboardsolutions.com/SU/Jq6plusqrzxnKCsHCplusF6tVuQw==
4119.1	Civil And Legal Rights - https://simbli.eboardsolutions.com/SU/1jk3fDsyIO0I02IfaKzSog==
4144	Complaints - https://simbli.eboardsolutions.com/SU/zolXmEIy1vgkQA0j03XNVg==
4144	Complaints - https://simbli.eboardsolutions.com/SU/3oznRA3b3yLJqEt4W2C1Gg==
4157.1	Work-Related Injuries - https://simbli.eboardsolutions.com/SU/0Ep7LBHgycQ8AIGKXnyVplusg==
4158	Employee Security - https://simbli.eboardsolutions.com/SU/KCzi0tNdI594jPAVCTeo6w==
4158	Employee Security - https://simbli.eboardsolutions.com/SU/XMJLZQDB8XYc7b2l9njexg==
4219.1	Civil And Legal Rights - https://simbli.eboardsolutions.com/SU/sKzorV0UqoiEyvpTpelm8Q==
4257.1	Work-Related Injuries - https://simbli.eboardsolutions.com/SU/fLmmoXl0v8kMbslshQslshZqQyYw==
4258	Employee Security - https://simbli.eboardsolutions.com/SU/cGXWadkQLplusHneBM7EZHqAw==
4258	Employee Security - https://simbli.eboardsolutions.com/SU/NqQtjmvUnN1v9BJQxbVksA==
4319.1	Civil And Legal Rights - https://simbli.eboardsolutions.com/SU/Rj0lD7VrpCL8ewSslshLlTkZA==
4344	Complaints - https://simbli.eboardsolutions.com/SU/PxtLaplusuXYbWMPVfRslshPPHCw==
4344	Complaints - https://simbli.eboardsolutions.com/SU/dcSBhaXAaVezfUbqtT6bzg==
4357.1	Work-Related Injuries - https://simbli.eboardsolutions.com/SU/xqBCAQmsB6MwZo4vX7pluskDw==
4358	Employee Security - https://simbli.eboardsolutions.com/SU/5EWHTaLgxESHuiTlOpCctw==
4358	Employee Security - https://simbli.eboardsolutions.com/SU/g0yslsh76plusfSuifL9jeXM4UBg==
5143	Insurance - https://simbli.eboardsolutions.com/SU/pESmAhlrKvCt9TDDzpASWA==
5143	Insurance - https://simbli.eboardsolutions.com/SU/vvDhX4MjDrJ0DrsR0yaAxw==
6163.2	Animals At School - https://simbli.eboardsolutions.com/SU/UbKCQZmet0V8Ya9gXCOw9A==
6163.2	Animals At School - https://simbli.eboardsolutions.com/SU/JicadXYu8G69TDnua3slshVug==
9012-B	Board Member Electronic Communications - https://simbli.eboardsolutions.com/SU/zBDaaRxMplus3plusaFBvIgwdRslshg==
9124-B	Attorney - https://simbli.eboardsolutions.com/SU/1mm2Pwan3g2owCVSgTEStA==

9321-B	Closed Session - https://simbli.eboardsolutions.com/SU/QfknlZ1iziDTUxplussARKweQ==
9322-B	Agenda/Meeting Materials - https://simbli.eboardsolutions.com/SU/0qG9032BG0Bpytl8PjDd5w==

CSBA Sample REVISED

Administrative Regulation

Business and Noninstructional Operations AR 3230(a)

FEDERAL GRANT FUNDS

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.

The requirements of the Uniform Guidance are extensive and are not fully covered in the following administrative regulation. It is recommended that the district expand the following regulation and/or maintain a comprehensive procedures manual which contains internal controls and grant management standards used by the district to ensure the lawful expenditure of federal funds, including, but not limited to, procedures and protocols for cash management, procurement, inventory management, allowability of expenditures, "time and effort" reporting by personnel, and record retention.

To ensure the lawful expenditure of any federal formula or discretionary grant funds awarded to the district, the Superintendent or designee shall comply with the requirements of the Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (the "Uniform Guidance"), as contained in 2 CFR 200.0-200.521 and Appendices I-XII.

Allowable Costs

Prior to obligating or spending any federal grant funds, the Superintendent or designee shall determine whether a proposed purchase is an allowable expenditure in accordance with 2 CFR 200.400-200.475 and the terms and conditions of the award. The Superintendent or designee shall also determine whether the expense is a direct or indirect cost as defined in 2 CFR 200.413 and 200.414 and, if the purchase will benefit other programs not included in the grant award, the appropriate share to be allocated to the federal grant.

(cf. 3350 - Travel Expenses)

The Superintendent or designee shall review and approve all transactions involving federal grant funds and shall ensure the proper coding of expenditures consistent with the California School Accounting Manual.

(cf. 3300 - Expenditures and Purchases)
(cf. 3314 - Payment for Goods and Services)

FEDERAL GRANT FUNDS (continued)

Period of Performance

All obligations of federal funds shall occur on or between the beginning and ending dates of the grant project and shall be paid no later than 120 calendar days after the end of the funding period, unless specifically authorized by the grant award to be carried over beyond the initial term of the grant. (2 CFR 200.77, 200.308, 200.309, 200.344)

Procurement

Note: Districts are required to comply with the procurement standards specified in 2 CFR 200.317-200.327 as well as state laws pertaining to bidding and procurement.

2 CFR 200.322, as added by 85 Fed. Reg. 49506, requires districts, to the extent practicable under a federal award, to give preference to the purchase, acquisition, or use of goods, products, or materials from the United States.

When procuring goods and services with a federal grant, the Superintendent or designee shall comply with the standards contained in 2 CFR 200.317-200.327 and Appendix II of Part 200, and with any applicable state bidding or procurement law or district policy that is more restrictive.

As appropriate to encourage greater economy and efficiency, the Superintendent or designee shall avoid acquisition of unnecessary or duplicative items, give consideration to consolidating or breaking out procurements, analyze lease versus purchase alternatives, consider entering into an interagency agreement for procurement of common or shared goods and services, and/or use federal excess or surplus property. (2 CFR 200.318)

The procurement of goods or services with federal funds shall be conducted in a manner that provides full and open competition in accordance with state laws and district regulations and the following requirements:

2 CFR 200.67 and 200.320 permits districts to establish simplified procurement procedures for "micro-purchases," as described in item #1 below. Pursuant to 2 CFR 200.320, districts are responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and district procurement procedures. Pursuant to 2 CFR 200.320, as amended by 85 Fed. Reg. 49506, and 48 CFR 2.101, the threshold for such purchases ~~is $3,500~~ cannot exceed $10,000 except as otherwise specified, and will be periodically adjusted for inflation. However, pursuant to 2 CFR 200.320, as amended, a district may be eligible to establish a micro-purchase threshold up to $50,000 on an annual basis if the district is able to self-certify that it may do so, with documentation of one of the following criteria: (1) the district's qualification as a low-risk auditee in accordance with 2 CFR 200.520; (2) an annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or (3) a higher threshold consistent with state law. Districts may establish a threshold higher than $50,000 with approval of the appropriate federal agency. Item #1 may be revised to reflect the threshold established by the district.

Use of the simplified procedures requires that the district determine the price to be "reasonable." According to the USDOE's Questions and Answers Regarding 2 CFR Part 200, a documented review of web sites would meet this requirement.

FEDERAL GRANT FUNDS (continued)

As amended, 2 CFR 200.320 increases the "small purchases" limit under the Uniform Guidance (item #2 below) to $250,000 in accordance with 48 CFR 2.101. However, the more restrictive California bid limits in Public Contract Code 20111 and district procurement policies must be applied to define the "small purchase" requirements.

Any purchases above the California bid limits must follow California law. See BP/AR 3311 - Bids for more information regarding bids and bid limits.

1. Any purchase of supplies or services that does not exceed the "micro-purchase" threshold established by the district in accordance with 48 CFR 2.101 may be awarded without soliciting competitive quotes, provided that the district considers the price to be reasonable and maintains written evidence of this reasonableness in the record of all micro-purchases. (2 CFR 200.67, 200.320)

2. For any purchase that exceeds the micro-purchase threshold but is less than the bid limit required by Public Contract Code 20111, the Superintendent or designee shall utilize "small-purchase" procedures that include obtaining price or rate quotes from an adequate number of qualified sources. (2 CFR 200.320)

3. Contracts for goods or services over the bid limits required by Public Contract Code 20111 shall be awarded pursuant to California law and AR 3311 - Bids, unless exempt from bidding under the law.

(cf. 3311 - Bids)

4. If a purchase is exempt from bidding and the district's solicitation is by a request for proposals, the award may be made by either a fixed-price or cost-reimbursement type contract awarded to the entity whose proposal is most advantageous to the program, with price and other factors considered. (2 CFR 200.320)

(cf. 3312 - Contracts)

5. Procurement by noncompetitive proposals (sole sourcing) may be used only when the item is available exclusively from a single source, the need or emergency will not permit a delay resulting from competitive solicitation, the awarding agency expressly authorizes sole sourcing in response to the district's request, and/or competition is determined inadequate after solicitation of a number of sources. (2 CFR 200.320)

FEDERAL GRANT FUNDS (continued)

6. Time and materials type contracts may be used only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. *Time and materials type contract* means a contract for which the cost is the sum of the actual cost of materials and direct labor hours charged at fixed hourly rates that reflect wages, general administrative expenses, and profit. (2 CFR 200.318)

2 CFR 200.214 restricts districts from procuring goods or services from entities that have been debarred, suspended**,** or otherwise excluded from participation in federal assistance programs or activities. Districts may require certification of eligibility from the vendor or use the federal System for Award Management website to determine whether a particular entity has been excluded.

For any purchase of $25,000 or more, the Superintendent or designee shall verify that any vendor which is used to procure goods or services is not excluded or disqualified by the federal government. (2 CFR 180.220, 200.214)

All solicitations shall incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description shall avoid detailed product specifications to the extent possible, but may include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. When it is impractical or not economical to make a clear and accurate description of the technical requirements, a brand name or equivalent description may be used to define the performance or other salient requirements of procurement, clearly stating the specific features of the named brand which must be met by offers. In addition, every solicitation shall identify all requirements which the offer must fulfill and any other factors to be used in evaluating bids or proposals. (2 CFR 200.319)

The Superintendent or designee shall maintain sufficient records to document the procurement, including, but not limited to, the rationale for the method of procurement, selection of the contract type, contractor selection or rejection, and the basis for the contract price. (2 CFR 200.318)

The Superintendent or designee shall ensure that all contracts for purchases using federal grant funds contain the applicable contract provisions described in Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards. (2 CFR 200.327)

FEDERAL GRANT FUNDS (continued)

Capital Expenditures

The Superintendent or designee shall obtain prior written approval from the awarding agency before using federal funds to make capital expenditures, including the acquisition of land, facilities, equipment, and intellectual property and expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life. (2 CFR 200.313, 200.439)

Conflict of Interest

Governing Board members, district employees, and other district representatives shall not participate in the selection, award, or administration of a contract supported by federal funds if they have a real or apparent conflict of interest, such as when they or a member of their immediate family, their partner, or an organization which employs or is about to employ any of them has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. Such persons are prohibited from soliciting or accepting gratuities, favors, or anything of monetary value from contractors or subcontractors unless the gift is an unsolicited item of nominal value. (2 CFR 200.318)

Employees engaged in the selection, award, and administration of contracts shall also comply with BB 9270 - Conflict of Interest.

(cf. 9270 - Conflict of Interest)

Persons involved in the selection, award, or administration of a contract supported by federal funds shall be subject to discipline for any violation of conflict of interest standards. (2 CFR 200.318)

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
(cf. 4218.1 - Dismissal/Suspension/Disciplinary Action (Merit System))

Cash Management

The Superintendent or designee shall ensure the district's compliance with 2 CFR 200.305 pertaining to payments and cash management, including compliance with applicable methods and procedures that minimize the time elapsing between the transfer of funds to the district and the district's disbursement of funds. (2 CFR 200.305)

FEDERAL GRANT FUNDS (continued)

When authorized by law, the district may receive advance payments of federal grant funds, limited to the minimum amounts needed and timed in accordance with the actual immediate cash requirements of the district for carrying out the purpose of the program or project. Except under specified conditions, the district shall maintain the advance payments in an interest-bearing account. The district shall remit interest earned on the advanced payment to the awarding agency on an annual basis, but may retain interest amounts specified in 2 CFR 200.305 for administrative expenses. (2 CFR 200.305)

When required by the awarding agency, the district shall instead submit a request for reimbursement of actual expenses incurred. The district may also request reimbursement as an alternative to receiving advance payments. (2 CFR 200.305)

The Superintendent or designee shall maintain source documentation supporting the expenditure of federal funds, such as invoices, time sheets, payroll stubs, or other appropriate documentation.

Personnel

In order to charge staff compensation as an allowable expense of federal grant funds pursuant to 2 CFR 200.430, employees must document the amount of time they spend on grant activities supported by federal funds. These documents, known as "time and effort" records, are used to charge the costs of personnel compensation to federal grants. It is recommended that the district's administrative regulation reflect district practice for documenting time and effort, such as the type of documentation maintained, signature requirements, how often certifications will be completed, and review of the records by a supervisor.

All district employees who are paid in full or in part with federal funds shall document the amount of time they spend on grant activities. Such records shall be incorporated into the official records of the district and shall be subject to a system of internal controls which provides reasonable assurance that the charges are accurate, allowable, and properly allocated in accordance with 2 CFR 200.430. (2 CFR 200.430)

Salaries and wages of employees whose salary is paid with state or local funds but are used to meet a cost-sharing or matching requirement of the federal grant shall be documented in the same manner as salaries and wages claimed for reimbursement under a federal grant. (2 CFR 200.430)

Records

Except as otherwise provided in 2 CFR 200.334, or where state law or district policy requires a longer retention period, financial records, supporting documents, statistical records, and all other district records related to a federal award shall be retained for a period of three years from the date of submission of the final expenditure report or, for a federal award that is renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report. (2 CFR 200.334)

(cf. 1340 - Access to District Records)
(cf. 3580 - District Records)

FEDERAL GRANT FUNDS (continued)

Audits

Whenever the district expends $750,000 or more in federal grant funds during a fiscal year, it shall arrange for either a single audit or a program-specific audit in accordance with 2 CFR 200.507 or 200.514. (2 CFR 200.501)

The Superintendent or designee shall ensure that the audit meets the requirements specified in 2 CFR 200.500-200.521.

Specified records pertaining to the audit of federal funds expended by the district shall be transmitted to the clearinghouse designated by the federal Office of Management and Budget and shall be made available for public inspection. Such records shall be transmitted within 30 days after receipt of the auditor's report or within nine months after the end of the audit period, whichever is sooner, unless a longer period is agreed to in advance by the federal agency or a different period is specified in a program-specific audit guide. (2 CFR 200.512)

In the event that the audit identifies any deficiency, the Superintendent or designee shall promptly act to either correct the identified deficiency, produce recommended improvements, or demonstrate that the audit finding is invalid or does not warrant action. (2 CFR 200.26, 200.508, 200.511)

Policy Reference UPDATE Service
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Regulation 3230: Federal Grant Funds

Status: ADOPTED

Original Adopted Date: 05/09/2019 **| Last Reviewed Date:** 05/09/2019

To ensure the lawful expenditure of any federal formula or discretionary grant funds awarded to the district, the Superintendent or designee shall comply with the requirements of the Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (the "Uniform Guidance"), as contained in 2 CFR 200.0-200.521 and Appendices I-XII.

Allowable Costs

Prior to obligating or spending any federal grant funds, the Superintendent or designee shall determine whether a proposed purchase is an allowable expenditure in accordance with 2 CFR 200.400-200.475 and the terms and conditions of the award. He/she shall also determine whether the expense is a direct or indirect cost as defined in 2 CFR 200.413 and 200.414 and, if the purchase will benefit other programs not included in the grant award, the appropriate share to be allocated to the federal grant.

The Superintendent or designee shall review and approve all transactions involving federal grant funds and shall ensure the proper coding of expenditures consistent with the California School Accounting Manual.

Period of Performance

All obligations of federal funds shall occur on or between the beginning and ending dates of the grant project and shall be paid no later than 90 days after the end of the funding period, unless specifically authorized by the grant award to be carried over beyond the initial term of the grant. (2 CFR 200.77, 200.308, 200.309, 200.343)

Procurement

When procuring goods and services with a federal grant, the Superintendent or designee shall comply with the standards contained in 2 CFR 200.317-200.326 and Appendix II of Part 200, or with any applicable state law or district policy that is more restrictive.

As appropriate to encourage greater economy and efficiency, the Superintendent or designee shall avoid acquisition of unnecessary or duplicative items, give consideration to consolidating or breaking out procurements, analyze lease versus purchase alternatives, consider entering into an interagency agreement for procurement of common or shared goods and services, and/or use federal excess or surplus property. (2 CFR 200.318)

The procurement of goods or services with federal funds shall be conducted in a manner that provides full and open competition in accordance with state laws and district regulations and the following requirements:

1. Any purchase of supplies or services that does not exceed the "micro-purchase" threshold specified in 48 CFR 2.101 may be awarded without soliciting competitive quotes, provided that the district considers the price to be reasonable and maintains written evidence of this reasonableness in the record of all micro-purchases. (2 CFR 200.67, 200.320)

2. For any purchase that exceeds the micro-purchase threshold but is less than the bid limit required by Public Contract Code 20111, the Superintendent or designee shall utilize "small-purchase" procedures that include obtaining price or rate quotes from an adequate number of qualified sources. (2 CFR 200.320)

3. Contracts for goods or services over the bid limits required by Public Contract Code 20111 shall be awarded pursuant to California law and AR 3311 - Bids, unless exempt from bidding under the law.

4. If a purchase is exempt from bidding and the district's solicitation is by a request for proposals, the award may be made by either a fixed-price or cost-reimbursement type contract awarded to the entity whose proposal is most advantageous to the program, with price and other factors considered. (2 CFR 200.320)

5. Procurement by noncompetitive proposals (sole sourcing) may be used only when the item is available exclusively from a single source, the need or emergency will not permit a delay resulting from competitive solicitation, the awarding agency expressly authorizes sole sourcing in response to the district's request, and/or competition is determined inadequate after solicitation of a number of sources. (2 CFR 200.320)

6. Time and materials type contracts may be used only after a determination that no other contract is suitable

and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract for which the cost is the sum of the actual cost of materials and direct labor hours charged at fixed hourly rates that reflect wages, general administrative expenses, and profit. (200.328)

For any purchase of $25,000 or more, the Superintendent or designee shall verify that any vendor which is used to procure goods or services is not excluded or disqualified by the federal government. (2 CFR 180.220, 200.213)

All solicitations shall incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description shall avoid detailed product specifications to the extent possible, but may include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. When it is impractical or not economical to make a clear and accurate description of the technical requirements, a brand name or equivalent description may be used to define the performance or other salient requirements of procurement, clearly stating the specific features of the named brand which must be met by offers. In addition, every solicitation shall identify all requirements which the offer must fulfill and any other factors to be used in evaluating bids or proposals. (2 CFR 200.319)

The Superintendent or designee shall maintain sufficient records to document the procurement, including, but not limited to, the rationale for the method of procurement, selection of the contract type, contractor selection or rejection, and the basis for the contract price. (2 CFR 200.318)

The Superintendent or designee shall ensure that all contracts for purchases using federal grant funds contain the applicable contract provisions described in Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards. (2 CFR 200.326)

Capital Expenditures

The Superintendent or designee shall obtain prior written approval from the awarding agency before using federal funds to make capital expenditures, including the acquisition of land, facilities, equipment, and intellectual property and expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life. (2 CFR 200.12, 200.13, 200.20, 200.33, 200.48, 200.58, 200.89, 200.313, 200.439)

Conflict of Interest

No Board of Education member, district employee, or district representative shall participate in the selection, award, or administration of a contract supported by federal funds if he/she has a real or apparent conflict of interest, such as when he/she or a member of his/her immediate family, his/her partner, or an organization which employs or is about to employ any of them has a financial interest in or a tangible personal benefit from a firm considered for a contract. Such persons are prohibited from soliciting or accepting gratuities, favors, or anything of monetary value from contractors or subcontractors unless the gift is an unsolicited item of nominal value. (2 CFR 200.318)

Employees engaged in the selection, award, and administration of contracts shall also comply with BB 9270 - Conflict of Interest.

Cash Management

The Superintendent or designee shall ensure the district's compliance with 2 CFR 200.305 pertaining to payments and cash management, including compliance with applicable methods and procedures that minimize the time elapsing between the transfer of funds to the district and the district's disbursement of funds. (2 CFR 200.305)

When authorized by law, the district may receive advance payments of federal grant funds, limited to the minimum amounts needed and timed in accordance with the actual immediate cash requirements of the district for carrying out the purpose of the program or project. Except under specified conditions, the district shall maintain the advance payments in an interest-bearing account. The district shall remit interest earned on the advanced payment to the awarding agency on an annual basis, but may retain interest amounts specified in 2 CFR 200.305 for administrative expenses. (2 CFR 200.305)

When required by the awarding agency, the district shall instead submit a request for reimbursement of actual expenses incurred. The district may also request reimbursement as an alternative to receiving advance payments. (2 CFR 200.305)

The Superintendent or designee shall maintain source documentation supporting the expenditure of federal funds,

such as invoices, time sheets, payroll stubs, or other appropriate documentation.

Personnel

All district employees who are paid in full or in part with federal funds, including employees whose salary is paid with state or local funds but is used to meet a required match or in-kind contribution to a federal program, shall document the amount of time they spend on grant activities. (2 CFR 200.430)

Records

Except as otherwise provided in 2 CFR 200.333, or where state law or district policy requires a longer retention period, financial records, supporting documents, statistical records, and all other district records related to a federal award shall be retained for a period of three years from the date of submission of the final expenditure report or, for a federal award that is renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report. (2 CFR 200.333)

Audits

Whenever the district expends $750,000 or more in federal grant funds during a fiscal year, it shall arrange for either a single audit or a program-specific audit in accordance with 2 CFR 200.507 or 200.514. (2 CFR 200.501)

The Superintendent or designee shall ensure that the audit meets the requirements specified in 2 CFR 200.500-200.521.

Specified records pertaining to the audit of federal funds expended by the district shall be transmitted to the clearinghouse designated by the federal Office of Management and Budget and shall be made available for public inspection. Such records shall be transmitted within 30 days after receipt of the auditor's report or within nine months after the end of the audit period, whichever is sooner, unless a longer period is agreed to in advance by the federal agency or a different period is specified in a program-specific audit guide. (2 CFR 200.512)

In the event that the audit identifies any deficiency, the Superintendent or designee shall promptly act to either correct the identified deficiency, produce recommended improvements, or demonstrate that the audit finding is invalid or does not warrant action. (2 CFR 200.26, 200.508, 200.511)

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

State References	Description
Ed. Code 42122-42129	Budget requirements
Ed. Code 64001	School plan for student achievement, consolidated application programs

Federal References	Description
2 CFR 180.220	Amount of contract subject to suspension and debarment rules
2 CFR 200.0-200.521	Federal uniform grant guidance
2 CFR 200.1-200.99	Definitions
2 CFR 200.100-200.113	General provisions
2 CFR 200.317-200.326	Procurement standards
2 CFR 200.327-200.329	Monitoring and reporting
2 CFR 200.333-200.337	Record retention
2 CFR 200.400-200.475	Cost principles
2 CFR 200.500-200.521	Audit requirements
34 CFR 76.730-76.731	Records related to federal grant programs
48 CFR 2.101	Federal acquisition regulation; definitions

Management Resources References	Description

California Department of Education Publication	California Department of Education Audit Guide
California Department of Education Publication	California School Accounting Manual
Education Audit Appeals Panel Publication	Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting
U.S. Department of Education Publication	Questions and Answers Regarding 2 CFR Part 200, March 17, 2016
Website	Office of Management and Budget, Uniform Guidance - https://simbli.eboardsolutions.com/SU/YplusplusmPflcVzuBkWxQHXMfcg==
Website	State Controller's Office - https://simbli.eboardsolutions.com/SU/GDLauCiDFl4Ms1eIPGARvA==
Website	System for Award Management (SAM) - https://simbli.eboardsolutions.com/SU/ozEzhm45zQ6VZAsl5BBOHQ==
Website	U.S. Government Accountability Office - https://simbli.eboardsolutions.com/SU/HvuRwrdop7OnnXlYFVN3Mw==
Website	Education Audit Appeals Panel - https://simbli.eboardsolutions.com/SU/6VovW08Qz3ek2v0oFNslshtMg==
Website	U.S. Department of Education - https://simbli.eboardsolutions.com/SU/XcSsJimoslsh3XhJKy4tplus7wplusA==
Website	California Department of Education - https://simbli.eboardsolutions.com/SU/os2jq5DcA2RawmY2VZ5FZQ==

Cross References	**Description**
0500	Accountability - https://simbli.eboardsolutions.com/SU/8OSp14MQoBm0c5h903CVjA==
1340	Access To District Records - https://simbli.eboardsolutions.com/SU/cXGxpZRquYId0nKebslshBk4Q==
1340	Access To District Records - https://simbli.eboardsolutions.com/SU/YUJTRiiy5YvfA2F87SiMsg==
3100	Budget - https://simbli.eboardsolutions.com/SU/WqoJEr0tGYguCZ0kbpoDOw==
3100	Budget - https://simbli.eboardsolutions.com/SU/0onvwoV1fxbpJr5OyAa8nA==
3231	Impact Aid - https://simbli.eboardsolutions.com/SU/7Ap579LQSLQa4LplussekuIFA==
3270	Sale And Disposal Of Books, Equipment And Supplies - https://simbli.eboardsolutions.com/SU/Rd2EzAo5Lxplusf6Cg370zXgw==
3270	Sale And Disposal Of Books, Equipment And Supplies - https://simbli.eboardsolutions.com/SU/SZFqSD5qqUtFNBzslshcplusKhZg==
3300	Expenditures And Purchases - https://simbli.eboardsolutions.com/SU/PiJMZVvpjV1P1BWzGWwzAA==
3311	Bids - https://simbli.eboardsolutions.com/SU/TXCclHAPO4AvqlRkslshIGT6g==
3311	Bids - https://simbli.eboardsolutions.com/SU/YtGjBb8AeKJBCbTEVI6JKg==
3311.4	Procurement Of Technological Equipment - https://simbli.eboardsolutions.com/SU/kkByhADGN5ByMPu5xtLaslshA==
3312	Contracts - https://simbli.eboardsolutions.com/SU/ypySW5bYSpEyYt3f9slshq8XA==
3314	Payment For Goods And Services - https://simbli.eboardsolutions.com/SU/MbHA9gIHxrKze4lIPVE9plusg==
3314	Payment For Goods And Services - https://simbli.eboardsolutions.com/SU/PKQZIdoJTQSbrFsmrxxIlw==
3350	Travel Expenses - https://simbli.eboardsolutions.com/SU/087zrkdokqcaplusql1dBgftA==

3350	Travel Expenses - https://simbli.eboardsolutions.com/SU/MvpluskhlslshXsYDnkV7G409slshEg==
3400	Management Of District Assets/Accounts - https://simbli.eboardsolutions.com/SU/clm77Hslsh9RplusDUndTMnG5tLg==
3400	Management Of District Assets/Accounts - https://simbli.eboardsolutions.com/SU/Eh4AWcSQOckQHzhhNrRWBQ==
3440	Inventories - https://simbli.eboardsolutions.com/SU/qIoGYSIslsh1O3sXdLa5sXyiA==
3460	Financial Reports And Accountability - https://simbli.eboardsolutions.com/SU/TxBv420C0XX2RcvhFVuwTQ==
3460	Financial Reports And Accountability - https://simbli.eboardsolutions.com/SU/oxbbplusKiWBOkgDVv4ZA7DqA==
3512	Equipment - https://simbli.eboardsolutions.com/SU/UBrCXG8OqeYRH9B77XDYrQ==
3551	Food Service Operations/Cafeteria Fund - https://simbli.eboardsolutions.com/SU/fslshTOZSOCJYAeecwHFRcBZQ==
3551	Food Service Operations/Cafeteria Fund - https://simbli.eboardsolutions.com/SU/yyuRz0EALXR0Dv3bnSl2ow==
3580	District Records - https://simbli.eboardsolutions.com/SU/slGJYA28YslshNTQCMslshGcplusm0g==
3580	District Records - https://simbli.eboardsolutions.com/SU/BEy9zuPlfTW5TQjPpTt55Q==
4131	Staff Development - https://simbli.eboardsolutions.com/SU/kJqyGLZ6NEslsht0VJCcrln0A==
4231	Staff Development - https://simbli.eboardsolutions.com/SU/L8yP6LVj9KCY0vQ8PORzvA==
4331	Staff Development - https://simbli.eboardsolutions.com/SU/r3FjtcyWYRzoggplusAxgZfEw==
6190	Evaluation Of The Instructional Program - https://simbli.eboardsolutions.com/SU/SsYiNF0LslshseiRm7GRp9z9g==
9270-B	Conflict Of Interest - https://simbli.eboardsolutions.com/SU/yL3P0tPJ0zk3Pb2VzUm1Ig==
9270-B-E(1)	Conflict Of Interest - https://simbli.eboardsolutions.com/SU/QAs43mF3Ha1cSCaMPjplusysg==
9270-B-E(2)	Conflict Of Interest - https://simbli.eboardsolutions.com/SU/QQsaQfrlVWBrVwyxqLyXZw==

CSBA Sample REVISED

Administrative Regulation

Business and Noninstructional Operations AR 3515.3(a)

DISTRICT POLICE/SECURITY DEPARTMENT

Note: **The following regulation is for use by districts whose Governing Board has established a police or security department pursuant to Education Code 38000.** Districts should revise the following ~~**optional**~~ regulation to reflect whether the district has a "police" or "security" department ~~as authorized by Education Code 38000~~.

To be employed as district police or security officers, persons shall meet all the requirements for classified personnel in addition to specialized requirements as described below.

(cf. 4112.4/4212.4/4312.4 - Health Examinations)
(cf. 4112.41/4212.41/4312.41 - Employee Drug Testing)
(cf. 4211 - Recruitment and Selection)
(cf. 4212 - Appointment and Conditions of Employment)
(cf. 4215 - Evaluation/Supervision)

Chief of Police/Chief of Security

The district police or security department shall be supervised by a chief of police or chief of security designated by the Superintendent and working under the Superintendent's direction. (Education Code 38000)

Note: Pursuant to Education Code 38000, the Board must set minimum qualifications for employment of the police chief or security chief, including but not limited to the qualifications described in the following paragraph. The district may expand the following paragraph to specify additional qualifications ~~if desired~~.

Qualifications for the position of police or security chief include, but are not limited to, prior employment as a peace officer or completion of a peace officer training course approved by the Commission on Peace Officer Standards and Training **(POST)**. The police or security chief shall comply with this requirement within one year of initial employment in this position by the district. (Education Code 38000)

Qualifications of Security Officers

Note: The following section is for use by districts that employ security officers pursuant to Education Code 38000 and 38001.5.

~~Every~~ **A person employed as a** school security officer shall: (Education Code 38001.5)

1. Under the conditions described in Education Code 38001.5, submit **fingerprints** to the district ~~copies of his/her fingerprints~~ on forms or electronically, as prescribed by the Department of Justice

DISTRICT POLICE/SECURITY DEPARTMENT (continued)

2. Be determined to be a person not prohibited from employment by a school district pursuant to Education Code 44237 or 45122.1

(cf. 3515.6 - Criminal Background Checks for Contractors)
(cf. 4112.5/4212.5/4312.5 - Criminal Record Check)
(cf. 4112.62/4212.62/4312.62 - Maintenance of Criminal Offender Records)
~~*(cf. 4112.5/4212.5/4312.5 - Criminal Record Check)*~~

Note: Item #3 below is for use by districts that authorize security officers to carry firearms; see ~~BP 3515.3~~ **the accompanying Board policy**. **Pursuant to Penal Code 832.15-832.16, after receiving an applicant's or employee's fingerprints, the Department of Justice will notify the district as to whether the individual is prohibited from possessing a firearm.**

3. Be determined by the Department of Justice to be a person who is not prohibited from possessing a firearm ~~(Education Code 38001.5)~~

Note: Education Code 38001.5 requires security officers employed by the district to complete the training described below. Effective July 1, 2021, Education Code 38001.5 extends the training requirement to include security officers who work 20 hours per week or less. Education Code 38001.5 also requires that the district provide the training during regular work hours unless otherwise negotiated with the employee's exclusive representative. Districts that have otherwise negotiated this provision should modify the following paragraph accordingly.

The district shall provide each ~~Each employee who works more than 20 hours a week as a~~ school security officer**, during the employee's regular working hours,** ~~shall complete~~ a course of training developed by the Bureau of Security and Investigative Services of the Department of Consumer Affairs in consultation with ~~the Commission on Peace Officer Standards and Training~~ **POST**. (Education Code 38001.5)

Note: The following paragraph is for use by districts that ~~require school~~ **authorize** security officers to carry ~~a~~ firearm**s;** ~~while performing their duties.~~ **see the accompanying Board policy.**

School security officers **who carry a firearm while performing their duties** shall additionally satisfy the training requirements of Penal Code 832. (Education Code 38001.5)

Qualifications of Police Officers

Note: The following section is for use by districts that employ police officers pursuant to Education Code 38000 and 38001.

Before exercising the powers of a peace officer, district police officers shall satisfactorily complete an introductory course of training prescribed ~~by the Commission on Peace Officer Standards and Training~~ **POST** and shall pass the ~~commission's~~ **POST** examination. (Penal Code 832, 832.3)

DISTRICT POLICE/SECURITY DEPARTMENT (continued)

~~If a~~ **A** person **who** has passed this examination more than three years before being employed as a peace officer, or has a break in service of three or more years, ~~he/she~~ shall be required to pass the examination before beginning duties as a district police officer, unless ~~he/she meets criteria required by law~~ **exempted pursuant to Penal Code 832**. (Penal Code 832)

Note: Pursuant to Penal Code 832.3, within two years of the date of first employment, district police officers must complete specialized training on the unique safety needs of a school environment. As a best practice, it is recommended that district police officers complete such specialized training prior to beginning employment with the district. Districts may revise the following paragraph to reflect district practice.

Within a reasonable time but not to exceed two years of the date of first employment, police officers shall complete supplementary specialized training approved by POST on the unique safety needs of a school environment. (Penal Code 832.3)

Note: The following paragraph may be expanded to include other trainings provided by the district.

The Superintendent or designee may provide district police officers with additional training in other public safety skills, including but not limited to first aid, rescue, cardiopulmonary resuscitation, emergency medical technician training, juvenile procedures and specialized safety equipment. (Education Code 38002)

(cf. 4119.43/4219.43/4319.43 - Universal Precautions)
(cf. 4231 - Staff Development)
(cf. 5141 - Health Care and Emergencies)

Note: The following paragraph is for use by districts ~~whose Boards~~ **that** have established a school police reserve corps as authorized by Education Code 35021.5 and 38000; see ~~BP 3515.3~~ **the accompanying Board policy**. ~~AB 1436 (Ch. 292, Statutes of 2003) amended Education Code 35021.5 to delete the requirement that such a reserve corps be unpaid volunteers.~~

School police reserve officers shall complete a course of training directly related to the role of school police reserve officers as prescribed in Penal Code 832.2. (Education Code 35021.5)

Equipment

Each district police or security officer shall wear a badge bearing the name of the district, carry an identification card bearing ~~his/her~~ **a** photograph and signature and the signature of the Superintendent, and carry any other identification data required by local law enforcement agencies. (Education Code 38003)

Note: ~~Pursuant to Education Code 38003, the cost for the above items must be borne by the district. If a uniform is not required,~~ **If the district does not require officers to wear a uniform,** the word "uniforms" should be deleted from the following paragraph.

DISTRICT POLICE/SECURITY DEPARTMENT (continued)

The district shall bear the cost of all required uniforms, equipment, identification badges**,** and cards. (Education Code 38003)

The ~~Board~~ **district** may provide and maintain motor vehicles for use by police or security department staff. When operated by a district officer in the performance of ~~his/her~~ **the officer's** duties, any vehicle is an authorized emergency vehicle and may be equipped and operated as such, as provided by the Vehicle Code. (Education Code 38004)

Use of Force

Note: Government Code 7286.5, as added by AB 1196 (Ch. 324, Statutes of 2020), prohibits a law enforcement agency from authorizing the use of carotid restraints or choke holds, as defined.

District police or security officers shall not use a carotid restraint or choke hold involving the application of pressure to a person's neck, trachea, or windpipe. (Government Code 7286.5)

Note: Pursuant to Government Code 7286, district police departments are required to adopt policy on the use of force. Penal Code 13519.10 requires the Commission on Peace Officer Standards and Training (POST) to develop uniform, minimum guidelines for use in the development of local policies. These guidelines are contained in POST Use of Force Standards and Guidelines, available on the POST web site.

Districts may expand the following section to include the policy adopted by the district police department. Districts whose officers do not carry firearms should delete or revise items #4-5 and 17 below.

The district police department shall maintain a policy, consistent with guidelines provided by POST, that provides a minimum standard on the use of force and includes all of the following: (Government Code 7286; Penal Code 13519.10)

1. A requirement that officers utilize de-escalation techniques, crisis intervention tactics, and other alternatives to force when feasible

2. A requirement that officers only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance

3. A requirement that officers report potential excessive force to a superior officer when present and observing another officer using force that the officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances based upon the totality of information actually known to the officer

DISTRICT POLICE/SECURITY DEPARTMENT (continued)

4. Clear and specific guidelines regarding situations in which officers may or may not draw a firearm or point a firearm at a person

5. A requirement that officers consider their surroundings and potential risks to bystanders, to the extent reasonable under the circumstances, before discharging a firearm

6. Procedures for disclosing public records in accordance with Penal Code 832.7

7. Procedures for the filing, investigation, and reporting of citizen complaints regarding use of force incidents

8. A requirement that an officer intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed

9. Comprehensive and specific guidelines regarding approved methods and devices available for the application of force

10. An explicitly stated requirement that officers carry out duties, including use of force, in a manner that is fair and unbiased

11. Comprehensive and specific guidelines for the application of deadly force

12. Comprehensive and detailed requirements for prompt internal reporting and notification regarding a use of force incident, including reporting use of force incidents to the Department of Justice in compliance with Government Code 12525.2

13. The role of supervisors in the review of use of force applications

14. A requirement that officers promptly provide, if properly trained, or otherwise promptly procure medical assistance for persons injured in a use of force incident, when reasonable and safe to do so

15. Training standards and requirements relating to demonstrated knowledge and understanding of the district's use of force policy by officers, investigators, and supervisors

DISTRICT POLICE/SECURITY DEPARTMENT (continued)

16. Training and guidelines regarding vulnerable populations, including, but not limited to, children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities

17. Comprehensive and specific guidelines under which the discharge of a firearm at or from a moving vehicle may or may not be permitted

18. Factors for evaluating and reviewing all use of force incidents

19. Minimum training and course titles required to meet the objectives in the use of force policy

20. A requirement for the regular review and updating of the policy to reflect developing practices and procedures

Note: The following paragraph is optional.

The district prohibits retaliation against an officer or other district employee who reports a suspected violation of this policy by another officer.

Personnel Files

Note: The following section is for use by districts that have established a police department **and may be adapted for use by districts that have established a security department**.

Before any record containing an adverse comment is placed in a **district** police officer's personnel file, ~~he/she~~ **the employee** shall read and sign the record indicating ~~he/she is aware~~ **awareness** of the comment. The ~~police~~ officer shall have 30 days to file a written response, which shall be attached to the adverse comment. (Government Code 3305-3306)

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

A police officer may inspect ~~his/her~~ **the** personnel file during usual business hours with no loss of compensation. If the officer believes that any portion of the material is mistakenly or unlawfully placed in the file, the officer may request, in writing, that the mistaken or unlawful portion be corrected or deleted and shall describe the reasons supporting those corrections or deletions. Within 30 days of the request, the Superintendent or designee shall either grant the officer's request or notify the officer of the decision to refuse to grant the request. The Superintendent or designee shall state in writing the reasons for refusing any request. (Government Code 3306.5)

DISTRICT POLICE/SECURITY DEPARTMENT (continued)

Disciplinary Action

Note: The following section is for use by districts that have established a ~~"~~police~~"~~ department. When a district police officer is under disciplinary investigation, Government Code 3300 provides the officer with the right to receive copies of any reports or complaints made by investigators or other persons, except those that are confidential. The court in San Diego Police Officers Association et al. v. City of San Diego Civil Service Commission et al. ruled that personnel records of a public safety officer cannot be disclosed at public disciplinary appeal hearings without the officer's consent.

Any investigation of a district police officer that could lead to punitive action shall be conducted in accordance with Government Code 3303-3304**.**

If the Superintendent or designee decides to impose discipline following investigation and any predisciplinary response or procedure, ~~he/she shall notify~~ the police officer **shall be notified** in writing within 30 days of the decision, including the date that the discipline shall be imposed. (Government Code 3304)

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

Note: Pursuant to Government Code 3304.5, an administrative appeal initiated by a police officer shall be conducted in accordance with district rules and procedures. Districts should consult legal counsel prior to initiating discipline against a police officer or whenever an investigation is undertaken.

Any appeal by a police officer shall be conducted in accordance with Board policy and administrative regulation. (Government Code 3304.5)

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

(11/00 11/03) 3/21

Policy Reference UPDATE Service
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Regulation 3515.3: District Police/Security Department

Status: ADOPTED

Original Adopted Date: 05/09/2019 **| Last Reviewed Date:** 05/09/2019

To be employed as district police or security officers, persons shall meet all the requirements for classified personnel in addition to specialized requirements as described below.

Chief of Police/Chief of Security

The district police or security department shall be supervised by a chief of police or chief of security designated by the Superintendent and working under the Superintendent's direction. (Education Code 38000)

Qualifications for the position of police or security chief include, but are not limited to, prior employment as a peace officer or completion of a peace officer training course approved by the Commission on Peace Officer Standards and Training. The police or security chief shall comply with this requirement within one year of initial employment in this position by the district. (Education Code 38000)

Qualifications of Security Officers

Every school security officer shall: (Education Code 38001.5)

1. Under the conditions described in Education Code 38001.5, submit to the district copies of his/her fingerprints on forms or electronically, as prescribed by the Department of Justice

2. Be determined to be a person not prohibited from employment by a school district pursuant to Education Code 44237 or 45122.1

3. Be determined by the Department of Justice to be a person who is not prohibited from possessing a firearm (Education Code 38001.5)

Each employee who works more than 20 hours a week as a school security officer shall complete a course of training developed by the Bureau of Security and Investigative Services of the Department of Consumer Affairs in consultation with the Commission on Peace Officer Standards and Training. (Education Code 38001.5)

School security officers shall additionally satisfy the training requirements of Penal Code 832. (Education Code 38001.5)

Qualifications of Police Officers

Before exercising the powers of a peace officer, district police officers shall satisfactorily complete an introductory course of training prescribed by the Commission on Peace Officer Standards and Training and shall pass the commission's examination. (Penal Code 832, 832.3)

If a person has passed this examination more than three years before being employed as a peace officer, or has a break in service of three or more years, he/she shall be required to pass the examination before beginning duties as a district police officer, unless he/she meets criteria required by law. (Penal Code 832)

Within two years of the date of first employment, district police officers shall have completed supplementary specialized training, approved by the Commission on Peace Officer Standards and Training, on the unique safety needs of a school environment. (Penal Code 832.3)

The Superintendent or designee may provide district police officers with additional training in other public safety skills, including but not limited to first aid, rescue, cardiopulmonary resuscitation, emergency medical technician training, juvenile procedures and specialized safety equipment. (Education Code 38002)

School police reserve officers shall complete a course of training directly related to the role of school police reserve officers as prescribed in Penal Code 832.2. (Education Code 35021.5)

Equipment

Each district police or security officer shall wear a badge bearing the name of the district, carry an identification card bearing his/her photograph and signature and the signature of the Superintendent, and carry any other identification data required by local law enforcement agencies. (Education Code 38003)

The district shall bear the cost of all required uniforms, equipment, identification badges and cards. (Education Code 38003)

The Board may provide and maintain motor vehicles for use by police or security department staff. When operated by a district officer in the performance of his/her duties, any vehicle is an authorized emergency vehicle and may be equipped and operated as such, as provided by the Vehicle Code. (Education Code 38004)

Personnel Files

Before any record containing an adverse comment is placed in a police officer's personnel file, he/she shall read and sign the record indicating he/she is aware of the comment. The police officer shall have 30 days to file a written response, which shall be attached to the adverse comment. (Government Code 3305-3306)

A police officer may inspect his/her personnel file during usual business hours with no loss of compensation. If the officer believes that any portion of the material is mistakenly or unlawfully placed in the file, the officer may request, in writing, that the mistaken or unlawful portion be corrected or deleted and shall describe the reasons supporting those corrections or deletions. Within 30 days of the request, the Superintendent or designee shall either grant the officer's request or notify the officer of the decision to refuse to grant the request. The Superintendent or designee shall state in writing the reasons for refusing any request. (Government Code 3306.5)

Disciplinary Action

Any investigation of a district police officer that could lead to punitive action shall be conducted in accordance with Government Code 3303-3304.

If the Superintendent or designee decides to impose discipline following investigation and any predisciplinary response or procedure, he/she shall notify the police officer in writing within 30 days of the decision, including the date that the discipline shall be imposed. (Government Code 3304)

Any appeal by a police officer shall be conducted in accordance with Board policy and administrative regulation. (Government Code 3304.5)

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

State References	Description
Bus. Code 7583-7583.4	Private patrol operators - https://simbli.eboardsolutions.com/SU/kBDCgRBUWNgP7GLr6TxJHw==
Ed. Code 35021.5	School police reserve corps
Ed. Code 38000-38005	Security departments
Ed. Code 39672	School peace officers, fingerprinting
Ed. Code 45122.1	Classified employees, conviction of a violent or serious felony
Ed. Code 49079	Notification to teacher; student act constituting grounds for suspension or expulsion
Fam. Code 6240-6274	Emergency protective orders
Gov. Code 3300-3312	Public safety officers, rights and protections
Gov. Code 8597-8598	Peace officers
Pen. Code 12028.5	Taking custody of weapons
Pen. Code 13510-13519.9	Standards for recruitment and training
Pen. Code 13700-13702	Response to domestic violence
Pen. Code 290.45	Sex offenders, authority of peace officers
Pen. Code 646.91	Emergency protective order for stalking
Pen. Code 830-832.9	Peace officers
Pen. Code 830.32	School district and community college police

Pen. Code 830.6	Reserve police officers, powers and duties
Pen. Code 832	Course of training prescribed by Commission on Peace Officer Standards and Training
Pen. Code 832.2	School peace officers; training
Pen. Code 832.7	Disclosure of personnel files in criminal or civil proceedings
Pen. Code 836	Peace officers; warrants
W&I Code 707	List of crimes
W&I Code 828-828.1	Disclosure of information re minors by law enforcement agency

Management Resources References	**Description**
CDE Publication	Safe Schools: A Planning Guide for Action, 2002
Court Case	San Diego Police Officers Association et al. v. City of San Diego Civil Service Commission et al., 104 Cal.App.4th 275 (2002)
Website	Commission on Peace Officer Standards and Training - https://simbli.eboardsolutions.com/SU/Vt9GngNyfZb0gB4c21Z9mg==
Website	Attorney General's Office, Crime and Violence Prevention Center - https://simbli.eboardsolutions.com/SU/39pJjvdP0qJO2kAkdd3h8A==
Website	California Department of Education, Safe Schools - https://simbli.eboardsolutions.com/SU/AxdFslshFpyQ1QPo821fOy9pg==

Cross References	**Description**
0450	Comprehensive Safety Plan - https://simbli.eboardsolutions.com/SU/ymrUEwzwRGOLmy5dybtyiw==
0450	Comprehensive Safety Plan - https://simbli.eboardsolutions.com/SU/yqXemeWgpAB1z0mjDmESfw==
1113	District And School Web Sites - https://simbli.eboardsolutions.com/SU/ODMDFmaqATGsLixNUqGgYg==
1113	District And School Web Sites - https://simbli.eboardsolutions.com/SU/92wfmcN541FlED53K1C2Uw==
1113-E(1)	District And School Web Sites - https://simbli.eboardsolutions.com/SU/w7nYKjqtVfwCcpawAntpluspg==
1250	Visitors/Outsiders - https://simbli.eboardsolutions.com/SU/KqtAfhnyYmNOMmUFSbWaJg==
1250	Visitors/Outsiders - https://simbli.eboardsolutions.com/SU/lUhL9TtJxlH7YZdpa5UJHg==
3515	Campus Security - https://simbli.eboardsolutions.com/SU/DeifKNzy8ewCAslshHo7IKtHA==
3515	Campus Security - https://simbli.eboardsolutions.com/SU/pCh2U58n8XLo7sdGMLSujQ==
3515.2	Disruptions - https://simbli.eboardsolutions.com/SU/GF8ydoNVfCW4zYYv5PkXpg==
3515.2	Disruptions - https://simbli.eboardsolutions.com/SU/NFzTA81FLqplus82yVmHQRriQ==
3515.4	Recovery For Property Loss Or Damage - https://simbli.eboardsolutions.com/SU/XswpsOM6AvMPamfzbI8Vug==
3515.4	Recovery For Property Loss Or Damage - https://simbli.eboardsolutions.com/SU/KsmdzZgR1dWrqykgpaG2Kg==
3515.5	Sex Offender Notification - https://simbli.eboardsolutions.com/SU/0KkyiKHKB37aBu7j8RCXzw==

3515.5	Sex Offender Notification - https://simbli.eboardsolutions.com/SU/HrrQHaa9VD9ZyjOc3E0UdQ==
3515.6	Criminal Background Checks For Contractors - https://simbli.eboardsolutions.com/SU/aKFdC6JdcplusupcWSprpWFpA==
3515.7	Firearms On School Grounds - https://simbli.eboardsolutions.com/SU/DXNlpT9yDOcakygQyXu7Ig==
3516.2	Bomb Threats - https://simbli.eboardsolutions.com/SU/3wslshdUoktzDlfUwxZXBmR1g==
4112.4	Health Examinations - https://simbli.eboardsolutions.com/SU/VHv28XDwUWTDmgNmplusYhAUA==
4112.5	Criminal Record Check - https://simbli.eboardsolutions.com/SU/lDaVyYyEsX2uuayPhodYCw==
4112.5-E(1)	Criminal Record Check - https://simbli.eboardsolutions.com/SU/RwoubYUMsslsh7slshAUvWrC2HpQ==
4112.6	Personnel Files - https://simbli.eboardsolutions.com/SU/emYqUlClLEpQ3N9wg0E4Bg==
4119.43	Universal Precautions - https://simbli.eboardsolutions.com/SU/5vxslshSc21DjNGzgzUinCXdA==
4119.43	Universal Precautions - https://simbli.eboardsolutions.com/SU/0fBMLlgInYCghPZBY2sRLQ==
4158	Employee Security - https://simbli.eboardsolutions.com/SU/KCzi0tNdI594jPAVCTeo6w==
4158	Employee Security - https://simbli.eboardsolutions.com/SU/XMJLZQDB8XYc7b2l9njexg==
4200	Classified Personnel - https://simbli.eboardsolutions.com/SU/Gfarf9slshWqzkn8n8quY1slsh1g==
4200	Classified Personnel - https://simbli.eboardsolutions.com/SU/jhplusY9B5OsA5a9pmo0NV8wg==
4211	Recruitment And Selection - https://simbli.eboardsolutions.com/SU/cDFj5C3slsh0spRWKmYYpRyLA==
4212	Appointment And Conditions Of Employment - https://simbli.eboardsolutions.com/SU/NpFplusnESCyvrT6FLrecexYA==
4212.4	Health Examinations - https://simbli.eboardsolutions.com/SU/j5KgsEwkbz0zSguAkgsplusOA==
4212.5	Criminal Record Check - https://simbli.eboardsolutions.com/SU/K2kSL91OyCcPJiCAGQlplusMw==
4212.5-E(1)	Criminal Record Check - https://simbli.eboardsolutions.com/SU/elWezLExrodwsXFsrcssdw==
4212.6	Personnel Files - https://simbli.eboardsolutions.com/SU/uNiu75vyJXMvsclI7slshOVGg==
4215	Evaluation/Supervision - https://simbli.eboardsolutions.com/SU/BGk7cxSb7N8plusXwplusAAzaUlQ==
4218	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/GUSwT3xmpPplusYjslshd8ehBu0A==
4218	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/k8nuiD3Tt4tRNVM02yUplus4Q==
4219.43	Universal Precautions - https://simbli.eboardsolutions.com/SU/eYTANWH0QslshLHQAJZ5iplusghA==
4219.43	Universal Precautions - https://simbli.eboardsolutions.com/SU/QplusfoUYdpUlxfam7muyACpg==

4231	Staff Development - https://simbli.eboardsolutions.com/SU/L8yP6LVj9KCY0vQ8PORzvA==
4258	Employee Security - https://simbli.eboardsolutions.com/SU/cGXWadkQLplusHneBM7EZHqAw==
4258	Employee Security - https://simbli.eboardsolutions.com/SU/NqOtjmvUnN1v9BJQxbVksA==
4312.4	Health Examinations - https://simbli.eboardsolutions.com/SU/n2s4CeoDPdaplusBzy0QkOCSw==
4312.5	Criminal Record Check - https://simbli.eboardsolutions.com/SU/hslshQwvW7ctM8plus871gvslshe29A==
4312.5-E(1)	Criminal Record Check - https://simbli.eboardsolutions.com/SU/HdBqOe93olNlDwSZ3dCnUQ==
4312.6	Personnel Files - https://simbli.eboardsolutions.com/SU/slshQ37eOVLFslshfF0try0wpUNA==
4319.43	Universal Precautions - https://simbli.eboardsolutions.com/SU/9aslshWj5Vmwx5Tplus3UcdOeRIA==
4319.43	Universal Precautions - https://simbli.eboardsolutions.com/SU/fjdmJlSoeKjiNzfxEXbslshsA==
4358	Employee Security - https://simbli.eboardsolutions.com/SU/5EWHTaLgxESHuiTlOpCctw==
4358	Employee Security - https://simbli.eboardsolutions.com/SU/g0yslsh76plusfSuifL9jeXM4UBg==
5131.4	Student Disturbances - https://simbli.eboardsolutions.com/SU/zvGNUsTplusJZ9Idu4nMrJMVg==
5131.4	Student Disturbances - https://simbli.eboardsolutions.com/SU/eYRNPN71dua4LIcF91qU5w==
5131.5	Vandalism And Graffiti - https://simbli.eboardsolutions.com/SU/XlDmdaf8Z5OMmxytVn78Bg==
5131.6	Alcohol And Other Drugs - https://simbli.eboardsolutions.com/SU/2fZOgaza7FWB0KouzttxEA==
5131.6	Alcohol And Other Drugs - https://simbli.eboardsolutions.com/SU/eP7p7amj6UOAQB1iaTOjdw==
5131.7	Weapons And Dangerous Instruments - https://simbli.eboardsolutions.com/SU/1ua4GmBiqJVrDZxxZWNqLA==
5131.7	Weapons And Dangerous Instruments - https://simbli.eboardsolutions.com/SU/EewqoEClK5UDQqEKcx0plusIA==
5136	Gangs - https://simbli.eboardsolutions.com/SU/jrTieP0XDZWVHYITSQslshF5A==
5136	Gangs - https://simbli.eboardsolutions.com/SU/mmP0dNQsPkcAnZmgFeCjrg==
5141	Health Care And Emergencies - https://simbli.eboardsolutions.com/SU/q3DyJG1cykCEbvwrC4GFrw==
5141	Health Care And Emergencies - https://simbli.eboardsolutions.com/SU/2SKcqtAzQIvlXs6uFEYUKQ==
5142.1	Identification And Reporting Of Missing Children - https://simbli.eboardsolutions.com/SU/aMTsnJvszXTBPdpslshiuY5IA==
5145.11	Questioning And Apprehension By Law Enforcement - https://simbli.eboardsolutions.com/SU/XplusZplus5ZnXfeJGAEHovnlgyQ==
5145.12	Search And Seizure - https://simbli.eboardsolutions.com/SU/YEKhmItwCslsh5YZIPDR9vWMw==
5145.12	Search And Seizure - https://simbli.eboardsolutions.com/SU/kWsBhUGnqmZEopRm1e7oVA==

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Executive Director of Human Resources,
Linda Gonzales

☐ Informational
☒ Action

AGENDA ITEM: FIRST READING AND ADOPTION OF REVISED ADMINISTRATIVE REGULATIONS AND EXHIBIT - 4000 SERIES

BACKGROUND INFORMATION:

The San Ysidro School District has a current agreement with the California School Boards Association (CSBA) for the maintenance of its Board Policy manual. This subscription service provides policy updates and ongoing consulting.

Governing Boards are responsible for the development and compliance of its board policies. They are responsible for adopting and revising policies in keeping with new laws and legislation that impact specific policies and administrative regulations.

Below is the list of revised Board Policies (BP) and Administrative Regulations (AR) in the 4000 Series Business and Noninstructional Operations sections:

- Revised AR 4161.2/4261.2/4361.2 - Personal Leaves
- Revised AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave
- Revised Exhibit 4112.9/4212.9/4312.9 - Employee Notifications

RECOMMENDATION:
Approve the First Reading and Adoption of Revised Administrative Regulations and Exhibit - 4000 series: Revised AR 4161.2/4261.2/4361.2 - Personal Leaves, Revised AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave and Revised Exhibit 4112.9/4212.9/4312.9 - Employee Notifications.

LCAP GOAL AND ACTION/SERVICE (please indicate):

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications? ☐ Yes ☒ No

Are funds for this item available in the 2020-2021 Budget? ☐ Yes ☐ No

Requisition #

N/A	N/A
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

CSBA Sample REVISED

Administrative Regulation

All Personnel AR 4161.2(a)
4261.2
PERSONAL LEAVES 4361.2

Note: The following administrative regulation is subject to collective bargaining agreements.

Personal leaves granted to district employees shall be used as permitted in this administrative regulation, other Board-approved policy or district regulation, or applicable collective bargaining agreement.

Note: ~~As provided in the following paragraph,~~ Family Code 297.5 extends to registered domestic partners the same rights that are available under state law to spouses. Thus, any reference to an employee's spouse throughout this administrative regulation also applies to a registered domestic partner, even if not expressly stated in the applicable state codes (e.g., Education Code, Military and Veterans Code). Districts should consult legal counsel if a question arises as to leave provisions relative to an employee's domestic partner.

For the purpose of any personal leave offered pursuant to state law, a registered domestic partner shall have the same rights, protections, and benefits as a spouse and protections provided to a spouse's child shall also apply to a child of a registered domestic partner. (Family Code 297.5)

Whenever possible, employees shall request personal leaves in advance and prepare suitable instructions, including lesson plans as applicable, for a substitute employee.

(cf. 4121 - Temporary/Substitute Personnel)

Bereavement

Note: Education Code 44985 and 45194 allow the Governing Board to expand the class of relatives listed below and enlarge the benefits provided by law. The following two paragraphs may be revised to reflect district practice.

Employees are entitled to a leave of up to three days, or five days if out-of-state travel is required, upon the death of any member of the employee's immediate family. No deduction shall be made from the employee's salary, nor shall such leave be deducted from any other leave to which the employee is entitled. (Education Code 44985, 45194)

(cf. 4161/4261/4361 - Leaves)

Members of the immediate family include: (Education Code 44985, 45194)

1. The mother, father, grandmother, grandfather, or grandchild of the employee or of the employee's spouse

2. The employee's spouse, son, son-in-law, daughter, daughter-in-law, brother, or sister

AR 4161.2(b)
4261.2
4361.2

PERSONAL LEAVES (continued)

3. Any relative living in the employee's immediate household

At the employee's request, bereavement leave may be extended under personal necessity leave provisions as provided in the section "Personal Necessity" below. (Education Code 44981, 45207)

Personal Necessity

Note: Employees may use a maximum of seven days of accumulated personal illness/injury leave (sick leave) for reasons of personal necessity pursuant to Education Code 44981 (certificated employees) and 45207 (classified employees). Pursuant to Education Code 44981 and 45207, a higher maximum may be set for certificated and/or classified employees in their collective bargaining agreement or by Board resolution for classified employees who are not covered by a collective bargaining agreement. Districts that have established a maximum that is higher than seven days should modify the following paragraph accordingly.

Education Code 45207 clarifies that provisions pertaining to personal necessity leave also apply to districts that have adopted the merit system for classified employees in accordance with Education Code 45240-45320.

Employees may use a maximum of seven days of their accrued personal illness/injury leave (sick leave) during each school year for reasons of personal necessity. (Education Code 44981, 45207)

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)
(cf. 4261.1 - Personal Illness/Injury Leave)

Acceptable reasons for the use of personal necessity leave include:

1. Death of a member of the employee's immediate family when the number of days of absence exceeds the limits set by bereavement leave provisions (Education Code 44981, 45207)

2. An accident involving the employee or ~~his/her~~ **the employee's** property**,** or the person or property of a member of the employee's immediate family (Education Code 44981, 45207)

Note: **Pursuant to** Education Code 44981**,** ~~provides that~~ a certificated employee may use personal necessity leave for the serious illness of a member of ~~his/her~~ **the employee's** immediate family. The Board may extend these provisions to classified employees under the authority granted to the Board by Education Code 45207. Districts are cautioned to consult legal counsel regarding any interaction of Education Code provisions with Labor Code 233, 245.5, and 246.5, ~~as amended by AB 1522 (Ch. 319, Statutes of 2014),~~ which allow the use of sick leave for the need of the employee or ~~his/her~~ family member for the diagnosis, care, or treatment of an existing health condition or for preventive care and which ~~expand~~ **include in** the definition of "family member" ~~to include~~ a registered domestic partner, grandparent, and sibling. See AR 4161.1/4361.1 - Personal Illness/Injury Leave and AR 4261.1 - Personal Illness/Injury Leave.

AR 4161.2(c)

PERSONAL LEAVES (continued)

Also see AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave for federal and state provisions related to leaves for the birth, adoption, or foster placement of a new child; the care of a seriously ill child, parent, or spouse/registered domestic partner; or the employee's own serious health condition.

3. Illness, preventive care, or other need of a member of the employee's family, as defined in Labor Code 245.5 (Education Code 44981; Labor Code 246.5)

(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)

Note: Education Code 45207 provides that classified employees may use sick leave for required court appearances, as provided in item #4 below. Circumstances under which employees may take time off, with pay, for court appearances are described in the section on "Legal Duties" below.

4. A classified employee's appearance in any court or before any administrative tribunal as a litigant, party, or witness under subpoena or other order (Education Code 45207)

Note: Items #5 and #6 are **optional** and may be deleted or modified to reflect district practice.

5. Fire, flood, or other immediate danger to the home of the employee

6. Personal business of a serious nature which the employee cannot disregard

Leave for personal necessity may be allowed for other reasons at the discretion of the Superintendent or designee. However, personal necessity leave shall not be granted for purposes of personal convenience, for the extension of a holiday or vacation, or for matters which can be taken care of outside of working hours. The Superintendent or designee shall have final discretion as to whether ~~or not~~ a request reflects personal necessity.

Note: The following paragraph is **optional**. The district is prohibited from requiring employees to obtain advance permission prior to taking leaves in certain situations. Pursuant to Education Code 44981 and 45207, the district may not require advance permission for leaves taken by classified employees for the reasons specified in items #1-2 above and by certificated employees for the reasons specified in items #1-3 above. In addition, Labor Code 246.5 requires an employer to grant paid sick leave "upon the oral or written request of an employee." According to the Department of Industrial Relations, employers may not require advance notice when the need for the leave was unforeseeable, as in the case of unanticipated illness or a medical emergency.

Also see AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave for requirements pertaining to requests for leaves that qualify under the federal Family and Medical Leave Act (29 USC 2601-2654) or the California Family Rights Act (Government Code 12945.1-12945.2), including provisions that allow employees to provide notice as soon as practicable when 30-day advance notice is not practicable due to lack of knowledge of the date the leave will be needed, a change in circumstances, or a medical emergency.

PERSONAL LEAVES (continued)

Advance permission shall not be required of an employee in any case involving the death of a member of the employee's immediate family, an accident involving the employee's person or property or the person or property of a member of ~~his/her~~ **the employee's** immediate family, or the illness, preventive care, or other need of a member of the employee's family. (Education Code 44981, 45207)

For any leave that is planned, or where the need for leave is foreseeable, an employee shall notify the Superintendent or designee in advance. In all other circumstances, the employee shall notify the Superintendent or designee of the need for the leave as soon as practicable.

Note: Education Code 44981 and 45207 **mandate** the adoption of regulations requiring proof of personal necessity and prescribing the manner of the required proof. The following paragraph may be revised to specify the manner of proof required by the district.

After any absence due to personal necessity, the employee shall verify the absence by submitting a completed and signed district absence form to ~~his/her~~ **the employee's** immediate supervisor.

Legal Duties

Note: Pursuant to Education Code 44037, it is unlawful for the district or personnel commission to (1) adopt any rule, regulation, or policy that encourages employees to seek exemption from jury duty; (2) directly or indirectly solicit or suggest to any employee that ~~he/she~~ **the employee** seek exemption from jury duty; or (3) discriminate against any employee with respect to assignment, employment, promotion, or in any other manner because of ~~his/her~~ **the employee's** service on a jury panel. However, the Board or personnel commission may establish a rule providing that only a percentage of district staff, which shall not be less than two percent, shall be granted such leave with pay at any one time. The following section may be revised to reflect district practice.

Labor Code 230 prohibits the discharge of or discrimination or retaliation against an employee for taking time off for the activities specified in items #1-2 below.

An employee may take time off work in order to: (Labor Code 230)

1. Serve on an inquest jury or trial jury

2. Comply with a subpoena or other court order to appear as a witness

Notices, summons, and subpoenas for court appearances shall be submitted to the district office when requesting leave.

A classified employee called for jury duty shall be granted leave with pay up to the amount of the difference between ~~his/her~~ **the employee's** regular earnings and any amount received for jury fees. (Education Code 44037)

PERSONAL LEAVES (continued)

Note: The following **optional** paragraph is for use by districts that choose to provide leave of absence with pay for certificated employees called for jury duty, as authorized by Education Code 44036. Districts that do not grant such leave should delete this paragraph.

A certificated employee who is called for jury duty also shall be granted leave with pay up to the difference between ~~his/her~~ **the employee's** regular earnings and any jury fees ~~he/she~~ received.

Note: The following paragraph is **optional.** Education Code 44036 allows the Board, at its discretion, to provide paid leaves for employees to appear in court as witnesses other than as litigants or to respond to orders from another governmental jurisdiction. Districts that do not grant such leave should delete this paragraph.

An employee shall be granted leave with pay to appear in court as a witness other than a litigant or to respond to an official order from another governmental jurisdiction for reasons not brought about through the connivance or misconduct of the employee. Such an employee shall receive the difference between ~~his/her~~ **the employee's** regular earnings and any witness fees ~~he/she~~ received.

Leaves for Crime Victims for Judicial Proceedings

Note: Labor Code 230.2 prohibits a district from taking adverse employment action against an employee who takes leave as described below.

An employee may be absent from work in order to attend judicial proceedings related to a crime when ~~he/she~~ **the employee** is a victim, or an immediate family member, registered domestic partner, or child of a registered domestic partner of a victim, of any of the following crimes: (Labor Code 230.2)

1. A violent felony as defined in Penal Code 667.5(c)

2. A serious felony as defined in Penal Code 1192.7(c)

3. A felony provision of law proscribing theft or embezzlement

Note: Pursuant to Labor Code 230.2, employees may use any of the types of leave listed in the following paragraph, unless otherwise provided by a collective bargaining agreement, although a collective bargaining agreement cannot diminish the entitlement of an employee.

For these purposes, the employee may use vacation, personal leave, personal illness/injury leave, unpaid leave, or compensatory time off that is otherwise available to the employee. (Labor Code 230.2)

Prior to taking time off, an employee shall give ~~his/her supervisor~~ **the Superintendent or designee** a copy of the notice of each scheduled proceeding that is provided by the responsible agency, unless advance notice is not feasible. When advance notice is not feasible or an unscheduled absence occurs, the employee shall, within a reasonable time after the absence, provide documentation evidencing the judicial proceeding from the court or government agency setting the hearing, the district attorney or prosecuting attorney's office, or the victim/witness office that is advocating on behalf of the victim. (Labor Code 230.2)

The district shall keep confidential any records pertaining to the employee's absence from work by reason of this leave. (Labor Code 230.2)

Leaves for Victims of ~~Domestic Violence, Sexual Assault and Stalking~~ Crime or Abuse

Note: Labor Code 230 and 230.1 allow employees **who are victims of domestic violence, sexual assault, or stalking** to use their available vacation, personal leave, or compensatory time off for the purposes described in items #1-5 below and prohibit a district from taking adverse employment action against an employee for taking leave for any of those purposes. **Pursuant to Labor Code 230.1, items #2-5 apply to districts with 25 or more employees.**

As amended by AB 2992 (Ch. 224, Statutes of 2020), Labor Code 230 and 230.1 expand these provisions to include employees who are victims of a crime that caused physical injury, or mental injury with a threat of physical injury, and employees whose immediate family member is deceased as the direct result of a crime.

An employee who is a victim of domestic violence, sexual assault, or stalking**, who is a victim of a crime that caused physical injury or that caused mental injury with a threat of physical injury, or whose immediate family member, as defined, is deceased as the direct result of a crime** ~~as defined by law~~ may use vacation, sick leave, personal leave, or compensatory time off that is otherwise available to ~~him/her~~ **the employee** ~~under the terms of his/her employment~~ to attend to the following activities: (Labor Code 230, 230.1, 246.5)

1. Obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or ~~his/her~~ **the employee's** child

2. Seek medical attention for injuries caused by ~~domestic violence, sexual assault, or stalking~~ **crime or abuse**

3. Obtain services from a domestic violence shelter, program, ~~or~~ rape crisis center**, or victim services organization or agency** as a result of ~~domestic violence, sexual assault, or stalking~~ **the crime or abuse**

4. Obtain psychological counseling **or mental health services** related to an experience of ~~domestic violence, sexual assault, or stalking~~ **crime or abuse**

5. Participate in safety planning and take other actions to increase safety from future ~~domestic violence, sexual assault, or stalking~~ **crime or abuse**, including temporary or permanent relocation

Note: Pursuant to Labor Code 230, as amended by AB 2992, the following certification may include documentation from a victim advocate (defined as an individual, whether paid or serving as a volunteer, who provides services to victims under the auspices or supervision of an agency or organization that has a documented record of providing services to victims, a court, or a law enforcement or prosecution agency) or any other form of documentation that reasonably verifies that the crime or abuse occurred, including, but not limited to, a written statement signed by the employee or by an individual acting on the employee's behalf.

Prior to taking time off, an employee shall give reasonable notice to ~~his/her supervisor~~ **the Superintendent or designee**, unless advance notice is not feasible. When an unscheduled absence occurs, the employee shall provide, within a reasonable period of time, certification of the absence in the form of any of the following: (Labor Code 230, 230.1)

1. A police report indicating that the employee was a victim ~~of domestic violence, sexual assault, or stalking~~

2. A court order protecting or separating the employee from the perpetrator of ~~an act of domestic violence, sexual assault, or stalking,~~ **the crime or abuse,** or other evidence from the court or prosecuting attorney that the employee has appeared in court

3. Documentation from a domestic violence or sexual assault counselor as defined in Evidence Code 1037.1 or 1035.2, licensed medical professional or health care provider, **victim advocate,** or counselor that the employee was undergoing treatment **or receiving services** for physical or mental injuries or abuse resulting in victimization from ~~an act of domestic violence, sexual assault, or stalking~~ **the crime or abuse**

4. Any other form of documentation that reasonably verifies that the crime or abuse occurred, including, but not limited to, a written statement signed by the employee or by an individual acting on the employee's behalf certifying that the absence is for a purpose authorized under Labor Code 230 or 230.1

The district shall maintain the confidentiality of such an employee to the extent authorized by law. (Labor Code 230, 230.1)

PERSONAL LEAVES (continued)

Note: Pursuant to Labor Code 230.1, districts with 25 or more employees are required to notify their employees of their rights under Labor Code 230 and 230.1. The district may use a form developed by the Labor Commissioner for this purpose, available on the web site of the Department of Industrial Relations, or may develop its own form that is substantially similar in content and clarity to the Labor Commissioner's form. As amended by AB 2992, Labor Code 230.1 requires the Labor Commissioner to revise the form by January 1, 2022. Until that form is revised, the district should update its form to reflect current law.

The Superintendent or designee shall inform employees of their rights pursuant to Labor Code 230 and 230.1 using a form developed by the Labor Commissioner or a substantially similar form developed by the district. Such information shall be provided to new employees upon hire and to other employees upon request. (Labor Code 230.1)

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

Personal Leave for Child-Related Activities

Note: Pursuant to Labor Code 230.8, the following section applies to any district employing 25 or more employees at the same location. A district with fewer than 25 employees at the same location may use or delete this section at its discretion. ~~SB 579 (Ch. 802, Statutes of 2015) amended Labor Code 230.8 to expand the purposes of leave for child-related activities to include enrolling or reenrolling a child in a school or with a licensed child care provider and addressing a school or child care emergency, as defined.~~

Pursuant to Labor Code 230.8, an employee who is discharged, threatened with discharge, demoted, suspended, or otherwise discriminated against for using the leave is entitled to reinstatement and reimbursement for lost wages and benefits, and an employer who willfully refuses to rehire, promote, or otherwise reinstate such an employee is subject to a civil penalty equal to three times the amount of the lost wages and benefits.

Any employee who is a parent/guardian of one or more children of an age to attend any of grades K-12 or a program offered by a licensed child care provider may use up to 40 hours of personal leave, vacation, or compensatory time off each school year in order to: (Labor Code 230.8)

1. Find, enroll, or reenroll ~~his/her~~ **a** child in a school or with a licensed child care provider or to participate in activities of the school or child care provider, provided the employee gives reasonable advance notice of the absence. Time off for this purpose shall not exceed eight hours in any calendar month.

2. Address a school or child care emergency, provided the employee gives notice. An emergency exists when the child cannot remain in school or with a child care provider due to one of the following circumstances:

a. A request by the school or child care provider that the child be picked up

b. An attendance policy, excluding planned holidays, that prohibits the child from attending or requires that the child be picked up from the school or child care provider

c. Behavioral or discipline problems

d. Closure or unexpected unavailability of the school or child care provider, excluding planned holidays

e. A natural disaster, including, but not limited to, fire, earthquake, or flood

(cf. 5148 - Child Care and Development)

~~Note: SB 579 (Ch. 802, Statutes of 2015) amended Labor Code 230.8 to expand the definition of "parent" to add a stepparent, foster parent, or person who stands in loco parentis to the child.~~

For purposes of this leave, *parent/guardian* includes a parent, guardian, stepparent, foster parent, grandparent, or person who stands in loco parentis to a child. (Labor Code 230.8)

Note: Labor Code 230.8 provides that the employee may use time off without pay to the extent the district makes it available. The following **optional** paragraph may be revised to reflect district practice.

In lieu of using vacation, personal leave, or compensatory time off, eligible employees may take unpaid leave for this purpose.

If two or more parent**s**/guardian**s** of a child are employed at the same work site, this leave shall be allowed for the parent/guardian who first gives notice to the district. Simultaneous absence by another parent/guardian of the child may be granted by the Superintendent or designee. (Labor Code 230.8)

Upon request by the Superintendent or designee, the employee shall provide documentation from the school or licensed child care provider that ~~he/she~~ **the employee** engaged in permitted child-related activities on a specific date and at a particular time. (Labor Code 230.8)

Service on Education Boards and Committees

Upon request, a certificated employee shall be granted up to 20 school days of paid leave per school year for service performed within the state on any education board, commission,

committee, or group authorized by Education Code 44987.3 provided that all of the following conditions are met: (Education Code 44987.3)

1. The service is performed within the state.

2. The board, commission, organization, or group informs the district in writing of the service.

3. The board, commission, organization, or group agrees, prior to the service, to reimburse the district, upon the district's request, for compensation paid to the employee's substitute and for actual related administrative costs.

Employee Organization Activities

Note: The following **optional** section may be deleted by any district whose collective bargaining agreements expressly provide for a paid leave of absence for participation in the activities described in this section.

Education Code 44987 and 45210 provide that certificated and classified employees may take time off without loss of compensation to serve as elected officers of their local, statewide, or national employee organization. Following the district's payment to the employee for the leave of absence, the employee organization must reimburse the district within 10 days after receiving the district's certification of payment of compensation to the employee. This leave of absence is in addition to the release time granted to representatives of an employee organization pursuant to Government Code 3543.1.

Upon request, any certificated or classified employee shall be granted a leave of absence without loss of compensation to serve as an elected officer of a district employee organization or any statewide or national employee organization with which the employee organization is affiliated. The leave shall include, but is not limited to, absence for purposes of attending periodic, stated, special, or regular meetings of the body of the organization. (Education Code 44987, 45210)

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

Note: Education Code 45210 requires districts to grant a paid leave of absence to a reasonable number of classified employees serving as unelected members of the employee organization or a statewide or national public employee organization when the employee attends "important organizational activities authorized by the public employee organization." Compensation must include the required retirement fund contributions. The employee will continue to earn full service credit during the leave and must pay member contributions as specified. The maximum amount of service credit an employee may earn cannot exceed 12 years. Education Code 45210 also requires that an employee organization provide reasonable notification to the district when requesting a leave of absence without loss of compensation for an employee.

Upon request of an employee organization in the district or its state or national affiliate, a reasonable number of unelected classified employees shall be granted a leave of absence without loss of compensation for the purpose of attending important organizational activities authorized by the organization. The employee organization shall provide reasonable notification to the Superintendent or designee when requesting a leave of absence for employees for this purpose. (Education Code 45210)

When leave is granted for any of the above purposes, the employee organization shall reimburse the district within 10 days after receiving the district's certification of payment of compensation to the employee. (Education Code 44987, 45210)

Religious Leave

Note: The following **optional** section is for use by any district that chooses to grant religious leave and may be revised to reflect district practice. A district that does not grant such leave should delete this section. However, the district should consult legal counsel before denying a request for religious leave since the Constitution requires districts to provide "reasonable accommodation" to employee religious practices.

The Superintendent or designee may grant an employee up to three days of leave per year for religious purposes, provided that the leave is requested in advance and that it does not cause additional district expenditures, the neglect of assigned duties, or any other unreasonable hardship on the district.

Note: The following **optional** paragraph reflects the California Supreme Court's interpretation of Article 1, Section 8 of the California Constitution as stated in Rankin v. Commission on Professional Competence.

The Superintendent or designee shall deduct the cost of hiring a substitute, when required, from the wages of the employee who takes religious leave.

No employee shall be discriminated against for using this leave or any additional days of unpaid leave granted for religious observances at the discretion of the Superintendent or designee.

Spouse on Leave from Military Deployment

Note: Military and Veterans Code 395.10 requires any district with 25 or more employees to allow up to 10 days of unpaid leave to an employee whose spouse is on leave from military deployment. A district with fewer than 25 employees may use the following section at its discretion. In addition, 29 USC 2612 authorizes an employee to take up to 26 work weeks of unpaid military caregiver leave or up to 12 weeks of "exigency" leave during a single 12-month period, as determined by the district; see AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave.

An employee who works an average of 20 hours or more per week and whose spouse is a member of the United States Armed Forces, National Guard, or reserves may take up to 10 days of unpaid leave during a period that ~~his/her~~ **the employee's** spouse is on leave from deployment during a military conflict, as defined in Military and Veterans Code 395.10. (Military and Veterans Code 395.10)

Within two business days of receiving official notice that ~~his/her~~ **the employee's** spouse will be on leave from deployment, the employee shall provide the Superintendent or designee with notice of ~~his/her~~ **the** intention to take the leave. The employee shall submit written documentation certifying that ~~his/her~~ **the employee's** spouse will be on leave from deployment during the time that the leave is requested. (Military and Veterans Code 395.10)

Leave for Emergency Duty

Note: Labor Code 230.3 prohibits a district from discharging or discriminating against an employee who takes time off to perform emergency duty as specified below. Labor Code 230.3 defines emergency rescue personnel as a member of a federal, state, local, or private fire department or agency, as well as a sheriff or police department.

An employee may take time off to perform emergency duty as a volunteer firefighter, a reserve peace officer, or emergency rescue personnel. (Labor Code 230.3)

Note: Pursuant to Labor Code 230.4, a district with 50 or more employees must grant an employee who is a volunteer firefighter, reserve peace officer, or emergency rescue personnel a leave of absence for up to 14 days per calendar year for training purposes. A district with fewer than 50 employees may use or delete this paragraph at its discretion.

Any employee who performs duty as a volunteer firefighter, reserve peace officer, or emergency rescue personnel shall be permitted to take temporary leaves of absence, not to exceed an aggregate total of 14 days per calendar year, for the purpose of engaging in fire, law enforcement, or emergency rescue training. (Labor Code 230.4)

Civil Air Patrol Leave

Note: Labor Code 1500-1507 require a district with more than 15 employees to provide at least 10 days of unpaid leave per year, beyond any leave otherwise available to employees, to employees who volunteer with the Civil Air Patrol and are directed to respond to an emergency operational mission, as provided below. Labor Code 1503 specifies that a district may not require an employee to first exhaust all accrued vacation, personal, sick, or any other available leave in order to use Civil Air Patrol leave.

If the district chooses to offer more than 10 days of such leave per year or to provide paid leave, it should modify the following paragraph accordingly. A district with 15 or fewer employees may use or delete this section at its discretion.

An employee may take up to 10 days of unpaid leave per calendar year, beyond any leave otherwise available to ~~him/her~~ **the employee**, to respond to an emergency operational mission of the California Civil Air Patrol, provided that the employee has been employed by the district for at least a 90-day period immediately preceding the leave. Such leaves shall not exceed three days for a single mission, unless an extension is granted by the governmental entity authorizing the mission and is approved by the Superintendent or designee. (Labor Code 1501, 1503)

The employee shall give the district as much advance notice as possible of the intended dates of the leave. The Superintendent or designee may require certification from the proper Civil Air Patrol authority to verify the eligibility of the employee for the leave and may deny the leave if the employee fails to provide the required certification. (Labor Code 1503)

Legal Reference:

EDUCATION CODE
44036-44037 Leaves of absence for judicial and official appearances
44963 Power to grant leaves of absence (certificated)
44981 Leave of absence for personal necessity (certificated)
44985 Leave of absence due to death in immediate family (certificated)
44987 Service as officer of employee organization (certificated)
44987.3 Leave of absence to serve on certain boards, commissions, etc.
45190 Leaves of absence and vacations (classified)
45194 Bereavement leave of absence (classified)
45198 Effect of provisions authorizing leaves of absence
45207 Personal necessity (classified)
45210 Service as officer of employee organization (classified)
45240-45320 Merit system, classified employees
EVIDENCE CODE
1035.2 Sex assault counselor; definition
1037.1 Domestic violence counselor; definition
FAMILY CODE
297-297.5 Registered domestic partner rights, protections, and benefits
GOVERNMENT CODE
3543.1 Release time for representatives of employee organizations
12945.1-12945.2 California Family Rights Act
LABOR CODE
230-230.2 Leave for victims of domestic violence, sexual assault, or specified felonies
230.3 Leave for emergency personnel
230.4 Leave for volunteer firefighters
230.8 Leave to visit child's school
233 Illness of child, parent, spouse, domestic partner or domestic partner's child
234 Absence control policy
246.5 Paid sick days, purposes for use
1500-1507 Civil Air Patrol leave

Legal Reference continued: (see next page)

Legal Reference: (continued)

MILITARY AND VETERANS CODE
395.10 Leave when spouse on leave from military deployment
PENAL CODE
667.5 Violent felony, defined
1192.7 Serious felony, defined
CALIFORNIA CONSTITUTION
Article 1, Section 8 Religious discrimination
UNITED STATES CODE, TITLE 29
2601-2654 Family and Medical Leave Act
UNITED STATES CODE, TITLE 42
2000d-2000d-7 Title VII, Civil Rights Act of 1964
COURT DECISIONS
Rankin v. Commission on Professional Competence, (1988) 24 Cal.3d 167
PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS
Berkeley Council of Classified Employees v. Berkeley Unified School District, (2008) PERB Decision No. 1954

Management Resources:

WEB SITES
California Department of Industrial Relations: http://www.dir.ca.gov
California Federation of Teachers: http://www.cft.org
California School Employees Association: http://www.csea.com
California Teachers Association: http://www.cta.org
Public Employment Relations Board: http://www.perb.ca.gov

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Policy Reference UPDATE Service
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Regulation 4161.2: Personal Leaves

Status: ADOPTED

Original Adopted Date: 07/11/2019 **| Last Reviewed Date:** 07/11/2019

Personal leaves granted to district employees shall be used as permitted in this administrative regulation, other Board-approved policy or district regulation, or applicable collective bargaining agreement.

For the purpose of any personal leave offered pursuant to state law, a registered domestic partner shall have the same rights, protections, and benefits as a spouse and protections provided to a spouse's child shall also apply to a child of a registered domestic partner. (Family Code 297.5)

Whenever possible, employees shall request personal leaves in advance and prepare suitable instructions, including lesson plans as applicable, for a substitute employee.

Personal Necessity

Employees may use a maximum of seven days of their accrued personal illness/injury leave (sick leave) during each school year for reasons of personal necessity. (Education Code 44981, 45207)

Acceptable reasons for the use of personal necessity leave include:

1. Death of a member of the employee's immediate family when the number of days of absence exceeds the limits set by bereavement leave provisions (Education Code 44981, 45207)

2. An accident involving the employee or his/her property or the person or property of a member of the employee's immediate family (Education Code 44981, 45207)

3. Illness, preventive care, or other need of a member of the employee's family, as defined in Labor Code 245.5 (Education Code 44981; Labor Code 246.5)

4. A classified employee's appearance in any court or before any administrative tribunal as a litigant, party, or witness under subpoena or other order (Education Code 45207)

5. Fire, flood, or other immediate danger to the home of the employee

6. Personal business of a serious nature which the employee cannot disregard

Leave for personal necessity may be allowed for other reasons at the discretion of the Superintendent or designee. However, personal necessity leave shall not be granted for purposes of personal convenience, for the extension of a holiday or vacation, or for matters which can be taken care of outside of working hours. The Superintendent or designee shall have final discretion as to whether or not a request reflects personal necessity.

Advance permission shall not be required of an employee in any case involving the death of a member of the employee's immediate family, an accident involving the employee's person or property or the person or property of a member of his/her immediate family, or the illness, preventive care, or other need of a member of the employee's family. (Education Code 44981, 45207)

For any leave that is planned, or where the need for leave is foreseeable, an employee shall notify the Superintendent or designee in advance. In all other circumstances, the employee shall notify the Superintendent or designee of the need for the leave as soon as practicable.

After any absence due to personal necessity, the employee shall verify the absence by submitting a completed and signed district absence form to his/her immediate supervisor.

Legal Duties

An employee may take time off work in order to: (Labor Code 230)

1. Serve on an inquest jury or trial jury

2. Comply with a subpoena or other court order to appear as a witness

Notices, summons, and subpoenas for court appearances shall be submitted to the district office when requesting

leave.

A classified employee called for jury duty shall be granted leave with pay up to the amount of the difference between his/her regular earnings and any amount received for jury fees. (Education Code 44037)

A certificated employee who is called for jury duty also shall be granted leave with pay up to the difference between his/her regular earnings and any jury fees he/she received.

An employee shall be granted leave with pay to appear in court as a witness other than a litigant or to respond to an official order from another governmental jurisdiction for reasons not brought about through the connivance or misconduct of the employee. Such an employee shall receive the difference between his/her regular earnings and any witness fees he/she received.

Leaves for Crime Victims

An employee may be absent from work in order to attend judicial proceedings related to a crime when he/she is a victim, or an immediate family member, registered domestic partner, or child of a registered domestic partner of a victim, of any of the following crimes: (Labor Code 230.2)

1. A violent felony as defined in Penal Code 667.5(c)

2. A serious felony as defined in Penal Code 1192.7(c)

3. A felony provision of law proscribing theft or embezzlement

For these purposes, the employee may use vacation, personal leave, personal illness/injury leave, unpaid leave, or compensatory time off that is otherwise available to the employee. (Labor Code 230.2)

Prior to taking time off, an employee shall give his/her supervisor a copy of the notice of each scheduled proceeding that is provided by the responsible agency, unless advance notice is not feasible. When advance notice is not feasible or an unscheduled absence occurs, the employee shall, within a reasonable time after the absence, provide documentation evidencing the judicial proceeding from the court or government agency setting the hearing, the district attorney or prosecuting attorney's office, or the victim/witness office that is advocating on behalf of the victim. (Labor Code 230.2)

The district shall keep confidential any records pertaining to the employee's absence from work by reason of this leave. (Labor Code 230.2)

Leaves for Victims of Domestic Violence, Sexual Assault and Stalking

An employee who is a victim of domestic violence, sexual assault, or stalking as defined by law may use vacation, sick leave, personal leave, or compensatory time off that is otherwise available to him/her under the terms of his/her employment to attend to the following activities: (Labor Code 230, 230.1, 246.5)

1. Obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or his/her child

2. Seek medical attention for injuries caused by domestic violence, sexual assault, or stalking

3. Obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking

4. Obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking

5. Participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation

Prior to taking time off, an employee shall give reasonable notice to his/her supervisor, unless advance notice is not feasible. When an unscheduled absence occurs, the employee shall provide, within a reasonable period of time, certification of the absence in the form of any of the following: (Labor Code 230, 230.1)

1. A police report indicating that the employee was a victim of domestic violence, sexual assault, or stalking

2. A court order protecting or separating the employee from the perpetrator of an act of domestic violence,

sexual assault, or stalking, or other evidence from the court or prosecuting attorney that the employee has appeared in court

3. Documentation from a domestic violence or sexual assault counselor as defined in Evidence Code 1037.1 or 1035.2, licensed medical professional or health care provider, or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting in victimization from an act of domestic violence, sexual assault, or stalking

The district shall maintain the confidentiality of such an employee to the extent authorized by law. (Labor Code 230, 230.1)

Personal Leave for Child-Related Activities

Any employee who is a parent/guardian of one or more children of an age to attend any of grades K-12 or a program offered by a licensed child care provider may use up to 40 hours of personal leave, vacation, or compensatory time off each school year in order to: (Labor Code 230.8)

1. Find, enroll, or reenroll his/her child in a school or with a licensed child care provider or to participate in activities of the school or child care provider, provided the employee gives reasonable advance notice of the absence. Time off for this purpose shall not exceed eight hours in any calendar month.

2. Address a school or child care emergency, provided the employee gives notice. An emergency exists when the child cannot remain in school or with a child care provider due to one of the following circumstances:

    a. A request by the school or child care provider that the child be picked up

    b. An attendance policy, excluding planned holidays, that prohibits the child from attending or requires that the child be picked up from the school or child care provider

    c. Behavioral or discipline problems

    d. Closure or unexpected unavailability of the school or child care provider, excluding planned holidays

    e. A natural disaster, including, but not limited to, fire, earthquake, or flood

For purposes of this leave, parent/guardian includes a parent, guardian, stepparent, foster parent, grandparent, or person who stands in loco parentis to a child. (Labor Code 230.8)

In lieu of using vacation, personal leave, or compensatory time off, eligible employees may take unpaid leave for this purpose.

If two or more parent/guardian of a child are employed at the same work site, this leave shall be allowed for the parent/guardian who first gives notice to the district. Simultaneous absence by another parent/guardian of the child may be granted by the Superintendent or designee. (Labor Code 230.8)

Upon request by the Superintendent or designee, the employee shall provide documentation from the school or licensed child care provider that he/she engaged in permitted child-related activities on a specific date and at a particular time. (Labor Code 230.8)

Service on Education Boards and Committees

Upon request, a certificated employee shall be granted up to 20 school days of paid leave per school year for service performed within the state on any education board, commission, committee, or group authorized by Education Code 44987.3 provided that all of the following conditions are met: (Education Code 44987.3)

1. The service is performed within the state.

2. The board, commission, organization, or group informs the district in writing of the service.

3. The board, commission, organization, or group agrees, prior to the service, to reimburse the district, upon the district's request, for compensation paid to the employee's substitute and for actual related administrative costs.

Employee Organization Activities

Upon request of an employee organization in the district or its state or national affiliate, a reasonable number of unelected classified employees shall be granted a leave of absence without loss of compensation for the purpose of attending important organizational activities authorized by the organization. The employee organization shall provide reasonable notification to the Superintendent or designee when requesting a leave of absence for employees for this purpose. (Education Code 45210)

When leave is granted for any of the above purposes, the employee organization shall reimburse the district within 10 days after receiving the district's certification of payment of compensation to the employee. (Education Code 44987, 45210)

Spouse on Leave from Military Deployment

An employee who works an average of 20 hours or more per week and whose spouse is a member of the United States Armed Forces, National Guard, or reserves may take up to 10 days of unpaid leave during a period that his/her spouse is on leave from deployment during a military conflict, as defined in Military and Veterans Code 395.10. (Military and Veterans Code 395.10)

Within two business days of receiving official notice that his/her spouse will be on leave from deployment, the employee shall provide the Superintendent or designee with notice of his/her intention to take the leave. The employee shall submit written documentation certifying that his/her spouse will be on leave from deployment during the time that the leave is requested. (Military and Veterans Code 395.10)

Leave for Emergency Duty

An employee may take time off to perform emergency duty as a volunteer firefighter, a reserve peace officer, or emergency rescue personnel. (Labor Code 230.3)

Any employee who performs duty as a volunteer firefighter, reserve peace officer, or emergency rescue personnel shall be permitted to take temporary leaves of absence, not to exceed an aggregate total of 14 days per calendar year, for the purpose of engaging in fire, law enforcement, or emergency rescue training. (Labor Code 230.4)

Civil Air Patrol Leave

An employee may take up to 10 days of unpaid leave per calendar year, beyond any leave otherwise available to him/her, to respond to an emergency operational mission of the California Civil Air Patrol, provided that the employee has been employed by the district for at least a 90-day period immediately preceding the leave. Such leaves shall not exceed three days for a single mission, unless an extension is granted by the governmental entity authorizing the mission and is approved by the Superintendent or designee. (Labor Code 1501, 1503)

The employee shall give the district as much advance notice as possible of the intended dates of the leave. The Superintendent or designee may require certification from the proper Civil Air Patrol authority to verify the eligibility of the employee for the leave and may deny the leave if the employee fails to provide the required certification. (Labor Code 1503)

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

State References	Description
CA Constitution Article 1, Section 8	Religious discrimination - https://simbli.eboardsolutions.com/SU/aVyer3HNWhenL24Ij43Z8w==
Ed. Code 44036-44037	Leaves of absence for judicial and official appearances
Ed. Code 44963	Power to grant leaves of absence (certificated)
Ed. Code 44981	Leave of absence for personal necessity
Ed. Code 44985	Leave of absence due to death in immediate family (certificated)
Ed. Code 44987	Service as officer of employee organization (certificated)
Ed. code 44987.3	Leave of absence to serve on certain boards, commissions, etc.

Ed. Code 45190	Leaves of absence and vacations (classified)
Ed. Code 45194	Bereavement leave of absence (classified)
Ed. Code 45198	Effect of provisions authorizing leaves of absence
Ed. Code 45207	Personal necessity (classified)
Ed. Code 45210	Service as officer of employee organization (classified)
Ed. Code 45240-45320	Merit system
Evid. Code 1035.2	Sex assault counselor; definition
Evid. Code 1037.1	Domestic violence counselor; definition
Fam. Code 297-297.5	Rights, protections, benefits under the law; registered domestic partners
Gov. Code 12945.1-12945.2	California Family Rights Act
Gov. Code 3543.1	Rights of employee organizations
Lab. Code 1500-1507	Civil Air Patrol leave
Lab. Code 230-230.2	Leaves for victims of domestic violence, sexual assault or specified felonies
Lab. Code 230.3	Leave for emergency personnel
Lab. Code 230.4	Leave for volunteer firefighters
Lab. Code 230.8	Time off to visit child's school
Lab. Code 233	Illness of child, parent, spouse or domestic partner
Lab. Code 234	Absence control policy
Lab. Code 246.5	Paid sick days, purposes for use
M&V Code 395.10	Leave when spouse on leave from military deployment
Pen. Code 1192.7	Plea bargaining limitation
Pen. Code 667.5	Prior prison terms, enhancement of prison terms

Federal References	**Description**
29 USC 2601-2654	Family Care and Medical Leave Act
42 USC 2000d-2000d-7	Title VII, Civil Rights Act of 1964

Management Resources References	**Description**
Court Decision	Rankin v. Commission on Professional Competence, (1988) 24 Cal.3d 167
Public Employment Relations Board Decision	Berkeley Council of Classified Employees v. Berkeley Unified School District, (2008) PERB Decision No. 1954
Website	California Public Employment Relations Board - https://simbli.eboardsolutions.com/SU/7Fndg3k626KwCb511Tslsh2ew==
Website	California Federation of Teachers - https://simbli.eboardsolutions.com/SU/6TJlnbikoQhGwsWiH4ztXQ==
Website	California School Employees Association - https://simbli.eboardsolutions.com/SU/NOB1plusNOcLNRMHnggHE1slshjg==
Website	California Teachers Association - https://simbli.eboardsolutions.com/SU/w58tUBBtGnaF0rMUPIwN0g==

Cross References	**Description**
2121	Superintendent's Contract - https://simbli.eboardsolutions.com/SU/SrcoN8hwjplusCBpsEGTwmpaQ==
4121	Temporary/Substitute Personnel - https://simbli.eboardsolutions.com/SU/AsBoDgGI508ngQYc5plusY52g==

4121	Temporary/Substitute Personnel - https://simbli.eboardsolutions.com/SU/jUGqXuU18XDO86onXzLApA==
4140	Bargaining Units - https://simbli.eboardsolutions.com/SU/LiexzhOamREcajLppcPBKg==
4141.6	Concerted Action/Work Stoppage - https://simbli.eboardsolutions.com/SU/MBSgROgVyeslshbOLCrSKHigw==
4141.6	Concerted Action/Work Stoppage - https://simbli.eboardsolutions.com/SU/jXInug02FduI6BJopTIWwQ==
4143	Negotiations/Consultation - https://simbli.eboardsolutions.com/SU/2Cyp5HS4R1aumR0WVV3uCw==
4161	Leaves - https://simbli.eboardsolutions.com/SU/zDXXkWUVmkkyACEi2E1geg==
4161	Leaves - https://simbli.eboardsolutions.com/SU/fiTi5EoO1pzPbDJpVPT6Aw==
4161.1	Personal Illness/Injury Leave - https://simbli.eboardsolutions.com/SU/qeq8f7e5DY77qoCDwPslshYFg==
4161.8	Family Care And Medical Leave - https://simbli.eboardsolutions.com/SU/DuOZfOVZDOKCZdzgplusOkuwQ==
4240	Bargaining Units - https://simbli.eboardsolutions.com/SU/hplusplus9MHrxwEtU9JBHQMWnsA==
4241.6	Concerted Action/Work Stoppage - https://simbli.eboardsolutions.com/SU/xmA3sSWDmrEnN7x0vwdtBQ==
4241.6	Concerted Action/Work Stoppage - https://simbli.eboardsolutions.com/SU/5pB84UEGplus0XZk1O7LzZeiQ==
4243	Negotiations/Consultation - https://simbli.eboardsolutions.com/SU/NPMGKYZBEIAVLaihslshWCDdA==
4261	Leaves - https://simbli.eboardsolutions.com/SU/W7Dj3scSC7JslshyG2kplus1qn4w==
4261	Leaves - https://simbli.eboardsolutions.com/SU/yJEiO4ZjqyAe4tZIyk2enA==
4261.1	Personal Illness/Injury Leave - https://simbli.eboardsolutions.com/SU/uLAw49y7BLfuJvifsTzylQ==
4261.8	Family Care And Medical Leave - https://simbli.eboardsolutions.com/SU/IJ2rIzhGk3SNslshaVdT8UuUQ==
4340	Bargaining Units - https://simbli.eboardsolutions.com/SU/L57KHNCCG5iC8iXszhQkdw==
4361	Leaves - https://simbli.eboardsolutions.com/SU/4lQ5YNGXxXzXLGxVEmgmLA==
4361	Leaves - https://simbli.eboardsolutions.com/SU/OpK9sAPFxy4plusCg1hEjqmwg==
4361.1	Personal Illness/Injury Leave - https://simbli.eboardsolutions.com/SU/54SW1QtzTQTlqHNnR3e8Sw==
4361.8	Family Care And Medical Leave - https://simbli.eboardsolutions.com/SU/FsUJoomfUaJ0q7eHWfTNBA==
5148	Child Care And Development - https://simbli.eboardsolutions.com/SU/IZFXeQlorzyrmnW4nplussOQw==
5148	Child Care And Development - https://simbli.eboardsolutions.com/SU/k6eIyUU4mfoP2Wfyn7poeA==

CSBA Sample REVISED

Administrative Regulation

All Personnel

AR 4161.8(a)
4261.8
4361.8

FAMILY CARE AND MEDICAL LEAVE

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

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

~~As amended by AB 1556 (Ch. 799, Statutes of 2017), Government Code 12945 and 12945.2 delete references to females with regard to pregnancy disability leave and clarify that all employees are protected against pregnancy discrimination regardless of their gender identity.~~

The district shall not deny any eligible employee the right to family care~~;~~ **or** medical **leave**~~, or pregnancy disability leave (PDL)~~ pursuant to the Family and Medical Leave Act (FMLA)~~;~~ **or** the California Family Rights Act(CFRA), **or leave for pregnancy disability pursuant to California Pregnancy Disability Leave (PDL).**~~, or the Fair Employment and Housing Act (FEHA) nor restrain or interfere with the employee's exercise of such right. In addition, t~~**T**he district shall not **interfere with, restrain, or deny the exercise of an employee's right to any such leave, nor shall the district** discharge**,** ~~an employee or~~ discriminate **against,** or retaliate against **an employee** ~~him/her~~ for taking such leave**,** ~~or for his/her opposition to or challenge of~~ **opposing or challenging** an~~y~~ unlawful ~~district~~ **employment** practice in relation to any of these laws**,** or ~~for his/her involvement~~ **being involved** in any related inquiry or proceeding. (Government Code 12945, 12945.2; 2 CCR 11094; 29 USC 2615)

(cf. 4030 - Nondiscrimination in Employment)
(cf. 4032 - Reasonable Accommodation)
(cf. 4033 - Lactation Accommodation)

Definitions

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

Note: Government Code 12945.2, as amended by SB 1383 (Ch. 86, Statutes of 2020), includes a child of a registered domestic partner in the definition of "child" for purposes of CFRA leave.

FAMILY CARE AND MEDICAL LEAVE (continued)

Child ~~*(son or daughter)*~~ means a biological, adopted, or foster child; a stepchild; a legal ward; or a ~~child~~ **person** to whom the employee stands in *loco parentis*~~, as long as the child is under 18 years of age or an adult dependent child~~. **For purposes of CFRA leave, *child* also includes a child of a registered domestic partner.** (Government Code 12945.2; 2 CCR 11087; 29 USC 2611)

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

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

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

1. Unable because of pregnancy to perform any one or more of the essential functions of the job or to perform any of them without undue risk to the employee or other persons or to the pregnancy's successful completion

2. Suffering from severe "morning sickness" or needs to take time off for prenatal or postnatal care, bed rest, gestational diabetes, pregnancy-induced hypertension, preeclampsia, postpartum depression, childbirth, loss or end of pregnancy, recovery from childbirth or loss or end of pregnancy, or any other pregnancy-related condition

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

Note: For purposes of CFRA leave, Government Code 12945.2, as amended by SB 1383, includes an employee's grandparent, grandchild, sibling, and registered domestic partner with a serious health condition as one for whom an employee may take family care and medical leave.

FAMILY CARE AND MEDICAL LEAVE (continued)

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

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

A person is considered an inpatient when **formally admitted to** a health care facility ~~formally admits him/her to the facility~~ with the expectation **of** ~~that he/she will~~ remain**ing** overnight and occupy**ing** a bed, even if it later develops that the person can be discharged or transferred to another facility and does not actually remain overnight.

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

2. Continuing treatment or continuing supervision by a health care provider, including one or more of the following:

a. A period of incapacity of more than three consecutive full days

b. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition

c. Any period of incapacity due to pregnancy or for prenatal care under FMLA

d. Any period of incapacity which is permanent or long term due to a condition for which treatment may not be effective

e. Any period of absence to receive multiple treatments, including recovery, by a health care provider

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

AR 4161.8(d)
4261.8
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FAMILY CARE AND MEDICAL LEAVE (continued)

Eligibility

Note: ~~Pursuant to~~ Government Code 12945.2 and 29 USC 2611**-2612**~~;~~ **require** a district ~~is required~~ to grant family care and medical leave to an eligible employee for any of the reasons stated below. These requirements ~~generally~~ apply to **all public agencies regardless of the number of employees.** ~~circumstances where the district employs 50 or more employees within 75 miles of the worksite where the employee requesting the leave is employed.~~

~~Government Code 12945.6, as added by SB 63 (Ch. 686, Statutes of 2017), extends the right to parental leave to an eligible employee who is not covered by FMLA or CFRA when the district employs 20-49 employees within 75 miles of the worksite where the employee requesting the leave is employed.~~

The district shall grant FMLA or CFRA leave to eligible employees for any of the following reasons: (Government Code 12945.2~~, 12945.6~~; 29 USC 2612; 29 CFR 825.112**, 825.126, 825.127**)

1. The birth of a child of the employee or placement of a child with the employee in connection with the employee's adoption or foster care of the child (parental leave)

2. To care for ~~the employee's child, parent, or spouse~~ **the employee's eligible family member** with a serious health condition

3. The employee's own serious health condition that makes **the employee** ~~him/her~~ unable to perform one or more essential **job** functions of ~~his/her~~ **the** position

Note: Pursuant to 29 CFR 825.126, FMLA military family leave is available to any eligible employee for a qualifying exigency while the employee's spouse, ~~son, daughter~~ **child**, or parent who is a military member is on covered active duty during deployment to a foreign country. **Government Code 12945.2, as amended by SB 1383, provides exigency leave under CFRA for an employee whose registered domestic partner is on active duty.** For requirements related to qualifying exigency leave, see the section "Military Family Leave Resulting from Qualifying Exigencies" below.

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

Note: Pursuant to 29 CFR 825.127, military caregiver leave is available to any eligible employee who is a family member of a covered servicemember with a serious injury or illness. For requirements related to military caregiver leave, see the section on "Military Caregiver Leave" below.

5. To care for a covered servicemember with a serious injury or illness if the covered servicemember is the employee's spouse, child, parent, or next of kin, as defined

AR 4161.8(e)
4261.8
4361.8

FAMILY CARE AND MEDICAL LEAVE (continued)

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

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

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

Terms of Leave

Note: Leaves common to CFRA and FMLA run concurrently so that total leave to which an employee is entitled would be 12 work weeks. **However, when they do not run concurrently, an employee may be eligible for up to 12 work weeks under both CFRA and FMLA, for a total of 24 work weeks.**

An eligible employee shall be entitled to a total of 12 work weeks of FMLA or CFRA leave during any 12-month period, except in the case of leave to care for a covered servicemember as provided under "Military Caregiver Leave" below. To the extent allowed by law, CFRA and FMLA leaves shall run concurrently. **In circumstances where the leaves do not run concurrently under the law, the employee may take up to 12 work weeks for both CFRA and FMLA, for a total of 24 work weeks.** (Government Code 12945.2; 29 USC 2612)

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

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

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

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

FAMILY CARE AND MEDICAL LEAVE (continued)

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

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

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

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

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

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

Note: **Government Code 12945.6, which limited the amount of leave related to the birth or placement of a child to a combined total of 12 work weeks when both parents work for the district, was repealed by SB 1383, thereby allowing both parents to take up to 12 work weeks of leave for this purpose. Although 29 USC 2612 allows the district to limit the aggregate number of work weeks of leave to which two parents may be entitled when both parents work for the district, such leave is covered under both FMLA and CFRA and state law prevails since it provides greater rights to employees.** ~~The following **optional** paragraph is for use by districts that choose to limit family care and medical leave related to the birth or placement of a child to a total of 12 work weeks when both parents work for the district, as authorized by Government Code 12945.2 and 12945.6.~~ ~~However, pursuant to 2 CCR 11088, such limit on employees' entitlement to family care and medical leave for any other qualifying purpose is prohibited.~~

~~If both parents of a child work for the district, their family care and medical leave related to the birth or placement of the child shall be limited to a combined total of 12 work weeks.~~

FAMILY CARE AND MEDICAL LEAVE (continued)

Each eligible employee shall be granted up to 12 work weeks for family care and medical leave related to the birth or placement of a child, regardless of whether both parents of the child work for the district. ~~This restriction shall apply regardless of the legal status of both parents' relationship.~~ ~~(Government Code 12945.2, 12945.6; 2 CCR 11088; 29 USC 2612~~)

Use/Substitution of Paid Leave

Note: The district may require employees (Option 1) or employees may elect (Option 2) to use paid leave during an otherwise unpaid portion of CFRA or FMLA leave **or PDL**. Pursuant to 2 CCR 11044 and 11092, the district may only require an employee to use sick leave if the leave is for the employee's own serious health condition or for PDL, unless mutually agreed to by the district and the employee. ~~The district and employee may also negotiate for the employee's use of any paid or unpaid time off instead of using the employee's CFRA leave.~~

OPTION 1: ~~An employee shall use his/her accrued vacation leave, other accrued time off, and any other paid time off negotiated with the district for any otherwise unpaid FMLA or CFRA leave not involving his/her own serious health condition. For PDL, CFRA, or FMLA leave due to an employee's own serious health condition, the employee shall use accrued sick leave and may use accrued vacation leave and other paid time off at his/her option.~~ **During any otherwise unpaid period of FMLA or CFRA leave, except leave for an employee's own serious health condition, an employee shall use accrued paid leave, including, but not limited to, vacation leave, personal leave, or family leave. If the leave is for the employee's own serious health condition, the employee shall use accrued paid leave, including but not limited to, vacation leave, personal leave, or sick leave. During an unpaid period of PDL, the employee shall use any accrued sick leave and may elect to use any vacation time or other accrued personal time off. (**Government Code 12945, 12945.2~~, 12945.6~~; 2 CCR 11044**, 11092**; 29 USC 2612)

OPTION 2: During ~~the~~ **any otherwise unpaid** period of PDL or any FMLA or CFRA leave, the employee may elect to use ~~his/her~~ accrued vacation leave, ~~accrued sick leave,~~ or any other paid time off negotiated with the district that **the employee** ~~he/she~~ is eligible to use. **If the leave is for the employee's own serious health condition or PDL, the employee may also elect to use accrued sick leave during the period of leave.** (Government Code 12945, 12945.2~~, 12945.6~~; 2 CCR 11044; 11092; 29 USC 2612)

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

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

FAMILY CARE AND MEDICAL LEAVE (continued)

(cf. 4141/4241 - Collective Bargaining Agreement)
(cf. 4161/4261/4361 - Leaves)
(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)
(cf. 4261.1 - Personal Illness/Injury Leave)

Intermittent Leave/Reduced Work or Leave Schedule

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

(cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)

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

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

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

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

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

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

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

FAMILY CARE AND MEDICAL LEAVE (continued)

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

Request for Leave

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

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

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

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

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

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

Based on the information provided by the employee, the Superintendent or designee shall designate the leave, paid or unpaid, as FMLA/CFRA qualifying leave and shall give notice of

FAMILY CARE AND MEDICAL LEAVE (continued)

such designation to the employee. Failure of an employee to respond to permissible inquiries regarding the leave request may result in denial of CFRA protection if the district is unable to determine whether the leave is CFRA qualifying. (2 CCR 11091; 29 CFR 825.300)

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

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

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

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

Certification of Health Condition

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

Districts requiring written medical certification from employees ~~who request reasonable accommodation, transfer, or disability leave because of pregnancy~~ may develop their own form, utilize one provided by the employee's health care provider, or use the form provided in 2 CCR ~~11050 or~~ 11097~~, as applicable~~.

Within five business days of an employee's request for family care and medical leave for ~~his/her own or his/her child's, parent's, or spouse's~~ **the** serious health condition **of the employee or an eligible family member**, the

Superintendent or designee shall request that the employee provide certification by a health care provider of the need for leave. Upon

FAMILY CARE AND MEDICAL LEAVE (continued)

receiving the district's request, the employee shall provide the certification within 15 **calendar** days, unless either the Superintendent or designee provides additional time or it is not practicable under the particular circumstances, despite the employee's diligent, good faith efforts. (2 CCR **11087,** 11091; 29 CFR 825.305)

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

1. The date on which the serious health condition began

2. The probable duration of the condition

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

3. If the employee is requesting leave to care for ~~a child, parent, or spouse~~ **an eligible family member** with a serious health condition, both of the following:

   a. Statement that the serious health condition warrants the participation of the employee to provide care, such as by providing psychological comfort, arranging for third party care, or directly providing or participating in the medical care of ~~the child, parent, or spouse~~ **the eligible family member** during a period of the treatment or supervision

   b. Estimated amount of time the health care provider believes the employee needs to care for the ~~child, parent, or spouse~~ **eligible family member**

4. If the employee is requesting leave because of **the employee's** ~~his/her~~ own serious health condition, a statement that due to the serious health condition, **the employee** ~~he/she~~ is unable to work at all or is unable to perform one or more essential **job** functions **of the position** ~~of his/her job~~

5. If the employee is requesting leave for intermittent treatment or on a reduced work or leave schedule for planned medical treatment, a statement of the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave

FAMILY CARE AND MEDICAL LEAVE (continued)

Note: Government Code 12940 and other provisions of the California Genetic Information Nondiscrimination Act of 2011 prohibit an employer from ~~requesting or requiring genetic information of employees or family members of employees unless specifically authorized by law~~ **making a non-job related inquiry into an employee's genetic information**. A district which believes that an employee's leave may require obtaining this information should consult with legal counsel.

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

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

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

Certification for PDL

Note: The following **optional** section is for use by districts that require an employee to submit a medical certification of the need for leave along with the request for PDL. Districts requiring written medical certification from employees who request reasonable accommodation, transfer, or disability leave because of pregnancy may develop their own form, utilize one provided by the employee's health care provider, or use the form provided in 2 CCR 11050 ~~or 11097, as applicable~~.

~~For PDL, t~~**T**he Superintendent or designee shall request that ~~the~~ **an** employee **who is requesting PDL** provide certification by a health care provider of the need for leave at the time the employee gives notice of the need for PDL, or within two business days of giving the notice. If the need for PDL is unforeseen, the Superintendent or designee shall request the medical certification within two business days after the leave commences. The

FAMILY CARE AND MEDICAL LEAVE (continued)

Superintendent or designee may request certification at some later date if **the Superintendent or designee** ~~he/she~~ has reason to question the appropriateness of the leave or its duration. (2 CCR 11050)

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

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

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

~~Note: Government Code 12940 and other provisions of the California Genetic Information Nondiscrimination Act of 2011 prohibit employers from requesting or requiring genetic information of employees or family members of employees unless specifically authorized by law. A district which believes that an employee's leave may require obtaining this information should consult with legal counsel.~~

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

Release to Return to Work

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

FAMILY CARE AND MEDICAL LEAVE (continued)

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

Upon expiration of an employee's PDL or family care and medical leave taken for **the employee's** ~~his/her~~ own serious health condition, the employee shall present certification from the health care provider **of the employee's ability** ~~that he/she able~~ to resume work. The certification shall address the employee's ability to perform the essential **job** functions of ~~his/her job~~ **the position**.

(cf. 4112.4/4212.4/4312.4 - Health Examinations)

Rights to Reinstatement

Note: Pursuant to Government Code 12945.2, 2 CCR 11043 and 11089, and 29 USC 2614, an employee on PDL or family care and medical leave has the right to be reinstated to the same or a comparable position **upon** ~~when he/she~~ return~~s~~ from such leave. However, such an employee has no greater right to reinstatement or other benefits than **the employee** ~~he/she~~ would have if ~~he/she had been continuously employed~~ **employment had been continuous**. ~~In addition, in certain situations described below, the district may be relieved of the obligation to reinstate an employee.~~ **As amended by SB 1383, Government Code 12945.2 eliminates the district's authority to deny reinstatement of a "key employee" in certain situations.**

~~The process for determining whether an employee is a "key employee" to whom the guarantee of reinstatement would not apply requires a detailed analysis and specific notifications to the employee. Legal counsel should be consulted if the district intends to deny leave or reinstatement.~~

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

~~However, the district may refuse to reinstate an employee returning from FMLA or CFRA leave to the same or a comparable position if all of the following apply: (Government Code 12945.2; 2 CCR 11089; 29 USC 2614)~~

~~1. The employee is a salaried "key employee" who is among the highest paid 10 percent of district employees who are employed within 75 miles of the employee's worksite.~~

~~2. The refusal is necessary to prevent substantial and grievous economic injury to district operations.~~

FAMILY CARE AND MEDICAL LEAVE (continued)

~~3. The district informs the employee of its intent to refuse reinstatement at the time it determines that the refusal is necessary, and the employee fails to immediately return to service.~~

(cf. 4117.3 - Personnel Reduction)
(cf. 4217.3 - Layoff/Rehire)

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

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

Maintenance of Benefits/Failure to Return from Leave

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

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

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

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

In addition, during the period when an employee is on PDL or family care and medical leave, the employee shall be entitled to continue to participate in other employee benefit plans including life insurance, short-term or long-term disability insurance, accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as would apply to an unpaid leave taken for any other purpose. However, for purposes of pension and retirement plans, the district shall not make plan payments for an employee during any unpaid portion of the leave period and the leave period shall not be counted for purposes of time accrued under the plan. (Government Code 12945.2; 2 CCR 11044, 11092)

Military Family Leave Resulting from Qualifying Exigencies

Note: The following **optional** section reflects 29 USC 2611 and 2612 which authorize an eligible employee to take up to 12 work weeks of unpaid FMLA leave to attend to an "exigency" arising out of the fact that the employee's spouse, child, or parent is on active duty or on call to active duty status in the National Guard or Reserves, or is a member of the regular Armed Forces on deployment to a foreign country. **Pursuant to Government Code 12945.2, as amended by SB 1383, an employee may take unpaid leave under CFRA to attend to an exigency involving the employee's registered domestic partner.**

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

~~Because CFRA does not cover similar leave, CFRA leave is not exhausted when utilizing military family leave.~~

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

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

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

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

1. Address issues arising from short notice deployment of up to seven calendar days from the date of receipt of call or order of short notice deployment

2. Attend military events and related activities, such as any official ceremony or family assistance program related to the covered active duty or call to covered active duty status

3. Arrange child care or attend school activities arising from the covered active duty or call to covered active duty, such as arranging for alternative child care, enrolling or transferring a child to a new school, or attending meetings

4. Make or update financial and legal arrangements to address a military member's absence

5. Attend counseling provided by someone other than a health care provider

6. Spend time (up to 15 **calendar** days of leave per instance) with a military member who is on short-term, temporary, rest and recuperation leave during deployment

7. Attend to certain post-deployment activities, such as arrival ceremonies or reintegration briefings

8. Care for a military member's parent who is incapable of self-care when the care is necessitated by the military member's covered active duty

9. Address any other event that the employee and district agree is a qualifying exigency

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

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

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

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

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

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

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

Military Caregiver Leave

Note: 29 USC 2612 and 29 CFR 825.127 authorize an eligible employee to take up to 26 work weeks of unpaid military caregiver leave, as defined below, during a single 12-month period. ~~As is the case with other FMLA leaves, only districts that employ at least 50 employees within 75 miles of the worksite where the employee requesting the leave is employed are required to grant the military caregiver leave; see the section entitled "Eligibility" above.~~ According to DOL's Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers, if an employee does not use the entire 26-week entitlement in a single 12-month period, unused weeks cannot be carried over into another 12-month period. However, the employee may qualify for nonmilitary FMLA leave.

The district shall grant an eligible employee up to a total of 26 work weeks of leave during a single 12-month period, measured forward from the first date the leave is taken, to care for a covered servicemember with a serious illness or injury. In order to be eligible for such military caregiver leave, the employee must be the spouse, ~~son, daughter~~ **child**, parent, or

next of kin of the covered servicemember. This 26-week period is not in addition to, but rather is inclusive of, the 12 work weeks of leave that may be taken for other FMLA qualifying reasons. (29 USC 2611, 2612; 29 CFR 825.127)

Covered servicemember may be: (29 CFR 825.127)

1. A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness

2. A veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran

Note: Unlike the provisions for other FMLA/CFRA leave, 29 CFR 825.127 places no age limit on the definition of "~~son or daughter~~ **child**," as detailed below. In addition, 29 CFR 825.127 defines "next of kin" of a covered servicemember in relation to military caregiver leave.

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

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

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

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

Note: 29 USC 2611 defines "serious injury or illness" for active members of the Armed Forces and for *veterans*, as provided below. Pursuant to 29 CFR 825.127, one of the four conditions listed in item #2 below must be present for a veteran's injury or illness to qualify as a "serious injury or illness" for the purpose of this leave.

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

1. For a current member of the Armed Forces, an injury or illness incurred by the member in the line of duty on active duty, or that existed before the beginning of the member's active duty and was aggravated by the member's service in the line of duty while on active duty in the Armed Forces, and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.

2. For a veteran, an injury or illness incurred or aggravated by the member's service in the line of duty on active duty in the Armed Forces, including the National Guard or Reserves, that manifested itself before or after the member became a veteran and that is at least one of the following:

a. A continuation of a serious injury or illness incurred or aggravated while the veteran was a member of the Armed Forces and rendered **the servicemember** ~~him/her~~ unable to perform the duties of **the servicemember's** ~~his/her~~ office, grade, rank, or rating

b. A physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs (VA) Service-Related Disability Rating of 50 percent or greater, based wholly or partly on that physical or mental condition

c. A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of one or more disabilities related to **the servicemember's** ~~his/her~~ military service or that would do so but for treatment received by the veteran

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

Note: As is the case for other types of FMLA/CFRA leave, 29 CFR 825.302 ~~and 825.303~~ require**s** the employee, when the need for the leave is foreseeable, to provide 30 days advance notice to the district before the leave is to begin.

The employee shall provide reasonable and practicable notice of the need for the leave in accordance with the procedures in the section entitled "Request for Leave" above.

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

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

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

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

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

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

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

Notifications

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

FAMILY CARE AND MEDICAL LEAVE (continued)

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

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

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

Note: Pursuant to 2 CCR 11050 and 11091, a district may require an employee, when the need for the leave is foreseeable, to provide at least 30 days advance notice before the leave is to begin; see the section entitled "Request for Leave" above. 2 CCR 11049 and 11091 specify that districts requiring such notice from employees must give them "reasonable advance notice" of their obligation and that incorporation of the requirement into the general notice satisfies the "advance notice" requirement.

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

The general notice shall also explain an employee's obligation to provide the Superintendent or designee with at least 30 days' notice of the need for the requested leave, when the need is reasonably foreseeable at least 30 days prior to the start of the leave. (2 CCR **11049,** 11050, 11091)

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

2. **Eligibility Notice:** When an employee requests leave, including PDL, or when the Superintendent or designee acquires knowledge that an employee's leave may be for an FMLA/CFRA qualifying reason, the Superintendent or designee shall, within five business days, provide notification to the employee of ~~his/her~~ eligibility to take such leave. (2 CCR 11049, 11091; 29 CFR 825.300)

3. **Rights and Responsibilities Notice:** Each time the eligibility notice is provided to an employee, the Superintendent or designee shall provide written notification explaining the specific expectations and obligations of the employee, including any consequences for a failure to meet those obligations. Such notice shall include, as applicable: (29 CFR 825.300)

a. A statement that the leave may be designated and counted against the employee's annual FMLA/CFRA leave entitlement and the appropriate 12-month entitlement period, if qualifying

FAMILY CARE AND MEDICAL LEAVE (continued)

Note: Item #3b below is for use by districts that require medical certification to the effect that the employee is able to resume work. See the section entitled "Release to Return to Work" above.

b. Any requirements for the employee to furnish medical certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of

active duty or call to active duty status and the consequences of failing to provide the certification

c. The employee's right to use paid leave, whether the district will require use of paid leave, conditions related to any use of paid leave, and the employee's entitlement to take unpaid leave if the employee does not meet the conditions for paid leave

d. Any requirements for the employee to make premium payments necessary to maintain health benefits, the arrangement for making such payments, and the possible consequences of failure to make payments on a timely basis

~~e. The employee's status as a "key employee" if applicable, potential consequence that restoration may be denied following the FMLA leave, and explanation of the conditions required for such denial~~

~~f.~~**e.** The employee's right to maintenance of benefits during the leave and restoration to the same or an equivalent job upon return from leave

~~g.~~**f.** The employee's potential liability for health insurance premiums paid by the district during the employee's unpaid FMLA leave should the employee not return to service after the leave

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

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

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FAMILY CARE AND MEDICAL LEAVE (continued)

If the amount of leave needed is known, the notice shall include the number of hours, days, or weeks that will be counted against the employee's FMLA/CFRA entitlement. If it is not possible to provide that number at the time of the designation notice, notification shall be provided of the amount of leave

counted against the employee's entitlement upon request by the employee and at least once in every 30-day period if leave was taken in that period. (29 CFR 825.300)

Note: 29 CFR 825.300 requires the designation notice to specify whether the district requires paid leave to be used during an otherwise unpaid family care and medical leave, whether the district requires an employee to present release to return to work certification, and whether that certification must address the employee's ability to perform the essential functions of the job. See the sections entitled "Use/Substitution of Paid Leave" and "Release to Return to Work" above. The following paragraph should be revised to reflect district practice.

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

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

Records

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

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

Legal Reference: (see next page)

Legal Reference:

EDUCATION CODE
44965 Granting of leaves of absence for pregnancy and childbirth

FAMILY CODE
297-297.5 Rights, protections, and benefits under law; registered domestic partners
300 Validity of marriage
GOVERNMENT CODE
12926 Fair employment and housing act, definitions
12940 Unlawful employment practices
12945 Pregnancy; childbirth or related medical condition; unlawful practice
12945.1-12945.2 California Family Rights Act
~~*12945.6 Parental leave*~~
12946 Fair Employment and Housing Act: discrimination prohibited
UNEMPLOYMENT INSURANCE CODE
3300-3308 Paid family leave
CODE OF REGULATIONS, TITLE 2
11035-11051 Sex discrimination: pregnancy, childbirth and related medical conditions
*11087-1109**78** California Family Rights Act*
UNITED STATES CODE, TITLE 1
*7 Definition of marriage **and spouse***
UNITED STATES CODE, TITLE 29
2601-2654 Family and Medical Leave Act of 1993, as amended
UNITED STATES CODE, TITLE 42
2000ff-1-2000ff-11 Genetic Information Nondiscrimination Act of 2008
CODE OF FEDERAL REGULATIONS, TITLE 29
825.100-825.702 Family and Medical Leave Act of 1993
COURT DECISIONS
*United States v. Windsor, (201**23**) 699 F.3d 169*
Faust v. California Portland Cement Company, (2007) 150 Cal.App.4th 864
Tellis v. Alaska Airlines, (9th Cir., 2005) 414 F.3d 1045

Management Resources:
U.S. DEPARTMENT OF LABOR PUBLICATIONS
Certification of Health Care Provider for Family Member's Serious Health Condition under the Family and Medical Leave Act, Form WH-380-F
~~*Military Family Leave Provisions of the*~~ *FMLA Frequently Asked Questions* ~~*and Answers*~~
CALIFORNIA DEPARTMENT OF HUMAN RESOURCES PUBLICATIONS
Questions and Answers - Military Family Leave - FMLA
WEB SITES
California Department of Fair Employment and Housing: http://www.dfeh.ca.gov
California Department of Human Resources: https://www.calhr.ca.gov
U.S. Department of Labor, FMLA: http://www.dol.gov/whd/fmla

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Policy Reference UPDATE Service
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Regulation 4161.8: Family Care And Medical Leave

Status: ADOPTED

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The district shall not deny any eligible employee the right to family care, medical, or pregnancy disability leave (PDL) pursuant to the Family and Medical Leave Act (FMLA), the California Family Rights Act (CFRA), or the Fair Employment and Housing Act (FEHA) nor restrain or interfere with the employee's exercise of such right. In addition, the district shall not discharge an employee or discriminate or retaliate against him/her for taking such leave or for his/her opposition to or challenge of any unlawful district practice in relation to any of these laws or for his/her involvement in any related inquiry or proceeding. (Government Code 12945, 12945.2; 2 CCR 11094; 29 USC 2615)

Definitions

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

Child (son or daughter) means a biological, adopted, or foster child; a stepchild; a legal ward; or a child to whom the employee stands in loco parentis, as long as the child is under 18 years of age or an adult dependent child. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611)

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

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

1. Unable because of pregnancy to perform any one or more of the essential functions of the job or to perform any of them without undue risk to the employee or other persons or to the pregnancy's successful completion

2. Suffering from severe "morning sickness" or needs to take time off for prenatal or postnatal care, bed rest, gestational diabetes, pregnancy-induced hypertension, preeclampsia, postpartum depression, childbirth, loss or end of pregnancy, recovery from childbirth or loss or end of pregnancy, or any other pregnancy-related condition

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

Serious health condition means an illness, injury (including, but not limited to, on-the-job injuries), impairment, or physical or mental condition of the employee or his/her child, parent, or spouse, including, but not limited to, treatment for substance abuse, that involves either of the following: (Government Code 12945.2; 2 CCR 11087, 11097; 29 USC 2611; 29 CFR 825.113-825.115)

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

   A person is considered an inpatient when a health care facility formally admits him/her to the facility with the expectation that he/she will remain overnight and occupy a bed, even if it later develops that the person can be discharged or transferred to another facility and does not actually remain overnight.

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

2. Continuing treatment or continuing supervision by a health care provider, including one or more of the following:

   a. A period of incapacity of more than three consecutive full days

   b. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition

c. Any period of incapacity due to pregnancy or for prenatal care under FMLA

d. Any period of incapacity which is permanent or long term due to a condition for which treatment may not be effective

e. Any period of absence to receive multiple treatments, including recovery, by a health care provider

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

Eligibility

The district shall grant FMLA or CFRA leave to eligible employees for any of the following reasons: (Government Code 12945.2, 12945.6; 29 USC 2612; 29 CFR 825.112)

1. The birth of a child of the employee or placement of a child with the employee in connection with the employee's adoption or foster care of the child (parental leave)

2. To care for the employee's child, parent, or spouse with a serious health condition

3. The employee's own serious health condition that makes him/her unable to perform one or more essential functions of his/her position

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

5. To care for a covered servicemember with a serious injury or illness if the covered servicemember is the employee's spouse, child, parent, or next of kin, as defined

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

Terms of Leave

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

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

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

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

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

If both parents of a child work for the district, their family care and medical leave related to the birth or placement of the child shall be limited to a combined total of 12 work weeks. This restriction shall apply regardless of the legal status of both parents' relationship. (Government Code 12945.2, 12945.6; 2 CCR 11088; 29 USC 2612)

Use/Substitution of Paid Leave

An employee shall use his/her accrued vacation leave, other accrued time off, and any other paid time off negotiated

with the district for any otherwise unpaid FMLA or CFRA leave not involving his/her own serious health condition. For PDL, CFRA, or FMLA leave due to an employee's own serious health condition, the employee shall use accrued sick leave and may use accrued vacation leave and other paid time off at his/her option. (Government Code 12945, 12945.2, 12945.6; 2 CCR 11044; 29 USC 2612)

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

Intermittent Leave/Reduced Work or Leave Schedule

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

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

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

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

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

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

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

Request for Leave

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

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

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

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

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

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

Certification of Health Condition

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

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

1. The date on which the serious health condition began

2. The probable duration of the condition

3. If the employee is requesting leave to care for a child, parent, or spouse with a serious health condition, both of the following:

    a. Statement that the serious health condition warrants the participation of the employee to provide care, such as by providing psychological comfort, arranging for third party care, or directly providing or participating in the medical care of the child, parent, or spouse during a period of the treatment or supervision

    b. Estimated amount of time the health care provider believes the employee needs to care for the child, parent, or spouse

4. If the employee is requesting leave because of his/her own serious health condition, a statement that due to the serious health condition, he/she is unable to work at all or is unable to perform one or more essential functions of his/her job

5. If the employee is requesting leave for intermittent treatment or on a reduced work or leave schedule for planned medical treatment, a statement of the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave

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

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

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

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

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

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

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

Release to Return to Work

Upon expiration of an employee's PDL or family care and medical leave taken for his/her own serious health condition, the employee shall present certification from the health care provider that he/she is able to resume work. The certification shall address the employee's ability to perform the essential functions of his/her job.

Rights to Reinstatement

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

However, the district may refuse to reinstate an employee returning from FMLA or CFRA leave to the same or a comparable position if all of the following apply: (Government Code 12945.2; 2 CCR 11089; 29 USC 2614)

1. The employee is a salaried "key employee" who is among the highest paid 10 percent of district employees who are employed within 75 miles of the employee's worksite.

2. The refusal is necessary to prevent substantial and grievous economic injury to district operations.

3. The district informs the employee of its intent to refuse reinstatement at the time it determines that the refusal is necessary, and the employee fails to immediately return to service.

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

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

Maintenance of Benefits/Failure to Return from Leave

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

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

In addition, during the period when an employee is on PDL or family care and medical leave, the employee shall be entitled to continue to participate in other employee benefit plans including life insurance, short-term or long-term disability insurance, accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as would apply to an unpaid leave taken for any other purpose. However, for purposes of pension and retirement plans, the district shall not make plan payments for an employee during any unpaid portion of the leave period and the leave period shall not be counted for purposes of time accrued under the plan. (Government Code 12945.2; 2 CCR 11044, 11092)

Military Family Leave Resulting from Qualifying Exigencies

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

Covered active duty means duty during the deployment of a member of the regular Armed Forces to a foreign country or duty during the deployment of a member of the National Guard or Reserves to a foreign country under a call or an order to active duty in support of a contingency operation pursuant to law. (29 USC 2611; 29 CFR 825.126)

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

1. Address issues arising from short notice deployment of up to seven calendar days from the date of receipt of call or order of short notice deployment

2. Attend military events and related activities, such as any official ceremony or family assistance program related to the covered active duty or call to covered active duty status

3. Arrange child care or attend school activities arising from the covered active duty or call to covered active duty, such as arranging for alternative child care, enrolling or transferring a child to a new school, or attending meetings

4. Make or update financial and legal arrangements to address a military member's absence

5. Attend counseling provided by someone other than a health care provider

6. Spend time (up to 15 days of leave per instance) with a military member who is on short-term, temporary, rest and recuperation leave during deployment

7. Attend to certain post-deployment activities, such as arrival ceremonies or reintegration briefings

8. Care for a military member's parent who is incapable of self-care when the care is necessitated by the military member's covered active duty

9. Address any other event that the employee and district agree is a qualifying exigency

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

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

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

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

Military Caregiver Leave

The district shall grant an eligible employee up to a total of 26 work weeks of leave during a single 12-month period, measured forward from the first date the leave is taken, to care for a covered servicemember with a serious illness or injury. In order to be eligible for such military caregiver leave, the employee must be the spouse, son, daughter, parent, or next of kin of the covered servicemember. This 26-week period is not in addition to, but rather is inclusive of, the 12 work weeks of leave that may be taken for other FMLA qualifying reasons. (29 USC 2611, 2612; 29 CFR 825.127)

Covered servicemember may be: (29 CFR 825.127)

1. A current member of the Armed Forces, including a member of the National Guard or Reserves, who is

undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness

2. A veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran

Son or daughter of a covered servicemember means the biological, adopted, or foster child, stepchild, legal ward, or a child of any age for whom the covered servicemember stood in loco parentis. (29 CFR 825.127)

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

Next of kin means the nearest blood relative to the covered servicemember, or as designated in writing by the covered servicemember. (29 USC 2611, 2612)

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

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

1. For a current member of the Armed Forces, an injury or illness incurred by the member in the line of duty on active duty, or that existed before the beginning of the member's active duty and was aggravated by the member's service in the line of duty while on active duty in the Armed Forces, and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.

2. For a veteran, an injury or illness incurred or aggravated by the member's service in the line of duty on active duty in the Armed Forces, including the National Guard or Reserves, that manifested itself before or after the member became a veteran and that is at least one of the following:

    a. A continuation of a serious injury or illness incurred or aggravated while the veteran was a member of the Armed Forces and rendered him/her unable to perform the duties of his/her office, grade, rank, or rating

    b. A physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs (VA) Service-Related Disability Rating of 50 percent or greater, based wholly or partly on that physical or mental condition

    c. A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of one or more disabilities related to his/her military service or that would do so but for treatment received by the veteran

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

The employee shall provide reasonable and practicable notice of the need for the leave in accordance with the procedures in the section entitled "Request for Leave" above.

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

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

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

Notifications

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

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

   The general notice shall also explain an employee's obligation to provide the Superintendent or designee with at least 30 days notice of the need for the requested leave, when the need is reasonably foreseeable at least 30 days prior to the start of the leave. (2 CCR 11050, 11091)

2. Eligibility Notice: When an employee requests leave, including PDL, or when the Superintendent or designee acquires knowledge that an employee's leave may be for an FMLA/CFRA qualifying reason, the Superintendent or designee shall, within five business days, provide notification to the employee of his/her eligibility to take such leave. (2 CCR 11049, 11091; 29 CFR 825.300)

3. Rights and Responsibilities Notice: Each time the eligibility notice is provided to an employee, the Superintendent or designee shall provide written notification explaining the specific expectations and obligations of the employee, including any consequences for a failure to meet those obligations. Such notice shall include, as applicable: (29 CFR 825.300)

   a. A statement that the leave may be designated and counted against the employee's annual FMLA/CFRA leave entitlement and the appropriate 12-month entitlement period, if qualifying

   b. Any requirements for the employee to furnish medical certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of active duty or call to active duty status and the consequences of failing to provide the certification

   c. The employee's right to use paid leave, whether the district will require use of paid leave, conditions related to any use of paid leave, and the employee's entitlement to take unpaid leave if the employee does not meet the conditions for paid leave

   d. Any requirements for the employee to make premium payments necessary to maintain health benefits, the arrangement for making such payments, and the possible consequences of failure to make payments on a timely basis

   e. The employee's status as a "key employee" if applicable, potential consequence that restoration may be denied following the FMLA leave, and explanation of the conditions required for such denial

   f. The employee's right to maintenance of benefits during the leave and restoration to the same or an equivalent job upon return from leave

   g. The employee's potential liability for health insurance premiums paid by the district during the employee's unpaid FMLA leave should the employee not return to service after the leave

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

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

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

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

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

Records

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

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

State References	Description
2 CCR 11035-11051	Unlawful sex discrimination: pregnancy, childbirth and related medical conditions - https://simbli.eboardsolutions.com/SU/GplusgYNhBplus6hlimWMyAuhwJw==
2 CCR 11087-11098	California Family Rights Act - https://simbli.eboardsolutions.com/SU/abM0slshHCKrMbGboplusCdDilag==
Ed. Code 44965	Granting of leaves of absence for pregnancy and childbirth
Fam. Code 297-297.5	Rights, protections, benefits under the law; registered domestic partners
Fam. Code 300	Definition of marriage
Gov. Code 12926	Definitions
Gov. Code 12940	Unlawful discriminatory employment practices
Gov. Code 12945	Unlawful discrimination based on pregnancy, childbirth, or related medical conditions
Gov. Code 12945.1-12945.2	California Family Rights Act
Gov. Code 12945.6	Parental leave
Gov. Code 12946	Fair employment and Housing Act: discrimination prohibited

Federal References	Description
1 USC 7	Definition of marriage, spouse - https://simbli.eboardsolutions.com/SU/znal4bZkEoCQ5lLKxeKqGw==
29 CFR 825.100-825.702	Family and Medical Leave Act of 1993
29 USC 2601-2654	Family Care and Medical Leave Act
42 USC 2000ff-2000ff-11	Genetic Information Nondiscrimination Act of 2008

Management Resources References	Description
Court Decision	United States v. Windsor, (2013) 699 F.3d 169
Court Decision	Faust v. California Portland Cement Company, (2007) 150 Cal.App.4th 864
Court Decision	Tellis v. Alaska Airlines, (9th Cir., 2005) 414 F.3d 1045
U.S. Department of Labor Publication	Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers
Website	U.S. Department of Labor, FMLA - https://simbli.eboardsolutions.com/SU/gTctHyc7Ra9nNTUgNmxAhw==

Website	California Department of Fair Employment and Housing - https://simbli.eboardsolutions.com/SU/RRvNseNogmlnMLyl8K40jw==

Cross References	Description
0410	Nondiscrimination In District Programs And Activities - https://simbli.eboardsolutions.com/SU/ngt3fUOS2yQJJKmjn5yXsQ==
0470	COVID-19 Mitigation Plan - https://simbli.eboardsolutions.com/SU/SiSNfRBcgke1plusJnTsbDR8w==
2121	Superintendent's Contract - https://simbli.eboardsolutions.com/SU/SrcoN8hwjplusCBpsEGTwmpaQ==
4030	Nondiscrimination In Employment - https://simbli.eboardsolutions.com/SU/0K9SXG925gTiNj2pRtMpXQ==
4030	Nondiscrimination In Employment - https://simbli.eboardsolutions.com/SU/slshVbQa5lcplus7jCyplusN0vaOJnw==
4032	Reasonable Accommodation - https://simbli.eboardsolutions.com/SU/IP2ckslshv29XTxZtLjhslsh3MLg==
4033	Lactation Accommodation - https://simbli.eboardsolutions.com/SU/T0scHHvuAUFPuitvQL2Tuw==
4112.2	Certification - https://simbli.eboardsolutions.com/SU/Qslsh03yMjDLRtnlQ7wtNmjLA==
4112.2	Certification - https://simbli.eboardsolutions.com/SU/AXaYWsoBkMdIXi32NkoE8Q==
4112.4	Health Examinations - https://simbli.eboardsolutions.com/SU/VHv28XDwUWTDmgNmplusYhAUA==
4112.9	Employee Notifications - https://simbli.eboardsolutions.com/SU/8BF4XXtThplusHyMYDG4JT3fw==
4112.9-E(1)	Employee Notifications - https://simbli.eboardsolutions.com/SU/URm8f8Y9UWWByR30slshlaKDw==
4117.3	Personnel Reduction - https://simbli.eboardsolutions.com/SU/3K9y3slshTHkNy9kh1RvQpmyQ==
4141	Collective Bargaining Agreement - https://simbli.eboardsolutions.com/SU/xwnOCLKsXtmuocOUh5Qjjg==
4154	Health And Welfare Benefits - https://simbli.eboardsolutions.com/SU/haplusOjplus0Lu2FslshS6slsh1dTDpiA==
4154	Health And Welfare Benefits - https://simbli.eboardsolutions.com/SU/RtHnCNGFzN91fPKpluszTCrOQ==
4161	Leaves - https://simbli.eboardsolutions.com/SU/zDXXkWUVmkkyACEi2E1geg==
4161	Leaves - https://simbli.eboardsolutions.com/SU/fiTi5EoO1pzPbDJpVPT6Aw==
4161.1	Personal Illness/Injury Leave - https://simbli.eboardsolutions.com/SU/qeq8f7e5DY77qoCDwPslshYFg==
4161.2	Personal Leaves - https://simbli.eboardsolutions.com/SU/VgcVq8jDplusYzJtHwJ9uGsCA==
4161.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/jBZTdslshFphFP7Nfzlplusjp5vg==
4161.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/6T3fQEzB1OivVbH5JRgQmw==
4212.4	Health Examinations - https://simbli.eboardsolutions.com/SU/j5KgsEwkbz0zSguAkgsplusOA==
4212.42	Drug And Alcohol Testing For School Bus Drivers - https://simbli.eboardsolutions.com/SU/slshA9CecoKWpMbLf7OzHxURQ==

4212.42	Drug And Alcohol Testing For School Bus Drivers - https://simbli.eboardsolutions.com/SU/JShFUWwrcUXukqOropY1slshw==
4212.9	Employee Notifications - https://simbli.eboardsolutions.com/SU/Whi8UKXYLR1N5t2qid1APg==
4212.9-E(1)	Employee Notifications - https://simbli.eboardsolutions.com/SU/bKgNwdQAUULSpluscGFRsLmXQ==
4217.3	Layoff/Rehire - https://simbli.eboardsolutions.com/SU/QxcxtBw2dyyhKmGmvoc8lg==
4241	Collective Bargaining Agreement - https://simbli.eboardsolutions.com/SU/JCYf2renplusU4WzdhvY7glplusA==
4254	Health And Welfare Benefits - https://simbli.eboardsolutions.com/SU/LyPHx1aFqhqrnPjFchr8fw==
4254	Health And Welfare Benefits - https://simbli.eboardsolutions.com/SU/Aolbe0XsyKo7WnK93lnvlg==
4259	Employee Assistance Programs - https://simbli.eboardsolutions.com/SU/0diS1slshgzyplusXplus78avZIDDIQ==
4261	Leaves - https://simbli.eboardsolutions.com/SU/W7Dj3scSC7JslshyG2kplus1qn4w==
4261	Leaves - https://simbli.eboardsolutions.com/SU/yJEiO4ZjqyAe4tZIyk2enA==
4261.1	Personal Illness/Injury Leave - https://simbli.eboardsolutions.com/SU/uLAw49y7BLfuJvifsTzylQ==
4261.2	Personal Leaves - https://simbli.eboardsolutions.com/SU/hNKqf4ZInDNIHiXQrs0gQg==
4261.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/kd5UuCUiWPtG6BB2S7ZNDA==
4261.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/FcSKOqplusZ1REftDF7wqTdqg==
4312.4	Health Examinations - https://simbli.eboardsolutions.com/SU/n2s4CeoDPdaplusBzy0QkOCSw==
4312.9	Employee Notifications - https://simbli.eboardsolutions.com/SU/VQbO5zeg9aWBJyflPAVADQ==
4312.9-E(1)	Employee Notifications - https://simbli.eboardsolutions.com/SU/TN2PDxjjZhNlWdb1qB5MSA==
4354	Health And Welfare Benefits - https://simbli.eboardsolutions.com/SU/h706eDUeQJpjlyYgsqDFCQ==
4359	Employee Assistance Programs - https://simbli.eboardsolutions.com/SU/vQQ9OWPsLjBf7gkA9FDMAA==
4361	Leaves - https://simbli.eboardsolutions.com/SU/4lQ5YNGXxXzXLGxVEmgmLA==
4361	Leaves - https://simbli.eboardsolutions.com/SU/OpK9sAPFxy4plusCg1hEjqmwg==
4361.1	Personal Illness/Injury Leave - https://simbli.eboardsolutions.com/SU/54SW1QtzTQTlqHNnR3e8Sw==
4361.2	Personal Leaves - https://simbli.eboardsolutions.com/SU/xIPif4WBs8w6f3wzphwf3w==
4361.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/KPyQlENuux7h4YaY026iPg==
4361.9	Catastrophic Leave Program - https://simbli.eboardsolutions.com/SU/a2trMaiKW1PMm6cdnyT40g==

CSBA Sample REVISED
Exhibit

All Personnel E 4112.9(a)
4212.9

EMPLOYEE NOTIFICATIONS 4312.9

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	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	Education Code 17612	AR 3514.2	Use of pesticide product, active ingredients, Internet application address to access information **on pesticides**
~~To all employees, p~~**P**rior to implementing year-round schedule	Education Code 37616	BP 6117	Public hearing on year-round program
~~To all employees, p~~**P**rior to implementing alternative schedule	Education Code 46162	BP 6112	Public hearing on alternative schedule in secondary grades
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

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. To All Employees (continued)			
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, i~~**I**f 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	BP 4119.43 4219.43 4319.43	AIDS and hepatitis B, including methods to prevent exposure
To new employees upon hire and other employees upon request, in districts with 25 or more employees	**Labor Code 230.1**	**AR 4161.2 4261.2 4361.2**	**Rights pursuant to Labor Code 230-230.1 pertaining to leaves and accommodations for victims of crime or abuse**
~~To all employees, w~~**W**ith 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
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

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. To All Employees (continued)			
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	AR 4157.1 4257.1 4357.1	Workers' compensation benefits, how to obtain medical care, role of primary physician, form for reporting personal physician/chiropractor
Within one day of receiving notice of potential exposure to COVID-19, to employees who were on the premises during the infectious period, the exclusive representative, and the employer of subcontracted employees as applicable	**Labor Code 6409.6**	**AR 4157 4257 4357**	**Potential exposure to COVID-19; benefits to which employees may be entitled; available leave options; protection against discrimination and retaliation; district's disinfection and safety plan**
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 AR 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 (CFRA); obligation to provide 30 days' notice of need for leave when possible
To all employees	**8 CCR 3203**	**AR 4157 4257 4357**	**The right and procedure to access the injury and illness prevention program**

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. To All Employees (continued)			
To all employees	**34 CFR 106.8**	**AR 4119.11 4219.11 4319.11**	**Nondiscrimination on the basis of sex; contact information for district's Title IX Coordinator; referral of inquiries to Title IX Coordinator and/or Office for Civil Rights**
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

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~~ **probationary and temporary certificated** employees upon employment, ~~and to nonpermanent employees~~ **and every July thereafter** ~~in July of each school year~~	Education Code 44916	AR 4112.1 AR 4121	Employment status and salary
To probationary employee, by March 15	Education Code 44929.21, 44929.23, 44948.5	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
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 employee~~s~~ 30 days prior to dismissal during school year, but not later than March 15 for **a** second-year probationary employee~~s~~	Education Code 44948.3	AR 4118	Reasons for dismissal and opportunity to appeal

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
II. To Certificated Employees (continued)			
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,~~ **Before the end of the school year** 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			
When classified employee is subject to disciplinary action for cause, in nonmerit district	Education Code 45113	AR 4218	Notice of charges, right to hearing, timeline for requesting hearing
~~To classified employees at~~ **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 u~~**U**pon 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

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. To Classified Employees (continued)			
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 382.113, 382.601	AR 4112.42 4212.42 4312.42	Explanation of federal requirements for drug testing program and district's policy
To school bus drivers, prior to operating school bus	49 CFR 382.303	AR 4112.42 4212.42 4312.42	Post-accident information, procedures, and instructions
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

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)			
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 district police officer, within 30 days of decision to impose discipline	**Government Code 3304**	**AR 3515.3**	**Decision to impose discipline, including the date that discipline will be imposed**
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
Within one working day of work-related injury or victimization of crime	Labor Code 3553, 5401	AR 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	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

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)			
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
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

Policy Reference UPDATE Service
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Exhibit
Employee Notifications

Descriptor Code: 4112.9

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	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	BP 6112	Public hearing on alternative schedule in secondary grades
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

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. To All Employees (continued)			
To all employees	Government Code 8355; 41 USC 8102;	BP 4020 BP 4159	District's drug- and alcohol-free workplace; actions to be

	34 CFR 84.205, 84.210	4259 4359	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	BP 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
To covered employees and former employees	Labor Code 2800.2 4354	AR 4154 4254	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

When/Whom to Notify	**Education or Other Legal Code**	**Board Policy/ Administrative Regulation #**	**Subject**
I. To All Employees (continued)			
To every new employee, either at the time employee is hired or by end of first pay period	Labor Code 3551	AR 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	Unemployment Insurance Code	AR 4154 4254	Disability insurance rights and benefits

for specified reasons	2613	4354	
To all employees and job applicants	2 CCR 11023; 34 CFR 104.8, 106.9	BP 0410 AR 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(CFRA); obligation to provide 30 days' notice of need for leave when possible
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

When/Whom to Notify	**Education or Other Legal Code**	**Board Policy/ Administrative Regulation #**	**Subject**
II. To Certificated Employees (continued)			
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
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	Education Code 44916	AR 4112.1 AR 4121	Employment status and salary

nonpermanent employees in July of each school year			
To probationary employee, by March 15	Education Code 44929.21, 44929.23, 44948.5	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

When/Whom to Notify	**Education or Other Legal Code**	**Board Policy/ Administrative Regulation #**	**Subject**
II. To Certificated Employees (continued)			
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
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	5 CCR 80303	AR 4117.7 4317.7	Contents of state regulation re: report to Commission on

due to alleged misconduct or while allegation is pending			Teacher Credentialing
III. To Classified Employees			
When classified employee is subject to disciplinary action for cause, in nonmerit district	Education Code 45113	AR 4218	Notice of charges, right to hearing, timeline for requesting hearing
When/Whom to Notify	**Education or Other Legal Code**	**Board Policy/ Administrative Regulation #**	**Subject**
III. To Classified Employees (continued)			
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 382.113, 382.601	AR 4112.42 4212.42 4312.42	Explanation of federal requirements for drug testing program and district's policy
To school bus drivers, prior to operating school bus	49 CFR 382.303	AR 4112.42 4212.42 4312.42	Post-accident information, procedures, and instructions
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
When/Whom	**Education or Other Legal**	**Board Policy/ Administrative**	

to Notify	Code	Regulation #	Subject
IV. To Administrative/Supervisory Personnel (continued)			
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
Within one working day of work-related injury or victimization of crime	Labor Code 3553, 5401	AR 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

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
V. To Individual Employees Under Special Circumstances (continued)			
To any employee with exposure to blood or other potentially infectious materials, upon initial employment and at	8 CCR 3204	AR 4119.42 4219.42 4319.42	The existence, location, and availability of exposure and medical records; person responsible for maintaining

least annually thereafter			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
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

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Executive Director of Educational Services, Cynthia Monreal González

☐ Informational
☒ Action

AGENDA ITEM: FIRST READING AND ADOPTION OF REVISED BOARD POLICY AND ADMINISTRATIVE REGULATION 6142.8 - COMPREHENSIVE HEALTH HEALTH EDUCATION

BACKGROUND INFORMATION:

The San Ysidro School District has a current agreement with the California School Boards Association (CSBA) for the maintenance of its Board Policy manual. This subscription service provides policy updates and ongoing consulting.

Governing Boards are responsible for the development and compliance of its board policies. They are responsible for adopting and revising policies in keeping with new laws and legislation that impact specific policies and administrative regulations.

Below is the list of revised Board Policies (BP) and Administrative Regulations (AR) in the 6000 Series Business and Noninstructional Operations sections:

- Revised BP/AR 6142.8 - Comprehensive Health Education

RECOMMENDATION:
Approve the First Reading and Adoption of Revised Board Policy and Administrative Regulation 6142.8 - Comprehensive Health Education.

LCAP GOAL AND ACTION/SERVICE (please indicate):

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?	Requisition #
☐ Yes ☒ No	☐ Yes ☐ No	

N/A	N/A
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

CSBA Sample REVISED

Board Policy

Instruction BP 6142.8(a)

COMPREHENSIVE HEALTH EDUCATION

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

The Governing Board believes that health education should foster the knowledge, skills, and attitudes that students need in order to lead healthy lives and avoid high-risk behaviors**, and that creating a safe, supportive, inclusive, and nonjudgmental environment is crucial in promoting healthy development for all students**. The district's health education program shall be part of a coordinated school health system which supports the **physical, mental, and social** well-being of students and is linked to district and community services and resources.

(cf. 0415 - Equity)
(cf. 3513.3 - Tobacco-Free Schools)
(cf. 3514 - Environmental Safety)
(cf. 3550 - Food Service/Child Nutrition Program)
(cf. 3554 - Other Food Sales)
(cf. 5131.6 - Alcohol and Other Drugs)
(cf. 5131.62 - Tobacco)
(cf. 5131.63 - Steroids)
(cf. 5137 - Positive School Climate)
(cf. 5141.22 - Infectious Diseases)
(cf. 5141.23 - Asthma Management)
(cf. 5141.3 - Health Examinations)
(cf. 5141.32 - Health Screening for School Entry)
(cf. 5141.4 - Child Abuse Prevention and Reporting)
(cf. 5141.5 - Mental Health)
(cf. 5141.52 - Suicide Prevention)
(cf. 5141.6 - School Health Services)
(cf. 5141.7 - Sun Safety)
(cf. 5142 - Safety)
(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 5146 - Married/Pregnant/Parenting Students)
(cf. 6164.2 - Guidance/Counseling Services)

Note: ~~The federal Child Nutrition and Women, Infants and Children (WIC) Reauthorization Act of 2004 (~~42 USC 1758b~~)~~ requires each district participating in the National School Lunch program (42 USC 1751-1769j) or any program in the Child Nutrition Act of 1966~~, including the School Breakfast Program~~ (42 USC 1771-~~1791~~ **1793**), including the School Breakfast Program**,** to adopt a districtwide school wellness policy which includes goals for nutrition **promotion and education,** ~~education~~ ~~and~~ physical **activity, and other school-based activities that promote student wellness** ~~education~~. See BP 5030 - Student Wellness for language fulfilling this mandate.

Goals for the district's health education program shall be designed to promote student wellness and shall include, but not be limited to, goals for nutrition **promotion and** education**,** ~~and~~ physical activity**, and other school-based activities that promote student well-being**.

BP 6142.8(b)

COMPREHENSIVE HEALTH EDUCATION (continued)

(cf. 0200 - Goals for the School District)
(cf. 5030 - Student Wellness)
(cf. 6142.7 - Physical Education and Activity)

Note: The following **optional** paragraph should be revised as necessary to reflect grade levels offered by the district. Education Code 51210 requires that the adopted course of study for grades 1-6 include instruction in health, including instruction in the principles and practices of individual, family, and community health. Education Code 51202 requires that certain health-related topics be addressed at the appropriate elementary and secondary grade levels and in appropriate subject areas, as determined by the district.

Education Code 51934 requires that ~~students be~~ **districts** provide~~d~~ **comprehensive sexual health education and** HIV~~/AIDS~~ prevention instruction**,** at least once in middle school or junior high school and at least once in high school**, by instructors trained in the appropriate courses**. **Education Code 51934 also authorizes, but does not require, districts to provide age-appropriate comprehensive sexual health education prior to grade 7 on any of the topics specified in Education Code 51934.** See AR 6143 - Courses of Study and BP/AR 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction.

Additionally, Education Code 51900.6 authorizes districts to provide age-appropriate instruction in grades K-12 in sexual abuse and sexual assault awareness and prevention pursuant to content standards developed by the State Board of Education (SBE), provided that students are allowed to be excused from such instruction upon the written request of their parents/guardians. SBE has not yet adopted content standards regarding sexual abuse and sexual assault awareness and prevention. Also see BP 5141.4 - Child Abuse Prevention and Reporting.

The Health Education Framework for California Public Schools, Kindergarten through Grade Twelve provides nonprescriptive instructional guidance and support to California teachers, administrators, curriculum specialists, other educators, and school boards for implementation of the voluntary health education standards, which include the following six content areas: nutrition and physical activity; growth, development, and sexual health; injury prevention and safety; alcohol, tobacco, and other drugs; mental, emotional, and social health; and personal and community health.

~~In March 2008, the State Board of Education adopted voluntary content standards for health education as required by Education Code 51210.8; see the accompanying administrative regulation. The state's Health Framework for California Public Schools, provides nonprescriptive guidance on the scope and sequence of the health curriculum.~~

The district shall provide a planned, sequential, research-based, and developmentally appropriate health education curriculum for students in grades K-12 which is aligned with the state's content standards and curriculum framework **and integrated with other content areas of the district's curriculum**. The Superintendent or designee shall determine the grade levels and subject areas in which health-related topics will be addressed, in accordance with law, Board policy, and administrative regulation.

(cf. 6011 - Academic Standards)
(cf. 6141 - Curriculum Development and Evaluation)
(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)
(cf. 6143 - Courses of Study)

COMPREHENSIVE HEALTH EDUCATION (continued)

Note: The following **optional** paragraph may be revised to reflect district practice. Education Code 51890 defines a "comprehensive health education program" as one that includes community participation in the **teaching of health, including** classroom **participation by practicing professional health and safety personnel in the community**. Education Code 51891 defines "community participation" as **active** ~~including~~ participation **in the planning, implementation, and evaluation of comprehensive health education** by parents/guardians, practicing health care and public safety personnel, and public and private health care and service agencies ~~in the planning, implementation, and evaluation of the program~~.

As appropriate, the Superintendent or designee shall involve school administrators, teachers, school nurses, health professionals representing various fields of health care, parents/guardians, community-based organizations, and other community members in the development, implementation, and evaluation of the district's health education program. Health and safety professionals may be invited to provide related instruction in the classroom, school assemblies, and other instructional settings.

(cf. 1220 - Citizen Advisory Committees)
(cf. 1240 - Volunteer Assistance)
(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)
(cf. 1700 - Relations Between Private Industry and the Schools)
(cf. 6020 - Parent Involvement)
(cf. 6145.8 - Assemblies and Special Events)
(cf. 6162.8 - Research)

The Superintendent or designee shall provide professional development as needed to ensure that health education teachers are knowledgeable about academic content standards**, the state curriculum framework,** and effective instructional methodologies.

(cf. 4131 - Staff Development)

Note: The following **optional** paragraph should be revised to reflect indicators agreed upon by the Governing Board and Superintendent for evaluating the district's health education program.

The Superintendent or designee shall provide periodic reports to the Board regarding the implementation and effectiveness of the district's health education program**,** which may include, but not be limited to, a description of the district's program and the extent to which it is aligned with the state's content standards and curriculum framework, the amount of time allotted for health instruction at each grade level, ~~and~~ student achievement of district standards for health education**, and the manner in which the district's health education program supports the physical, mental, and social well-being of students**.

(cf. 0500 - Accountability)
(cf. 6190 - Evaluation of the Instructional Program)

Legal Reference: (see next page)

COMPREHENSIVE HEALTH EDUCATION (continued)

Legal Reference:

EDUCATION CODE

8850.5 Family relationships and parenting education
35183.5 Sun protection
49413 First aid ***and cardiopulmonary resuscitation*** *training*
49430-49434 Pupil Nutrition, Health and Achievement Act of 2001
49490-49494 School breakfast and lunch programs
49500-49505 School meals
51202 Instruction in personal and public health and safety
51203 Instruction on alcohol, narcotics and dangerous drugs
*51210 Areas of study****; grades 1-6***
51210.8 State content standards for health education
51220.5 Parenting skills; areas of instruction
51225.36 Sexual harassment and violence instruction; affirmative consent standard
51225.6 Compression-only cardiopulmonary resuscitation instruction
51260-51269 Drug education
*51513 Personal beliefs****; exams, questionnaires, and surveys***
51880-51881.5 Health education, legislative findings and intent
51890-51891 Comprehensive health education programs ***and community participation; definitions***
51900.6 Sexual abuse and sexual assault awareness and prevention
51913 District health education plan
51920 Inservice training, health education
51930-51939 ***California Healthy Youth Act****; Comprehensive sexual health and HIV/AIDS prevention education*
67386 Affirmative consent; definition

CALIFORNIA CODE OF REGULATIONS, TITLE 5

11800-11801 District health education plan

UNITED STATES CODE, TITLE 42

*1751-1769j National School Lunch Program****, especially:***
1758b Local wellness policy
1771-1793 Child nutrition programs, including National School Breakfast Program

Management Resources:

CSBA PUBLICATIONS

Why Schools Hold the Promise for Adolescent Mental Health, Governance Brief, May 2019
The Impact of Marijuana Legalization on K-12: The Effect of Marijuana on the Brain, November 2018
Preventing Catastrophic Heal Illness, Governance Brief, July 2018
Integrating Physical Activity into the School Day, April 2016
Promoting Healthy Relationships for Adolescents: Board Policy Considerations, August 2014
~~*Asthma Management in the Schools, Policy Brief, March 2008*~~
Monitoring for Success: ***A Guide for Assessing and Strengthening Student Wellness Policies*** ~~*Student Wellness Policy Implementation Monitoring Report and Guide, 2007*~~ ***2012***
~~*Physical Education and California Schools, Policy Brief, rev. October 2007*~~
Promoting Oral Health for California's Students: New Roles, New Opportunities for Schools, Policy Brief, ~~*March 2007*~~ ***November 2008***

Asthma Management in the Schools, Policy Brief, March 2008

Management Resources continued: (see next page)

COMPREHENSIVE HEALTH EDUCATION (continued)

Management Resources: (continued)

CSBA PUBLICATIONS (continued)
Sun Safety in Schools, Policy Brief, July 2006
Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide, rev. April 2006
AMERICAN ASSOCIATION FOR HEALTH EDUCATION PUBLICATIONS
*National Health Education Standards: Achieving Excellence, ~~2007~~ **rev. November 2012***
CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS
~~Health Education Content Standards for California Public Schools, Kindergarten Through Grade Twelve, 2008~~
*Health **Education** Framework for California Public Schools: Kindergarten Through Grade Twelve, ~~2003~~ **2019***
Health Education Content Standards for California Public Schools, Kindergarten Through Grade Twelve, 2008
HUMAN RIGHTS CAMPAIGN FOUNDATION PUBLICATIONS
California LGBTQ Youth Report, January 2019
WEB SITES
CSBA: http://www.csba.org
~~American Association for Health Education: http://www.aahperd.org~~
American School Health Association: http://www.ashaweb.org
California Association of School Health Educators: http://www.cashe.org
California Department of Education, Health Education: http://www.cde.ca.gov/ci/he
California Department of Public Health: http://www.cdph.ca.gov
California Healthy Kids Resource Center: http://www.californiahealthykids.org
*California Subject Matter Project, Physical Education-Health Project: **https://csmp.online** ~~http://csmp.ucop.edu/cpehp~~*
Center for Injury Prevention Policy and Practice: http://www.cippp.org
Centers for Disease Control and Prevention: http://www.cdc.gov
Human Rights Campaign Foundation: https://www.hrc.org/
National Center for Health Education: http://www.nche.org
National Hearing Conservation Association: http://www.hearingconservation.org
Shape** Americ**an** ~~Association for~~ **Society of** Health **and Physical** Educat**orsion**: ~~http://www.aahperd.org~~ **https://www.shapeamerica.org

Policy Reference UPDATE Service
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Policy 6142.8: Comprehensive Health Education

Status: ADOPTED

Original Adopted Date: 07/11/2019 **| Last Reviewed Date:** 07/11/2019

The Board of Education believes that health education should foster the knowledge, skills, and attitudes that students need in order to lead healthy lives and avoid high-risk behaviors. The district's health education program shall be part of a coordinated school health system which supports the well-being of students and is linked to district and community services and resources.

Goals for the district's health education program shall be designed to promote student wellness and shall include, but not be limited to, goals for nutrition education and physical activity.

The Superintendent or designee shall provide professional development as needed to ensure that health education teachers are knowledgeable about academic content standards and effective instructional methodologies.

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

State References	Description
5 CCR 11800-11801	District health education plan
Ed. Code 35183.5	Sun protection
Ed. Code 49413	First aid training
Ed. Code 49430-49434	Pupil Nutrition, Health, and Achievement Act of 2001
Ed. Code 49490-49494	School breakfast and lunch programs
Ed. Code 49500-49505	School meals
Ed. Code 51202	Instruction in personal and public health and safety
Ed. Code 51203	Instruction on alcohol, narcotics and dangerous drugs
Ed. Code 51210	Course of study for grades 1-6
Ed. Code 51210.8	Health education curriculum
Ed. Code 51220.5	Parenting skills; areas of instruction
Ed. Code 51260-51269	Drug education
Ed. Code 51513	Personal beliefs
Ed. Code 51880-51881.5	Health education, legislative findings and intent
Ed. Code 51890-51891	Comprehensive health education programs
Ed. Code 51913	District health education plan
Ed. Code 51920	Inservice training, health education
Ed. Code 51930-51939	California Healthy Youth Act
Ed. Code 8850.5	Family relationships and parenting education

Federal References	Description
42 USC 1751-1769j	National School Lunch Program
42 USC 1758b	Local wellness policy
42 USC 1771-1793	Child Nutrition Act

Management Resources References	Description
American Association For Health Ed Publication	National Health Education Standards: Achieving Excellence, 2007

California Department of Education Publication	Health Education Content Standards for California Public Schools, Kindergarten Through Grade 12, 2008
California Department of Education Publication	Health Framework for California Public Schools: Kindergarten through Grade 12, 2003
CSBA Publication	Monitoring for Success: Student Wellness Policy Implementation Monitoring Report and Guide, 2007
CSBA Publication	Physical Education and California Schools, Policy Brief, rev. October 2007
CSBA Publication	Asthma Management in the Schools, Policy Brief, March 2008
CSBA Publication	Sun Safety in Schools, Policy Brief, July 2006
CSBA Publication	Promoting Oral Health for California's Students: New Roles, New Opportunities for Schools, Policy Brief, March 2007
CSBA Publication	Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide, rev. April 2006
Website	American Association for Health Education - https://simbli.eboardsolutions.com/SU/TAjwf4p45gQfZpmHxHslshB5w==
Website	American School Health Association - https://simbli.eboardsolutions.com/SU/xbFajmJTnqHCplusPvz3KmxVQ==
Website	California Association of School Health Educators - https://simbli.eboardsolutions.com/SU/slshJunLs9DKzWmdhUUzQXqhw==
Website	California Department of Education, Health Education - https://simbli.eboardsolutions.com/SU/RZQSMLKDFaslshEyEB23OWZCQ==
Website	California Subject Matter Project, Physical Education-Health Project - https://simbli.eboardsolutions.com/SU/08DUYBudyheEcplus3zIBSyQw==
Website	Center for Injury Prevention Policy and Practice - https://simbli.eboardsolutions.com/SU/4NO39Fslsh5L6SPD2CrZZavWw==
Website	National Center for Health Education - https://simbli.eboardsolutions.com/SU/hln4hkQ99nyJXFEzrgLJWw==
Website	National Hearing Conservation Association - https://simbli.eboardsolutions.com/SU/7tMEcYWajQ8WzRWT1oq6tw==
Website	California Healthy Kids Resource Center - https://simbli.eboardsolutions.com/SU/Ve9Yf61snLK7fRzOPU1xiQ==
Website	California Department of Public Health - https://simbli.eboardsolutions.com/SU/plusKghL3cnZRJOzDybcVsugA==
Website	Centers for Disease Control and Prevention - https://simbli.eboardsolutions.com/SU/Gfx4spY2pCn7TBGiShp9oA==
Website	CSBA - https://simbli.eboardsolutions.com/SU/W3QxkK2FPsDsQBnMIENxGg==

Cross References	**Description**
0200	Goals For The School District - https://simbli.eboardsolutions.com/SU/VlhslshSaGqXuTsCMKpG2plusbSQ==
0450	Comprehensive Safety Plan - https://simbli.eboardsolutions.com/SU/ymrUEwzwRGOLmy5dybtyiw==
0450	Comprehensive Safety Plan - https://simbli.eboardsolutions.com/SU/yqXemeWgpAB1z0mjDmESfw==
0470	COVID-19 Mitigation Plan - https://simbli.eboardsolutions.com/SU/SiSNfRBcgke1plusJnTsbDR8w==
0500	Accountability - https://simbli.eboardsolutions.com/SU/8OSp14MQoBm0c5h903CVjA==

1220	Citizen Advisory Committees - https://simbli.eboardsolutions.com/SU/X2Wc65TvtApIyjbDavhR6A==
1220	Citizen Advisory Committees - https://simbli.eboardsolutions.com/SU/d8oBxDCOHPIpmLjio2ptoA==
1240	Volunteer Assistance - https://simbli.eboardsolutions.com/SU/x1QewT4YgzruZlTbYpBsCw==
1240	Volunteer Assistance - https://simbli.eboardsolutions.com/SU/AEEKECijKNmVMzEslshyCbIkw==
1325	Advertising And Promotion - https://simbli.eboardsolutions.com/SU/WaWZslshVX95yzHAIbehiHplusplusw==
1400	Relations Between Other Governmental Agencies And The Schools - https://simbli.eboardsolutions.com/SU/zP9eNCslshlhcPcKReyWt0R0w==
1700	Relations Between Private Industry And The Schools - https://simbli.eboardsolutions.com/SU/NdfFmK3KRDWa7ZhbLQia8g==
3513.3	Tobacco-Free Schools - https://simbli.eboardsolutions.com/SU/Cu123BsR1bAb3SyPE1fbpA==
3513.3	Tobacco-Free Schools - https://simbli.eboardsolutions.com/SU/yB5VBT6WrXxI69E2RXQUvQ==
3513.4	Drug And Alcohol Free Schools - https://simbli.eboardsolutions.com/SU/RsyNOO67E9LtdDgFPQwcig==
3514	Environmental Safety - https://simbli.eboardsolutions.com/SU/axGpVjdPOgNZrBMZBQtiFQ==
3514	Environmental Safety - https://simbli.eboardsolutions.com/SU/n7CuOUfbHIaAcCzD0HsiyA==
3516	Emergencies And Disaster Preparedness Plan - https://simbli.eboardsolutions.com/SU/GE0i6DLXjEunpslshI1ajPT9Q==
3516	Emergencies And Disaster Preparedness Plan - https://simbli.eboardsolutions.com/SU/MK62ayh3lQtmYtElkL8MeA==
3543	Transportation Safety And Emergencies - https://simbli.eboardsolutions.com/SU/72ffBe4oMFnJcz8LZiau0A==
3550	Food Service/Child Nutrition Program - https://simbli.eboardsolutions.com/SU/x6z14fFB8Ac4fASZ9Lal1w==
3550	Food Service/Child Nutrition Program - https://simbli.eboardsolutions.com/SU/FDEyeplusb4fV7OWe2gIJqdyg==
3554	Other Food Sales - https://simbli.eboardsolutions.com/SU/kcOX6SlPfyxWNeRTpX9plusfQ==
3554	Other Food Sales - https://simbli.eboardsolutions.com/SU/POLxjZdR0CP3GapbllBHwg==
4131	Staff Development - https://simbli.eboardsolutions.com/SU/kJqyGLZ6NEslsht0VJCcrln0A==
5020	Parent Rights And Responsibilities - https://simbli.eboardsolutions.com/SU/slshWYDlkeWFYgAPyDeQIHP1g==
5020	Parent Rights And Responsibilities - https://simbli.eboardsolutions.com/SU/R3U5JpeaoplusoVTWmp6aTfsw==
5022	Student And Family Privacy Rights - https://simbli.eboardsolutions.com/SU/E8TLBAkmlZNslsh64KyfXgj4A==
5022	Student And Family Privacy Rights - https://simbli.eboardsolutions.com/SU/X6d0PiFilH2zk2K5JdazDg==
5030	Student Wellness - https://simbli.eboardsolutions.com/SU/kP3RA9Bro1n3d1MplusS6lm9g==
5131	Conduct - https://simbli.eboardsolutions.com/SU/xIZ9Gc1UILhCCQT5CCGHtg==

5131.6	Alcohol And Other Drugs - https://simbli.eboardsolutions.com/SU/2fZOgaza7FWB0KouzttxEA==
5131.6	Alcohol And Other Drugs - https://simbli.eboardsolutions.com/SU/eP7p7amj6UOAQB1iaTOjdw==
5131.63	Steroids - https://simbli.eboardsolutions.com/SU/J4LEgbrzXslshOrmhXW7jYB2w==
5131.63	Steroids - https://simbli.eboardsolutions.com/SU/2gmOHplusToEXsplusODKDqT2DCA==
5137	Positive School Climate - https://simbli.eboardsolutions.com/SU/AvfPMzgRujCuQplusRsgkkgFA==
5138	Conflict Resolution/Peer Mediation - https://simbli.eboardsolutions.com/SU/zjW2XEy3C4MCxcRGQ9t2aA==
5141	Health Care And Emergencies - https://simbli.eboardsolutions.com/SU/q3DyJG1cykCEbvwrC4GFrw==
5141	Health Care And Emergencies - https://simbli.eboardsolutions.com/SU/2SKcqtAzQIvlXs6uFEYUKQ==
5141.21	Administering Medication And Monitoring Health Conditions - https://simbli.eboardsolutions.com/SU/XT46XMcmU8mJQZPC1xpMfQ==
5141.21	Administering Medication And Monitoring Health Conditions - https://simbli.eboardsolutions.com/SU/slshplusvMQK2l4plusWZA4Xslsht0nhOA==
5141.22	Infectious Diseases - https://simbli.eboardsolutions.com/SU/wzslshxB5PWuGpSLScMjslshssMQ==
5141.22	Infectious Diseases - https://simbli.eboardsolutions.com/SU/LUPslsh3GOwWlPrzOFht6vpluskg==
5141.3	Health Examinations - https://simbli.eboardsolutions.com/SU/ewTnhBtGxKGHkbFm3NatBg==
5141.3	Health Examinations - https://simbli.eboardsolutions.com/SU/HteJSrBy2O9HLQtwEACcXQ==
5141.32	Health Screening For School Entry - https://simbli.eboardsolutions.com/SU/nXFGAIcdg5TseX0vSC3nyw==
5141.4	Child Abuse Prevention And Reporting - https://simbli.eboardsolutions.com/SU/FCXhZSZfWM38DP1IplusInadA==
5141.4	Child Abuse Prevention And Reporting - https://simbli.eboardsolutions.com/SU/Qx4taMY5bVFkU89Qwz7QJA==
5141.52	Suicide Prevention - https://simbli.eboardsolutions.com/SU/fxfSgg26spJuspcVt4zX6A==
5141.52	Suicide Prevention - https://simbli.eboardsolutions.com/SU/N919anQeH38BWXoyqJ6Ilw==
5141.6	School Health Services - https://simbli.eboardsolutions.com/SU/KzxmngnveoordTPegwXZQg==
5141.6	School Health Services - https://simbli.eboardsolutions.com/SU/VIA77L2HdAhqEqPt4plusWb0Q==
5142	Safety - https://simbli.eboardsolutions.com/SU/SjoP4JM2HsDNDslshVqZXOKTw==
5142	Safety - https://simbli.eboardsolutions.com/SU/ISJ9nGnYOiMYI2pD60k02A==
5145.3	Nondiscrimination/Harassment - https://simbli.eboardsolutions.com/SU/H1TslshcOVjvTplusTFFslsh35CuG1Q==
5145.3	Nondiscrimination/Harassment - https://simbli.eboardsolutions.com/SU/00NExJkgxdxvn59cG6hxslshg==

5145.7	Sexual Harassment - https://simbli.eboardsolutions.com/SU/l8t8YmbBtflYImdwbnRbEw==
5145.7	Sexual Harassment - https://simbli.eboardsolutions.com/SU/PKu1VD5F78ewJR2U04xZ7Q==
5145.9	Hate-Motivated Behavior - https://simbli.eboardsolutions.com/SU/z4yTt2JmlYRxoWYur3yynQ==
6011	Academic Standards - https://simbli.eboardsolutions.com/SU/wIufamEAdcmeCnQqXP7A9Q==
6020	Parent Involvement - https://simbli.eboardsolutions.com/SU/kTSslsh7Ga7Eam1ZbmEyYq8GQ==
6020	Parent Involvement - https://simbli.eboardsolutions.com/SU/2djpXtxmac1zQZScP6LNTw==
6141	Curriculum Development And Evaluation - https://simbli.eboardsolutions.com/SU/QyLrruw5gplussHOObxmtHbig==
6141	Curriculum Development And Evaluation - https://simbli.eboardsolutions.com/SU/OmNL5T6SuAH1l46w0L28oA==
6141.2	Recognition Of Religious Beliefs And Customs - https://simbli.eboardsolutions.com/SU/LbSSlk56JLiE1txjsSaa7g==
6141.2	Recognition Of Religious Beliefs And Customs - https://simbli.eboardsolutions.com/SU/8plusPaMuEXplusYBmiXwqhtmFslshA==
6142.1	Sexual Health And HIV/AIDS Prevention Instruction - https://simbli.eboardsolutions.com/SU/S4KAb357YlOglkdmk5wd8A==
6142.1	Sexual Health And HIV/AIDS Prevention Instruction - https://simbli.eboardsolutions.com/SU/JBsAJao0anM9hZYuqfNMbA==
6142.5	Environmental Education - https://simbli.eboardsolutions.com/SU/vsWa1dGrhLplusmDeIcWxjaEw==
6142.7	Physical Education And Activity - https://simbli.eboardsolutions.com/SU/bxdO02orcknVGTfpbSK9vw==
6142.7	Physical Education And Activity - https://simbli.eboardsolutions.com/SU/hbGCDAbQPplusslshdSybFLnA10Q==
6143	Courses Of Study - https://simbli.eboardsolutions.com/SU/oJmDaeMYv7Ek8ydix0OaXg==
6143	Courses Of Study - https://simbli.eboardsolutions.com/SU/2FT4uXmjqrLwNqoqHt3MQA==
6144	Controversial Issues - https://simbli.eboardsolutions.com/SU/uaAajN6Z56Qj1UjTdtDmeg==
6145.8	Assemblies And Special Events - https://simbli.eboardsolutions.com/SU/U6lw6H1o83WmTwxhTnHdlw==
6161.1	Selection And Evaluation Of Instructional Materials - https://simbli.eboardsolutions.com/SU/mx70qzqnj48uAUY9I9m7fg==
6161.1	Selection And Evaluation Of Instructional Materials - https://simbli.eboardsolutions.com/SU/rf9plusYmtsgv6hznQC3ipMplusQ==
6161.1-E(1)	Selection And Evaluation Of Instructional Materials - https://simbli.eboardsolutions.com/SU/EoZiZhrplusD2n6Z25P848uBQ==
6162.8	Research - https://simbli.eboardsolutions.com/SU/VVUcDNCTZ4hCGz2ndBe7plusg==
6162.8	Research - https://simbli.eboardsolutions.com/SU/GufhYU14PASzIBv7KiDMfw==
6163.4	Student Use Of Technology - https://simbli.eboardsolutions.com/SU/VoppNbk4pBgl2gPK2huvrQ==
6163.4-E(1)	Student Use Of Technology - https://simbli.eboardsolutions.com/SU/cMfYbPZNNyLJKpE7JPMKxg==

6164.2	Guidance/Counseling Services - https://simbli.eboardsolutions.com/SU/0jslshf1lF2LPmZM3bXas7Xvg==
6172	Gifted And Talented Student Program - https://simbli.eboardsolutions.com/SU/gPgCpCtjdJruPgmJ7Rcfqw==
6172	Gifted And Talented Student Program - https://simbli.eboardsolutions.com/SU/aslshgNHEuTeSsRhcLzTiYZOg==
6190	Evaluation Of The Instructional Program - https://simbli.eboardsolutions.com/SU/SsYiNF0LslshseiRm7GRp9z9g==

CSBA Sample REVISED

Administrative Regulation

Instruction AR 6142.8(a)

COMPREHENSIVE HEALTH EDUCATION

Content of Instruction

Note: Items #1-6 below reflect six content areas delineated in the voluntary content standards for health education adopted by the State Board of Education **(SBE)** in March 2008. The district may revise the following list to reflect the topics to be addressed in the district's program.

The district's health education program shall include instruction at the appropriate grade levels in the following content areas:

1. Alcohol, tobacco, and other drugs

(cf. 3513.3 - Tobacco-Free Schools)
(cf. 5131.6 - Alcohol and Other Drugs)
(cf. 5131.62 - Tobacco)
(cf. 5131.63 - Steroids)

Note: Education Code 51934 requires that districts provide comprehensive sexual health education and HIV prevention instruction, at least once in middle school or junior high school and at least once in high school, by instructors trained in the appropriate courses. Education Code 51934 also authorizes, but does not require, districts to provide age-appropriate comprehensive sexual health education prior to grade 7 on any of the topics specified in Education Code 51934. See AR 6143 - Courses of Study and BP/AR 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction.

Education Code 51900.6 authorizes districts to provide age-appropriate instruction in grades K-12 in sexual abuse and sexual assault awareness and prevention pursuant to content standards developed by SBE, provided that students are allowed to be excused from such instruction upon the written request of their parents/guardians. SBE has not yet adopted content standards regarding sexual abuse and sexual assault awareness and prevention. Also see BP 5141.4 - Child Abuse Prevention and Reporting.

2. Human growth, development, and sexual health

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

Note: The **optional** paragraph under item #3 below includes examples of topics that are addressed in the state content standards within the content area of injury prevention and safety. ~~In addition, pursuant to Education Code 51940, districts may, on a voluntary basis, use curricula distributed by the California Healthy Kids Resource Center that focuses on prevention of brain and spinal cord injuries.~~

3. Injury prevention and safety

COMPREHENSIVE HEALTH EDUCATION (continued)

Instruction related to injury prevention and safety may include, but is not limited to, first aid, protective equipment such as helmets, ~~prevention of brain and spinal cord injuries,~~ violence prevention, topics related to bullying and harassment, **emergency procedures,** and Internet safety.

(cf. 0450 - Comprehensive Safety Plan)
(cf. 3516 - Emergencies and Disaster Preparedness Plan)
(cf. 3543 - Transportation Safety and Emergencies)
(cf. 5131 - Conduct)
(cf. 5138 - Conflict Resolution/Peer Mediation)
(cf. 5141 - Health Care and Emergencies)
(cf. 5142 - Safety)
(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 5145.7 - Sexual Harassment)
(cf. 5145.9 - Hate-Motivated Behavior)
(cf. 6145.2 - Athletic Competition)
(cf. 6163.4 - Student Use of Technology)

4. Mental, emotional, and social health

(cf. 5137 - Positive School Climate)
(cf. 5141.5 - Mental Health)
(cf. 5141.52 - Suicide Prevention)

5. Nutrition and physical activity

(cf. 3550 - Food Service/Child Nutrition Program)
(cf. 5030 - Student Wellness)
(cf. 6142.7 - Physical Education and Activity)

Note: The **optional** paragraph under item #6 below includes examples of topics that are addressed in the state content standards within the content area of personal and community health.

6. Personal and community health

Instruction in personal and community health may include, but is not limited to, oral health, personal hygiene, sun safety, **vision and** hearing protection, transmission of germs and communicable diseases, symptoms of common health problems and chronic diseases ~~such as asthma and diabetes, emergency procedures~~, and the effect of behavior on the environment.

~~*(cf. 3516 - Emergencies and Disaster Preparedness Plan)*~~
~~*(cf. 5141 - Health Care and Emergencies)*~~

(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)
(cf. 5141.22 - Infectious Diseases)
(cf. 5141.23 - Asthma Management)
(cf. 5141.7 - Sun Safety)

COMPREHENSIVE HEALTH EDUCATION (continued)

(cf. 5146 - Married/Pregnant/Parenting Students)
(cf. 6142.5 - Environmental Education)

Note: Items #1-6 below combine eight "overarching standards" described in the state content standards as essential concepts and skills to be taught to students.

Within each of the above content areas, instruction shall be designed to assist students in developing:

1. An understanding of essential concepts related to enhancing health

2. The ability to analyze internal and external influences that affect health

3. The ability to access and analyze health information, products, and services

(cf. 5141.6 - School Health Services)

4. The ability to use interpersonal communication skills, decision-making skills, and goal-setting skills to enhance health

5. The ability to practice behaviors that reduce risk and promote health

6. The ability to promote and support personal, family, and community health

High School Health Education

Note: The following section is for use by districts that serve students in grades 9-12 and require a course in health education as a requirement for graduation from high school. Pursuant to Education Code 51225.36, districts that require a course in health education for graduation from high school must include instruction in sexual harassment and violence, including, but not limited to, the affirmative consent standard as defined in Education Code 67386. In addition, pursuant to Education Code 51225.6, districts that require a course in health education for graduation from high school must include instruction in performing compression-only cardiopulmonary resuscitation, as specified.

Whenever the Board requires a course in health education for graduation from high school, the district's high school health education course(s) shall include instruction in:

1. Sexual harassment and violence, including, but not limited to, the affirmative consent standard as defined in Education Code 67386. When delivering such instruction, teachers shall

consult information related to sexual harassment and violence in the Health Education Framework for California Public Schools. (Education Code 51225.36)

COMPREHENSIVE HEALTH EDUCATION (continued)

2. Compression-only cardiopulmonary resuscitation (CPR), which is based on national evidence-based emergency cardiovascular care guidelines for the performance of compression-only CPR and includes instruction relative to the psychomotor skills necessary to perform compression-only CPR. (Education Code 51225.6)

(cf. 6146.1 - High School Graduation Requirements)

~~Exemption~~ Students Excused from Health Instruction

Upon written request from a parent/guardian, a student shall be excused from any part of health instruction that conflicts with ~~his/her~~ **the student's** religious training and beliefs, including personal moral convictions. (Education Code 51240)

(cf. 6141.2 - Recognition of Religious Beliefs and Customs)

Note: Pursuant to Education Code 51938, a student's parent/guardian has the right to excuse the student from all or part of comprehensive sexual health education, HIV prevention education, and assessments related to that education through a passive consent ("opt-out") process. The district may not require active parental consent ("opt-in") for such purpose. The district's notice to parents/guardians regarding planned instruction for the school year in the area of comprehensive sexual health education and HIV prevention education must include notification of the right to excuse a student from such education by written request to the district. See BP/E 5145.6 - Parental Notifications and BP/AR 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction.

The district shall excuse a student from instruction in comprehensive sexual health education and HIV prevention education if the student's parent/guardian requests in writing that the student be excused. (Education Code 51938)

(cf. 5145.6 - Parental Notifications)
(cf. 6145.8 - Assemblies and Special Events)

Note: Pursuant to Education Code 51900.6, districts that provide instruction in sexual abuse and sexual assault awareness and prevention are required to excuse students whose parent/guardian has made a written request. The following paragraph is for districts that provide instruction in sexual abuse and/or sexual assault awareness and prevention.

In addition, the district shall excise a student from instruction in sexual abuse and/or sexual assault awareness and prevention if the student's parent/guardian requests in writing that the student be excused. (Education Code 51900.6)

Note: Pursuant to Education Code 51513, districts may not administer exams, surveys, or questionnaires containing questions about a student's or ~~his/her~~ **a student's** family's personal beliefs or practices in sex, family life, morality, and religion unless the student's parent/guardian **is notified in writing of such administration and** has provided prior written consent. See AR 5022 - Student and Family Privacy Rights.

COMPREHENSIVE HEALTH EDUCATION (continued)

The district shall not administer any exam, survey, or questionnaire which contains questions about the student's or the student's family's personal beliefs or practices in sex, family life, morality, or religion unless the student's parent/guardian has given written permission. ~~Upon written request from a parent/guardian, a student shall be excused from any part of health instruction that conflicts with his/her religious training and beliefs, including personal moral convictions.~~ (Education Code ~~51240~~ **51513**)

(cf. 5020 - Parent Rights and Responsibilities)
(cf. 5022 - Student and Family Privacy Rights)

Note: Notwithstanding Education Code 51513, Education Code 51938 authorizes anonymous, voluntary, and confidential research and evaluation tools to measure students' health behaviors and risks, including tests, questionnaires, and surveys containing age-appropriate questions about the student's attitudes concerning or practices relating to sex, to students in grades 7-12. Parents/guardians have the right to excuse their child from such research and evaluations through a passive ("opt-out") process and may not be required to provide active ("opt-in") consent. The district is required to notify parents/guardians of the test, questionnaire, or survey to be administered, given the opportunity to review such research or evaluation tool, and notified of their right to excuse their child by making such request in writing to the district. The following paragraph is for use by districts that serve students in any of grades 7-12 and should be deleted by districts that do not serve such students.

However, the district may administer anonymous, voluntary, and confidential tests, questionnaires, and surveys containing age-appropriate questions about students' attitudes concerning or practices relating to sex, as long as parents/guardians are notified of the right to request in writing that the student be excused from participation. A student shall be excused from participating in any such research or evaluation tools if the student's parent/guardian requests in writing to excuse the student from participation. (Education Code 51938)

~~*(cf. 5020 - Parent Rights and Responsibilities)*~~
~~*(cf. 5022 - Student and Family Privacy Rights)*~~
~~*(cf. 6141.2 - Recognition of Religious Beliefs and Customs)*~~
~~*(cf. 6145.8 - Assemblies and Special Events)*~~

~~Students so excused shall be given an alternative educational activity.~~

Involvement of Health Professionals

Health care professionals, health care service plans, health care providers, and other entities participating in a voluntary initiative with the district are prohibited from communicating about a product or service in a way that is intended to encourage persons to purchase or use the product or service. However, the following activities may be allowed: (Education Code 51890)

COMPREHENSIVE HEALTH EDUCATION (continued)

1. Health care or health education information provided in a brochure or pamphlet that contains the logo or name of a health care service plan or health care organization, if provided in coordination with the voluntary initiative

2. Outreach, application assistance, and enrollment activities relating to federal, state, or county-sponsored health care insurance programs **if the activities are conducted in compliance with the statutory, regulatory, and programmatic guidelines applicable to those programs.**

(cf. 1325 - Advertising and Promotion)

Policy Reference UPDATE Service
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Regulation 6142.8: Comprehensive Health Education

Status: ADOPTED

Original Adopted Date: 07/11/2019 **| Last Reviewed Date:** 07/11/2019

Content of Instruction

The district's health education program shall include instruction at the appropriate grade levels in the following content areas:

1. Alcohol, tobacco, and other drugs
2. Human growth, development, and sexual health
3. Injury prevention and safety

   Instruction related to injury prevention and safety may include, but is not limited to, first aid, protective equipment such as helmets, prevention of brain and spinal cord injuries, violence prevention, topics related to bullying and harassment, and Internet safety.
4. Mental, emotional, and social health
5. Nutrition and physical activity
6. Personal and community health

Instruction in personal and community health may include, but is not limited to, oral health, personal hygiene, sun safety, hearing protection, transmission of germs and communicable diseases, symptoms of common health problems and chronic diseases such as asthma and diabetes, emergency procedures, and the effect of behavior on the environment.

Within each of the above content areas, instruction shall be designed to assist students in developing:

1. An understanding of essential concepts related to enhancing health
2. The ability to analyze internal and external influences that affect health
3. The ability to access and analyze health information, products, and services
4. The ability to use interpersonal communication skills, decision-making skills, and goal-setting skills to enhance health
5. The ability to practice behaviors that reduce risk and promote health
6. The ability to promote and support personal, family, and community health

Exemption from Health Instruction

Upon written request from a parent/guardian, a student shall be excused from any part of health instruction that conflicts with his/her religious training and beliefs, including personal moral convictions. (Education Code 51240)

Students so excused shall be given an alternative educational activity.

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2. Outreach, application assistance, and enrollment activities relating to federal, state, or county-sponsored

health care insurance programs

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

State References	Description
5 CCR 11800-11801	District health education plan
Ed. Code 35183.5	Sun protection
Ed. Code 49413	First aid training
Ed. Code 49430-49434	Pupil Nutrition, Health, and Achievement Act of 2001
Ed. Code 49490-49494	School breakfast and lunch programs
Ed. Code 49500-49505	School meals
Ed. Code 51202	Instruction in personal and public health and safety
Ed. Code 51203	Instruction on alcohol, narcotics and dangerous drugs
Ed. Code 51210	Course of study for grades 1-6
Ed. Code 51210.8	Health education curriculum
Ed. Code 51220.5	Parenting skills; areas of instruction
Ed. Code 51260-51269	Drug education
Ed. Code 51513	Personal beliefs
Ed. Code 51880-51881.5	Health education, legislative findings and intent
Ed. Code 51890-51891	Comprehensive health education programs
Ed. Code 51913	District health education plan
Ed. Code 51920	Inservice training, health education
Ed. Code 51930-51939	California Healthy Youth Act
Ed. Code 8850.5	Family relationships and parenting education

Federal References	Description
42 USC 1751-1769j	National School Lunch Program
42 USC 1758b	Local wellness policy
42 USC 1771-1793	Child Nutrition Act

Management Resources References	Description
American Association For Health Ed Publication	National Health Education Standards: Achieving Excellence, 2007
California Department of Education Publication	Health Education Content Standards for California Public Schools, Kindergarten Through Grade 12, 2008
California Department of Education Publication	Health Framework for California Public Schools: Kindergarten through Grade 12, 2003
CSBA Publication	Monitoring for Success: Student Wellness Policy Implementation Monitoring Report and Guide, 2007
CSBA Publication	Physical Education and California Schools, Policy Brief, rev. October 2007
CSBA Publication	Asthma Management in the Schools, Policy Brief, March 2008
CSBA Publication	Sun Safety in Schools, Policy Brief, July 2006

CSBA Publication	Promoting Oral Health for California's Students: New Roles, New Opportunities for Schools, Policy Brief, March 2007
CSBA Publication	Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide, rev. April 2006
Website	American Association for Health Education - https://simbli.eboardsolutions.com/SU/TAjwf4p45gQfZpmHxHslshB5w==
Website	American School Health Association - https://simbli.eboardsolutions.com/SU/xbFajmJTnqHCplusPvz3KmxVQ==
Website	California Association of School Health Educators - https://simbli.eboardsolutions.com/SU/slshJunLs9DKzWmdhUUzQXqhw==
Website	California Department of Education, Health Education - https://simbli.eboardsolutions.com/SU/RZQSMLKDFaslshEyEB23OWZCQ==
Website	California Subject Matter Project, Physical Education-Health Project - https://simbli.eboardsolutions.com/SU/08DUYBudyheEcplus3zIBSyQw==
Website	Center for Injury Prevention Policy and Practice - https://simbli.eboardsolutions.com/SU/4NO39Fslsh5L6SPD2CrZZavWw==
Website	National Center for Health Education - https://simbli.eboardsolutions.com/SU/hln4hkQ99nyJXFEzrgLJWw==
Website	National Hearing Conservation Association - https://simbli.eboardsolutions.com/SU/7tMEcYWajQ8WzRWT1oq6tw==
Website	California Healthy Kids Resource Center - https://simbli.eboardsolutions.com/SU/Ve9Yf61snLK7fRzOPU1xiQ==
Website	California Department of Public Health - https://simbli.eboardsolutions.com/SU/plusKghL3cnZRJOzDybcVsugA==
Website	Centers for Disease Control and Prevention - https://simbli.eboardsolutions.com/SU/Gfx4spY2pCn7TBGiShp9oA==
Website	CSBA - https://simbli.eboardsolutions.com/SU/W3QxkK2FPsDsQBnMIENxGg==

Cross References	**Description**
0200	Goals For The School District - https://simbli.eboardsolutions.com/SU/VlhslshSaGqXuTsCMKpG2plusbSQ==
0450	Comprehensive Safety Plan - https://simbli.eboardsolutions.com/SU/ymrUEwzwRGOLmy5dybtyiw==
0450	Comprehensive Safety Plan - https://simbli.eboardsolutions.com/SU/yqXemeWgpAB1z0mjDmESfw==
0470	COVID-19 Mitigation Plan - https://simbli.eboardsolutions.com/SU/SiSNfRBcgke1plusJnTsbDR8w==
0500	Accountability - https://simbli.eboardsolutions.com/SU/8OSp14MQoBm0c5h903CVjA==
1220	Citizen Advisory Committees - https://simbli.eboardsolutions.com/SU/X2Wc65TvtApIyjbDavhR6A==
1220	Citizen Advisory Committees - https://simbli.eboardsolutions.com/SU/d8oBxDCOHPIpmLjio2ptoA==
1240	Volunteer Assistance - https://simbli.eboardsolutions.com/SU/x1QewT4YgzruZlTbYpBsCw==
1240	Volunteer Assistance - https://simbli.eboardsolutions.com/SU/AEEKECijKNmVMzEslshyCbIkw==
1325	Advertising And Promotion - https://simbli.eboardsolutions.com/SU/WaWZslshVX95yzHAlbehiHplusplusw==

1400	Relations Between Other Governmental Agencies And The Schools - https://simbli.eboardsolutions.com/SU/zP9eNCslshlhcPcKReyWt0R0w==
1700	Relations Between Private Industry And The Schools - https://simbli.eboardsolutions.com/SU/NdfFmK3KRDWa7ZhbLQia8g==
3513.3	Tobacco-Free Schools - https://simbli.eboardsolutions.com/SU/Cu123BsR1bAb3SyPE1fbpA==
3513.3	Tobacco-Free Schools - https://simbli.eboardsolutions.com/SU/yB5VBT6WrXxI69E2RXQUvQ==
3513.4	Drug And Alcohol Free Schools - https://simbli.eboardsolutions.com/SU/RsyNOO67E9LtdDgFPQwcig==
3514	Environmental Safety - https://simbli.eboardsolutions.com/SU/axGpVjdPOgNZrBMZBQtiFQ==
3514	Environmental Safety - https://simbli.eboardsolutions.com/SU/n7CuOUfbHIaAcCzD0HsiyA==
3516	Emergencies And Disaster Preparedness Plan - https://simbli.eboardsolutions.com/SU/GE0i6DLXjEunpslshI1ajPT9Q==
3516	Emergencies And Disaster Preparedness Plan - https://simbli.eboardsolutions.com/SU/MK62ayh3lQtmYtElkL8MeA==
3543	Transportation Safety And Emergencies - https://simbli.eboardsolutions.com/SU/72ffBe4oMFnJcz8LZiau0A==
3550	Food Service/Child Nutrition Program - https://simbli.eboardsolutions.com/SU/x6z14fFB8Ac4fASZ9Lal1w==
3550	Food Service/Child Nutrition Program - https://simbli.eboardsolutions.com/SU/FDEyeplusb4fV7OWe2gIJqdyg==
3554	Other Food Sales - https://simbli.eboardsolutions.com/SU/kcOX6SlPfyxWNeRTpX9plusfQ==
3554	Other Food Sales - https://simbli.eboardsolutions.com/SU/POLxjZdR0CP3GapbllBHwg==
4131	Staff Development - https://simbli.eboardsolutions.com/SU/kJqyGLZ6NEslsht0VJCcrln0A==
5020	Parent Rights And Responsibilities - https://simbli.eboardsolutions.com/SU/slshWYDlkeWFYgAPyDeQIHP1g==
5020	Parent Rights And Responsibilities - https://simbli.eboardsolutions.com/SU/R3U5JpeaoplusoVTWmp6aTfsw==
5022	Student And Family Privacy Rights - https://simbli.eboardsolutions.com/SU/E8TLBAkmlZNslsh64KyfXgj4A==
5022	Student And Family Privacy Rights - https://simbli.eboardsolutions.com/SU/X6d0PiFilH2zk2K5JdazDg==
5030	Student Wellness - https://simbli.eboardsolutions.com/SU/kP3RA9Bro1n3d1MplusS6lm9g==
5131	Conduct - https://simbli.eboardsolutions.com/SU/xIZ9Gc1UILhCCQT5CCGHtg==
5131.6	Alcohol And Other Drugs - https://simbli.eboardsolutions.com/SU/2fZOgaza7FWB0KouzttxEA==
5131.6	Alcohol And Other Drugs - https://simbli.eboardsolutions.com/SU/eP7p7amj6UOAQB1iaTOjdw==
5131.63	Steroids - https://simbli.eboardsolutions.com/SU/J4LEgbrzXslshOrmhXW7jYB2w==
5131.63	Steroids - https://simbli.eboardsolutions.com/SU/2gmOHplusToEXsplusODKDqT2DCA==
5137	Positive School Climate - https://simbli.eboardsolutions.com/SU/AvfPMzgRujCuQplusRsgkkgFA==

5138	Conflict Resolution/Peer Mediation - https://simbli.eboardsolutions.com/SU/zjW2XEy3C4MCxcRGQ9t2aA==
5141	Health Care And Emergencies - https://simbli.eboardsolutions.com/SU/q3DyJG1cykCEbvwrC4GFrw==
5141	Health Care And Emergencies - https://simbli.eboardsolutions.com/SU/2SKcqtAzQIvlXs6uFEYUKQ==
5141.21	Administering Medication And Monitoring Health Conditions - https://simbli.eboardsolutions.com/SU/XT46XMcmU8mJQZPC1xpMfQ==
5141.21	Administering Medication And Monitoring Health Conditions - https://simbli.eboardsolutions.com/SU/slshplusvMQK2l4plusWZA4Xslsht0nhOA==
5141.22	Infectious Diseases - https://simbli.eboardsolutions.com/SU/wzslshxB5PWuGpSLScMjslshssMQ==
5141.22	Infectious Diseases - https://simbli.eboardsolutions.com/SU/LUPslsh3GOwWlPrzOFht6vpluskg==
5141.3	Health Examinations - https://simbli.eboardsolutions.com/SU/ewTnhBtGxKGHkbFm3NatBg==
5141.3	Health Examinations - https://simbli.eboardsolutions.com/SU/HteJSrBy2O9HLQtwEACcXQ==
5141.32	Health Screening For School Entry - https://simbli.eboardsolutions.com/SU/nXFGAIcdg5TseX0vSC3nyw==
5141.4	Child Abuse Prevention And Reporting - https://simbli.eboardsolutions.com/SU/FCXhZSZfWM38DP1IplusInadA==
5141.4	Child Abuse Prevention And Reporting - https://simbli.eboardsolutions.com/SU/Qx4taMY5bVFkU89Qwz7QJA==
5141.52	Suicide Prevention - https://simbli.eboardsolutions.com/SU/fxfSgg26spJuspcVt4zX6A==
5141.52	Suicide Prevention - https://simbli.eboardsolutions.com/SU/N919anQeH38BWXoyqJ6Ilw==
5141.6	School Health Services - https://simbli.eboardsolutions.com/SU/KzxmngnveoordTPegwXZQg==
5141.6	School Health Services - https://simbli.eboardsolutions.com/SU/VIA77L2HdAhqEqPt4plusWb0Q==
5142	Safety - https://simbli.eboardsolutions.com/SU/SjoP4JM2HsDNDslshVqZXOKTw==
5142	Safety - https://simbli.eboardsolutions.com/SU/ISJ9nGnYOiMYI2pD60k02A==
5145.3	Nondiscrimination/Harassment - https://simbli.eboardsolutions.com/SU/H1TslshcOVjvTplusTFFslsh35CuG1Q==
5145.3	Nondiscrimination/Harassment - https://simbli.eboardsolutions.com/SU/00NExJkgxdxvn59cG6hxslshg==
5145.7	Sexual Harassment - https://simbli.eboardsolutions.com/SU/l8t8YmbBtflYImdwbnRbEw==
5145.7	Sexual Harassment - https://simbli.eboardsolutions.com/SU/PKu1VD5F78ewJR2U04xZ7Q==
5145.9	Hate-Motivated Behavior - https://simbli.eboardsolutions.com/SU/z4yTt2JmlYRxoWYur3yynQ==
6011	Academic Standards - https://simbli.eboardsolutions.com/SU/wIufamEAdcmeCnQqXP7A9Q==
6020	Parent Involvement - https://simbli.eboardsolutions.com/SU/kTSslsh7Ga7Eam1ZbmEyYq8GQ==
6020	Parent Involvement - https://simbli.eboardsolutions.com/SU/2djpXtxmac1zQZScP6LNTw==

6141	Curriculum Development And Evaluation - https://simbli.eboardsolutions.com/SU/QyLrruw5gplussHOObxmtHbig==
6141	Curriculum Development And Evaluation - https://simbli.eboardsolutions.com/SU/OmNL5T6SuAH1l46w0L28oA==
6141.2	Recognition Of Religious Beliefs And Customs - https://simbli.eboardsolutions.com/SU/LbSSlk56JLiE1txjsSaa7g==
6141.2	Recognition Of Religious Beliefs And Customs - https://simbli.eboardsolutions.com/SU/8plusPaMuEXplusYBmiXwqhtmFslshA==
6142.1	Sexual Health And HIV/AIDS Prevention Instruction - https://simbli.eboardsolutions.com/SU/S4KAb357YlOglkdmk5wd8A==
6142.1	Sexual Health And HIV/AIDS Prevention Instruction - https://simbli.eboardsolutions.com/SU/JBsAJao0anM9hZYuqfNMbA==
6142.5	Environmental Education - https://simbli.eboardsolutions.com/SU/vsWa1dGrhLplusmDeIcWxjaEw==
6142.7	Physical Education And Activity - https://simbli.eboardsolutions.com/SU/bxdO02orcknVGTfpbSK9vw==
6142.7	Physical Education And Activity - https://simbli.eboardsolutions.com/SU/hbGCDAbQPplusslshdSybFLnA10Q==
6143	Courses Of Study - https://simbli.eboardsolutions.com/SU/oJmDaeMYv7Ek8ydix0OaXg==
6143	Courses Of Study - https://simbli.eboardsolutions.com/SU/2FT4uXmjqrLwNqoqHt3MQA==
6144	Controversial Issues - https://simbli.eboardsolutions.com/SU/uaAajN6Z56Qj1UjTdtDmeg==
6145.8	Assemblies And Special Events - https://simbli.eboardsolutions.com/SU/U6lw6H1o83WmTwxhTnHdlw==
6161.1	Selection And Evaluation Of Instructional Materials - https://simbli.eboardsolutions.com/SU/mx70qzqnj48uAUY9I9m7fg==
6161.1	Selection And Evaluation Of Instructional Materials - https://simbli.eboardsolutions.com/SU/rf9plusYmtsgv6hznQC3ipMplusQ==
6161.1-E(1)	Selection And Evaluation Of Instructional Materials - https://simbli.eboardsolutions.com/SU/EoZiZhrplusD2n6Z25P848uBQ==
6162.8	Research - https://simbli.eboardsolutions.com/SU/VVUcDNCTZ4hCGz2ndBe7plusg==
6162.8	Research - https://simbli.eboardsolutions.com/SU/GufhYU14PASzIBv7KiDMfw==
6163.4	Student Use Of Technology - https://simbli.eboardsolutions.com/SU/VoppNbk4pBgl2gPK2huvrQ==
6163.4-E(1)	Student Use Of Technology - https://simbli.eboardsolutions.com/SU/cMfYbPZNNyLJKpE7JPMKxg==
6164.2	Guidance/Counseling Services - https://simbli.eboardsolutions.com/SU/0jslshf1lF2LPmZM3bXas7Xvg==
6172	Gifted And Talented Student Program - https://simbli.eboardsolutions.com/SU/gPgCpCtjdJruPgmJ7Rcfqw==
6172	Gifted And Talented Student Program - https://simbli.eboardsolutions.com/SU/aslshgNHEuTeSsRhcLzTiYZOg==
6190	Evaluation Of The Instructional Program - https://simbli.eboardsolutions.com/SU/SsYiNF0LslshseiRm7GRp9z9g==

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business Services
Marilyn Adrianzen, Chief Business Official

☐ Informational
☒ Action

AGENDA ITEM: FIRST READING AND ADOPTION OF REVISED BOARD POLICY 7210 – FACILITIES FINANCING

BACKGROUND INFORMATION:
The San Ysidro School District has a current agreement with the California School Boards Association (CSBA) for the maintenance of its Board Policy manual. This subscription service provides policy updates and ongoing consulting.

Governing Boards are responsible for the development and compliance of its board policies. They are responsible for adopting and revising policies in keeping with new laws and legislation that impact specific policies and administrative regulations.

Board Policy 7210 (Facilities Financing) is revised as indicated on the attached.

RECOMMENDATION:
Approve the First Reading and Adoption of Revised Board Policy 7210 - Facilities Financing.

LCAP GOAL AND ACTION/SERVICE (please indicate):

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?	Requisition #
☐ Yes ☒ No	☐ Yes ☐ No	

N/A	N/A
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

FACILITIES FINANCING

The Governing Board recognizes its responsibility to identify the most cost-efficient and effective method of financing when purchasing or modifying district facilities. Financing may be necessary when it is determined that school facilities must be built or expanded to accommodate an increased or projected increased enrollment or when safety considerations and educational program improvements require the replacement, reconstruction, or modernization of existing facilities.

The Superintendent or designee shall research funding alternatives and recommend to the Board the method of funding that will best serve district needs as identified in the district's master plan for school facilities.

(cf. 7110 - Facilities Master Plan)

Note: The following list describes some of the facilities financing options available to school districts.

Funding alternatives may include, but are not be limited to:

1. Levying developer fees pursuant to Education Code 17620 and Government Code 65995-65998

(cf. 7211- Developer Fees)

2. Forming a community facilities district pursuant to Government Code 53311-53368.3, the Mello-Roos Community Facilities Act

(cf. 7212 - Mello-Roos Districts)

3. Forming a school facilities improvement district pursuant to Education Code 15300-15425

(cf. 7213 - School Facilities Improvement Districts)

4. Issuing voter-approved general obligation bonds

(cf. 7214 - General Obligation Bonds)

5. Imposing a parcel tax pursuant to Government Code 50079

(cf. 3471 - Parcel Taxes)

FACILITIES FINANCING (continued)

6. Using lease revenues for capital outlay purposes from surplus school property

(cf. 3280 - Sale or Lease of District-Owned Real Property)

7. Applying for state facilities funding pursuant to the Leroy F. Greene School Facilities Act (Education Code 17070.10-17079.30)

The district shall provide reports, maintain records, and provide for audits of the expenditure of state facilities funds as required by law and AR 3460 - Financial Reports and Accountability. (Education Code 41024)

(cf. 3460 - Financial Reports and Accountability)

Government Code 8855 requires districts to adopt a debt management policy prior to issuing any debt, such as general obligation bonds. The policy must include (1) the purposes for which the debt proceeds may be used; (2) the types of debt that may be issued; (3) the relationship of the debt to, and integration with, the district's capital improvement program or budget, if applicable; (4) policy goals related to the district's planning goals and objectives; and (5) internal control procedures to ensure that the proceeds of the proposed debt issuance will be directed to the intended use. See BP 3470 - Debt Issuance and Management.

As applicable, the district shall comply with BP 3470 - Debt Issuance and Management.

(cf. 3470 - Debt Issuance and Management)

Legal Reference: (see next page)

FACILITIES FINANCING (continued)

Legal Reference:

EDUCATION CODE
15100-17199.6 School bonds, especially:
15122.5 Ballot statement
15300-15327 School facilities improvement districts
17000-17059.2 State School Building Lease-Purchase Law of 1976
17060-17066 Joint venture school facilities construction projects
17070.10-17079.30 Leroy F. Greene School Facilities Act of 1998
17085-17096 State Relocatable Classroom Law of 1979
17582 District deferred maintenance fund
17620-17626 Levies against development projects by school districts, especially:
17621 Procedures for levying fees
41024 Accounting system and audits
GOVERNMENT CODE
6061 Manner of notice as prescribed in designated section
6066 Two weeks' notice
8855 Debt issuance and management
50075-50077.5 Voter-approved special taxes
50079 School districts; qualified special taxes
53175-53187 Integrated Financing District Act
53311-53368.3 Mello-Roos Community Facilities Act of 1982
53753 Assessment notice and hearing requirements
53753.5 Exemptions
54954.1 Mailing of agenda
54954.6 New or increased tax or assessment; public meetings and hearings; notice
65864-65869.5 Development agreements
65970-65981 School facilities development project
65995-65998 Payment of fees against a development project
66000-66008 Fees for development projects
66016-66019 Development project fees
66020-66025 Protests and audits
HEALTH AND SAFETY CODE
33445.5 Overcrowding of schools resulting from redevelopment
33446 School construction by redevelopment agency
CALIFORNIA CONSTITUTION
Article 13D, Sections 1-6 Assessment and property related fee reform
CODE OF REGULATIONS, TITLE 2
1859-1859.199 School facility program

Legal Reference continued: (see next page)

FACILITIES FINANCING (continued)

Legal Reference: (continued)

COURT DECISIONS

Ehrlich v. City of Culver City (1996) 12 Cal.4th 854

Loyola Marymount University v. Los Angeles Unified School District (1996) 45 Cal.App.4th 1256

Dolan v. City of Tigard (1994) 114 S.Ct. 2309

Canyon North Co. v. Conejo Valley Unified School District (1993) 19 Cal.App.4th 243, 23 Cal.Rptr.2d 495

Garlic Development Co. v. Hayward Unified School District (1992) 3 Cal.App.4th 320

Nollan v. California Coastal Commission (1987) 107 S.Ct. 3141

ATTORNEY GENERAL OPINIONS

79 Ops.Cal.Atty.Gen. 149 (1996)

Management Resources:

WEB SITES

California Department of Education: www.cde.ca.gov

California State Controller: www. sco.ca.gov

Department of General Services, Office of Public School Construction: http://www.opsc.dgs.ca.gov

(10/97 2/99) 3/21

Policy Reference UPDATE Service
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Policy 7210: Facilities Financing

Status: ADOPTED

Original Adopted Date: 07/11/2019 | **Last Reviewed Date:** 07/11/2019

When it is determined that school facilities must be built or expanded to accommodate a increased or projected increased enrollment, the Board of Education shall consider appropriate methods of financing for the purchase of school sites and the construction of buildings. In addition, financing may be needed when safety considerations and educational program improvements require the replacement, reconstruction or modernization of existing facilities.

The Superintendent or designee shall research funding alternatives and recommend to the Board the method that would best serve district needs as identified in the district's master plan for school facilities.

These funding alternatives may include, but not be limited to:

1. Levying developer fees pursuant to Education Code 17620 and Government Code 65995-65998
2. Forming a community facilities district pursuant to Government Code 53311-53368.3, the Mello-Roos Community Facilities Act
3. Forming a school facilities improvement district pursuant to Education Code 15300-15425
4. Issuing voter-approved general obligation bonds
5. Imposing a qualified parcel tax pursuant to Government Code 50079
6. Using lease revenues for capital outlay purposes from surplus school property

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

State References	Description
2 CCR 1859-1859.199	Leroy F. Greene School Facilities Act - https://simbli.eboardsolutions.com/SU/nuvesXH7Af1QqDOmGTa3wA==
CA Constitution Article 13D, Sections 1-6	Assessment and property related fee reform - https://simbli.eboardsolutions.com/SU/bY2k8UXqi4dXslshOGssxt7YA==
Ed. Code 15100-17059.2	School bonds - https://simbli.eboardsolutions.com/SU/5q59hnFN6x9oTdBdR2slshukQ==
Ed. Code 15122.5	Ballot statement - https://simbli.eboardsolutions.com/SU/U5hsyypYK4cH4X1vWjmoMA==
Ed. Code 15300-15327	School facilities improvement districts - https://simbli.eboardsolutions.com/SU/6em8EQIrZggaWBZsVHP1iQ==
Ed. Code 17000-17059.2	State School Building Lease-Purchase Law of 1976 - https://simbli.eboardsolutions.com/SU/qMQTdssplusZdmUEKYaGYqhLw==
Ed. Code 17060-17066	Joint venture school facilities construction projects - https://simbli.eboardsolutions.com/SU/VvgMlalOS7plusGkz8fEtYQWw==
Ed. Code 17070.10-17077.10	Leroy F. Greene School Facilities Act of 1998 - https://simbli.eboardsolutions.com/SU/fu4PsUtUAb4qYYOY9breHg==
Ed. Code 17085-17095	State Relocatable Classroom Law of 1979 - https://simbli.eboardsolutions.com/SU/M1B7Aohg583MyZOqLVFBpw==
Ed. Code 17582	District deferred maintenance fund
Ed. Code 17620-17626	Levies against development projects by school districts
Ed. Code 17621	Procedures for levying fees
Gov. Code 50075-50077	Voter-approved special taxes

Gov. Code 50079	School districts; qualified special taxes
Gov. Code 53175-53187	Integrated Financing District Act
Gov. Code 53311-53368.3	Mello-Roos Community Facilities Act of 1982
Gov. Code 53753	Assessment notice and hearing requirements
Gov. Code 53753.5	Exemptions
Gov. Code 54954.1	Mailed notice to property owners
Gov. Code 54954.6	New or increased tax or assessment; public meetings and hearings; notice
Gov. Code 6061	One time notice
Gov. Code 6066	Two weeks' notice
Gov. Code 65864-65867	Development agreements
Gov. Code 65970-65980.1	School facilities development project
Gov. Code 65995-65998	Payment of fees against a development project
Gov. Code 66000-66008	Fees for development projects
Gov. Code 66016-66018.5	Development project fees
Gov. Code 66020-66025	Protests and audits
H&S Code 33445.5	Overcrowding of schools resulting from redevelopment
H&S Code 33446	School construction by redevelopment agency
Uncodified Statutes 17696-17696.98	Greene-Hughes School Building Lease-Purchase Bond Law of 1986

Management Resources References	**Description**
Attorney General Opinion	79 Ops.Cal.Atty.Gen. 149 (1996)
Court Decision	Loyola Marymount University v. Los Angeles Unified School District (1996) 45 Cal.App.4th 1256
Court Decision	Ehrlich v. City of Culver City (1996) 12 Cal.4th 854
Court Decision	Dolan v. City of Tigard (1994) 114 S.Ct. 2309
Court Decision	Canyon North Co. v. Conejo Valley Unified School District (1993) 19 Cal.App.4th 243, 23 Cal.Rptr.2d 495
Court Decision	Garlic Development Co. v. Hayward Unified School District (1992) 3 Cal.App.4th 320, 4 Cal.Rptr.2d 897
Court Decision	Nollan v. California Coastal Commission (1987) 107 S.Ct. 3141
Website	Office of Public School Construction - https://simbli.eboardsolutions.com/SU/UxUcDGuszWNedr16Dp8wuQ==

Cross References	**Description**
1330.1	Joint Use Agreements - https://simbli.eboardsolutions.com/SU/Q9uum7Qie1RKlnyyMCvRYA==
3100	Budget - https://simbli.eboardsolutions.com/SU/WqoJEr0tGYguCZ0kbpoDOw==
3100	Budget - https://simbli.eboardsolutions.com/SU/0onvwoV1fxbpJr5OyAa8nA==
3470	Debt Issuance And Management - https://simbli.eboardsolutions.com/SU/xMB5SSaSDujcCk9t8CcU4A==
7000	Concepts And Roles - https://simbli.eboardsolutions.com/SU/JJrOViPslshbuxP2KuqeuKM1w==
7110	Facilities Master Plan - https://simbli.eboardsolutions.com/SU/ixdu4y3qRWcfMLhGojUYkA==

7131	Relations With Local Agencies - https://simbli.eboardsolutions.com/SU/slsh9HslshN5b3cmEEKFqRgZDiplusQ==
7150	Site Selection And Development - https://simbli.eboardsolutions.com/SU/5SWQs6LpL91sgEKfboddplusw==
7150	Site Selection And Development - https://simbli.eboardsolutions.com/SU/1beg828UfelzvSDxqghWng==
7211	Developer Fees - https://simbli.eboardsolutions.com/SU/GkGJfBueO7b6SkL4UEqKxQ==
7211	Developer Fees - https://simbli.eboardsolutions.com/SU/jfdpmBdZdskCa2nKqakj4g==
7212	Mello-Roos Districts - https://simbli.eboardsolutions.com/SU/33niA7kMhVRALuJ35c7Zyw==
7213	School Facilities Improvement Districts - https://simbli.eboardsolutions.com/SU/S4TzIxF8brCAEmd3UUcwuQ==
7214	General Obligation Bonds - https://simbli.eboardsolutions.com/SU/CjdxaqWYL8ttaua4uYpuew==
7214	General Obligation Bonds - https://simbli.eboardsolutions.com/SU/by0EhzPoKMEew61tVs07plusQ==
9000-B	Role Of The Board - https://simbli.eboardsolutions.com/SU/BQGNxKewahWVQiPdXWOODA==

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business Services
Marilyn Adrianzen, Chief Business Official

☐ Informational
☒ Action

AGENDA ITEM: AB1200 AND COLLECTIVE BARGAINING MEMORANDUM OF UNDERSTANDING WITH THE CLASSIFIED SCHOOL EMPLOYEES ASSOCIATION - AMENDMENT NO. 2

BACKGROUND INFORMATION:
On August 13, 2020, the Governing Board approved the Memorandum of Understanding between the San Ysidro School District and the Classified School Employees Association (CSEA) regarding school reopenings due to the COVID-19 pandemic. The MOU is effective July 1, 2020 through June 30, 2021.

Amendment No. 1 was approved on November 12, 2020 to amend the following: Section C.1.e.i (Technology Stipend); Section D.3.b.iv (Hazard Pay); and Section D.3 (Hazard Pay).

Amendment No. 2 is to amend or add the following sections of the MOU:

- Section D.3 (Hazard Pay)
- Add Section D.5 (Hybrid Learning Program)
- Add Section B.3 (Senate Bill 95)
- Add Section E.1 (Assembly Bill 86)

RECOMMENDATION:
Approve/Ratify the submittal of AB1200 to the San Diego County Office of Education and Amendment No. 2 to the Collective Bargaining Memorandum of Understanding with the Classified School Employees Association for the period of July 1, 2020 through June 30, 2021 and its Chapter 154 coronavirus response.

LCAP GOAL AND ACTION/SERVICE (please indicate):

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	

2020-2021	
$1,077,753.95	ESSER II
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

Disclosure of Collective Bargaining Agreement

In Accordance with AB 1200 (Statutes of 1991, Chapter 1213);
GC § 3547.5 (Statutes of 2004, Chapter 52)

San Ysidro School District

Name of Bargaining Unit: Classified School Employee Association Certificated: _____ Classified: X

The proposed agreement covers the period: Beginning: 7/1/2020 Ending: 6/30/2021

This agreement will be acted upon by the Governing Board at its meeting on: May 13, 2021 (Date)

A. Proposed Change in Compensation

	Compensation	Cost Prior to Proposed Agreement (a) $	Fiscal Impact of Proposed Agreement					
			Current Year 2020-2021		Year 2 2021-2022		Year 3 2022-2023	
			(b) $	(c) %	(b) $	(c) %	(b) $	(c) %
1.	**Step & Column** - Increase (Decrease) due to movement plus any changes due to settlement	$10,603,806.00	$0.00	0.00%	$212,076.12	2.00%	$216,317.64	2.00%
2.	**Salary Schedule** - Increase (Decrease)	$10,603,806.00	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%
3.	**Other Compensation** - Increase (Decrease) in Stipends, Bonuses, etc.	$10,603,806.00	$978,513.15	9.23%	$0.00	0.00%	$0.00	0.00%
4.	**Statutory Benefits** - Increase (Decrease) in STRS, PERS, FICA, WC, UI, Medicare, etc.	$3,270,425.85	$99,240.80	3.03%	$44,625.06	1.32%	$45,517.56	1.33%
5.	**Health/Welfare Benefits** - Increase (Decrease)	$1,852,500.00	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%
6.	**Total Compensation** - Increase (Decrease) Total Lines 3(a), 4(a), 5(a)	$15,726,731.85	$1,077,753.95	6.85%	$256,701.18	1.53%	$261,835.20	1.53%
7.	**Total Number of Represented Employees**	316.00	316.00		316.00		316.00	
8.	**Total Compensation Cost for Average Employee** - Increase (Decrease)	$49,768.14	$3,410.61	6.85%	$812.35	1.53%	$828.59	1.53%

Impact on other Funds: No impact on other funds since the costs of this MOU will be funded by ESSER II funds.

A. **Provide a brief narrative of the proposed change in compensation, including percentage change(s), effective date(s), and comments and explanations as necessary:**

This Memorandum of Understanding with CSEA is amendment # 2 to the MOU about Coronavirus Response.

The District shall implement a Hybrid Learning Program beginning Monday April 12, 2021.

All unit members returning to work on-site shall earn a one-time off- schedule payment of 7% of the unit member's annual salary to be paid no later than June 30, 2021. Unit members not returning on site due to a medical restriction and corresponding remote work accommodation shall not earn this additional pay.

Should a unit member return to work on-site after April 12, 2021, but before June 30, 2021, they shall receive a pro-rated one-time off-schedule payment.

Hazard Pay - Office staff in the classifications listed below shall earn time and a half (additional 50% of their regular pay) for all hours worked on-site for any day between September 1, 2020 and December 31, 2020 in which five or more visitors were in the office. i. Administrative Clerk I, Administrative Clerk II, Administrative Secretary I, Administrative Secretary II, Administrative Secretary III, Child and Families Project Facilitator, Health Clerk, Instructional Media Resource Aide, Licensed Vocational Nurse, Outreach Consultant, and School Administrative Assistant.

In accordance with Senate Bill 95, the District shall provide up to 80 hours for full-time employees (pro rata for part-time) of supplemental fully paid sick leave (up to $511 per day and $5,110 in total) beginning retroactively on Jan. 1, 2021 through Sept. 30, 2021. This section replaces the previous extension of leave as agreed to by the District and CSEA in the Memorandum of Understanding dated February 3, 2021. Nothing in this section is intended to expand the benefits provided under SB95.

B. **Proposed Negotiated Changes in Non-Compensation Items** (class size adjustments, staff development days, teacher prep time, etc.)

No changes in non-compensation items.

C. **What are the specific impacts on instructional/support programs to accommodate the settlement?** Include the impact of non-negotiated changes such as staff reductions and program reductions/eliminations.

All classified staff shall return to work on-site as early as Monday April 5, 2021 to prepare for the launch of the Hybrid Learning Program. ii. Unit members who work in the paraprofessional job classifications shall only be required to work on-site for the days in which the students they support are on-site. iii. Unit members who work at school sites (excluding those in the paraprofessional job classifications) shall work on-site for all days in which students are on campus for the Hybrid Learning Program. iv. Depending on student needs, some staff may be

D. What contingency language is included in the proposed agreement? Include specific areas identified for reopeners, applicable fiscal years, and specific contingency language.

The District and CSEA agree to continue to analyze, review and negotiate as required by law AB86 regarding paraprofessionals supporting students.

E. Source of Funding for Proposed Agreement

1. The cost of this MOU will be funded by ESSER II stimulus funds.

2. How will the ongoing cost of the proposed agreement be funded in <u>future</u> years?

Provisions of this MOU will be effective July 1, 2020 through June 30, 2021.

3. If multi-year agreement, what is the source of funding, including assumptions used, to fund these obligations in future years? (Remember to include compounding effects in meeting obligations)

This is not a multi-year agreement.

F. Impact of Proposed Agreement on Current Year Unrestricted Reserves

1. State Reserve Standard

a. Total Expenditures, Transfers Out, and Uses (Including Cost of Proposed Agreement)	$64,529,769
b. State Standard Minimum Reserve Percentage for this District	3.00%
c. Projected P-2 ADA	4,211.37
d. State Standard Minimum Reserve Amount for this District *(Line 1a times Line 1b, or $50,000, whichever is greater, for a district with less than 1,001 ADA)*	$1,935,893.07

2. Budgeted Unrestricted Reserve (After Impact of Proposed Agreement)

a. General Fund Budgeted Unrestricted Designated for Economic Uncertainties	$1,947,796.00
b. General Fund Budgeted Unrestricted Unappropriated Amount	$1.18
c. Special Reserve Fund 17-Bugeted Designated for Economic Uncertainties	$0.00
d. Special Reserve Fund 17-Budgeted Unappropriated Amount	$0.00
e. Total District Budgeted Unrestricted Reserves	$1,947,797.18

3. Do unrestricted reserves meet the state standard minimum reserve amount? **Yes** No

G. Certification

The information provided in this document summarized the financial implications of the proposed agreement and is submitted to the Governing Board for public disclosure of the major provisions of the agreement in accordance with the requirements of AB 1200 and Government Code § 3547.5.

We hereby certify that the costs incurred by the school district under this agreement can be met by the district during the term of the agreement.

Gina A. Poll — 4/7/2021

District Superintendent (Signature) — Date

Marilyn Adrianzen — 4/7/2021

Chief Business Official (Signature) — Date

Contact Person: Marilyn Adrianzen Telephone No.: (619) 428-4476

Supplement

H. Impact of Proposed Agreement on Current Year Operating Budget*

Date of governing board approval of budget revisions in Col. 2: May 13, 2021
in accordance with Education Code § 42142 and Government Code § 3547.5

Provide a copy of board-approved budget revisions and board minutes. In addition, provide two expenditure reports generated by the district's financial system: one showing the budget by major object before the changes and a second showing the budget by major object after the changes.

If the board-approved revisions are different from the proposed budget adjustments in Col. 2, provide a revised report upon approval of the district governing board.

	(Col. 1) Latest Board-Approved Budget Before Settlement as of 3/11/2021	(Col. 2) Adjustments as a Result of Settlement	(Col. 3) Other Revisions	(Col. 4) (Cols. 1 + 2 + 3) Total Impact on Budget
REVENUES:				
Revenue Limit Sources (8010-8099)	46,255,924			46,255,924
Remaining Revenues (8100-8799)	19,482,101		1,077,754	20,559,855
TOTAL REVENUES	65,738,025	0	1,077,754	66,815,779
EXPENDITURES:				0
1000 Certificated Salaries	24,455,336			24,455,336
2000 Classified Salaries	10,422,919	978,513		11,401,432
3000 Employee Benefits	13,175,251	99,241		13,274,492
4000 Books and Supplies	5,723,681			5,723,681
5000 Services and Operating Expenses	9,938,560			9,938,560
6000 Capital Outlay	169,000			169,000
7000 Other	494,681			494,681
TOTAL EXPENDITURES	64,379,427	1,077,754	0	65,457,181
OPERATING SURPLUS (DEFICIT)	1,358,598	(1,077,754)	1,077,754	1,358,598
OTHER SOURCES AND TRANSFERS IN				0
OTHER USES AND TRANSFERS OUT	150,342			150,342
CURRENT YEAR INCREASE (DECREASE) IN FUND BALANCE	1,208,256	(1,077,754)	1,077,754	1,208,256
BEGINNING BALANCE	1,325,391			1,325,391
CURRENT YEAR-ENDING BALANCE	2,533,646	(1,077,754)	1,077,754	2,533,646
COMPONENTS OF ENDING BALANCE:				
Nonspendable (9711-9719)	50,000			50,000
Restricted (9740)	535,849	(1,077,754)	1,077,754	535,849
Committed (9750/9760)				0
Assigned (9780)	0			0
Reserve Economic Uncertainties (9789)	1,947,796			1,947,796
Unassigned/Unappropriated (9790)	1			1

If the total amount of the adjustment in Column 2 does not agree with the amount of the total cost shown on page 1, please explain:

*This supplement is a composite recap of "all" the bargaining agreements shown on the preceding pages.

DISCLOSURE OF COLLECTIVE BARGAINING AGREEMENT

GENERAL INSTRUCTIONS

- Please submit this form to the county superintendent of schools and make available to the public for review at least ten (10) working days prior to the date the governing board will take action on the proposed bargaining agreement.
- Separate documents must be completed for each collective bargaining agreement, but if more than one agreement is discussed at the same time, you may summarize the financial impact of "all" agreements on page 4 (supplement).
- Include, as applicable, *Cost Prior to Proposed Agreement, Current Year, Year 2 and Year 3* information for the period covered in the proposed agreement. For example, for a 2-year multi-year agreement, complete *Cost Prior to Proposed Agreement, Current Year* and *Year 2.*
- Any time a contract is reopened with a financial impact on "any area of compensation," a disclosure of the proposed agreement must be made.
- The specific manner in which the public is made aware of the proposed agreement and its availability for public inspection and review is at the discretion of the local district.
- The governing board shall adopt revisions to its budget needed in the current fiscal year to fulfill the terms of the collective bargaining agreement within 45 days of adoption (EC § 42142). Provide a copy of the board-approved budget revisions and board minutes to the county office. In addition, provide two expenditure reports generated by the district's financial system: one showing the budget by major object before the changes and a second showing the budget by major object after the changes.
- All revisions to the budget needed in the current fiscal year to meet the costs of the collective bargaining agreement shall be adopted no later than the statutory deadline for certification of the next interim report by the county superintendent of schools (GC § 3547.5, EC § 42131).

SPECIFIC INSTRUCTIONS FOR COMPLETION

PROPOSED CHANGE IN COMPENSATION

1. Step and Column

   a. Cost Prior to Proposed Agreement: Enter the total annual cost of all salaries for the bargaining unit prior to the proposed agreement. Remove any "one-time" bonuses or payments that were paid in prior year, if applicable.
   b. $: Enter the annual increase cost of *Step and Column* movement on the *Salary Schedule* for the affected bargaining unit.
   c. %: Divide the annual cost of *Step and Column*, Line 1(b), by the *Cost Prior to Proposed Agreement*, Line 1(a).

2. Salary Schedule

   a. Cost Prior to Proposed Agreement: Enter the amount from Line 1(a) plus Line 1(b).
   b. $: Enter the annual $ amount of the proposed change in the *Salary Schedule.*

3. Other Compensation

   Description: Indicate specific changes in *Other Compensation* for the current year. For example: 1% off schedule or $200/employee. For *Year 2* and *Year 3*, explain in "Comments" section, if applicable.

   a. Cost Prior to Proposed Agreement: Enter the amount from Line 2(a).
   b. $: Enter the annual amount of the proposed change in *Other Compensation*.
   c. %: Divide the amount by the *Cost Prior to the Proposed Agreement*, Line 3(a).

4. Statutory Benefits

   a. Cost Prior to Proposed Agreement: Enter the total prior year cost of *Statutory Benefits* of the bargaining unit prior to the proposed agreement. If applicable, exclude any "one-time" benefit costs that would not carry over to current year.
   b. $: Enter the amount of the proposed change in *Statutory Benefits* resulting from changes in *Salary Schedule, Step and Column*, and *Other Compensation* reported on Line 1(b) through Line 3(b).
   c. %: Divide Line 4(b) by the amount of dollars shown in *Cost Prior to Proposed Agreement*, Line 4(a).

5. Health/Welfare Benefits

   a. Cost Prior to Proposed Agreement: Enter the total annual cost of *Health/Welfare Benefits* of the bargaining unit prior to the proposed agreement. If applicable, exclude any "one-time" costs that would not carry over to current year.
   b. $: Enter the amount of the proposed change in *Health/Welfare Benefits*, resulting from the affected bargaining unit agreement.
   c. %: Divide Line 5(b) by the amount of dollars shown in *Cost Prior to Proposed Agreement* Line 5(a).

6. Total Compensation

   a. Cost Prior to Proposed Agreement: Total Lines 3(a), 4(a), and 5(a).
   b. $: Total Lines 1(b), 2(b), 3(b), 4(b), and 5(b).
   c. %: Divide the total by *Cost Prior to Proposed Agreement*, Line 6(a).

7. Total Number of Represented Employees

   Enter the total full-time equivalent (FTE) employees for the affected bargaining unit for each applicable year.

8. Total Compensation Cost for Average Employee

   a. Cost Prior to Proposed Agreement: Divide *Cost Prior to Proposed Agreement*, Line 6(a) by Prior Year FTE Employees, Line 7.
   b. $: Divide *Total Compensation*, Line 6(b) by FTE employees, Line 7, for each applicable year.
   c. %: Divide *Total Compensation Cost for Average Employee*, Line 8(b) by *Cost Prior to Proposed Agreement*, Line 8(a).

Memorandum of Understanding about Coronavirus Response
Amendment No. 2
April 5, 2021

The Memorandum of Understanding between San Ysidro School District ("District") and the California School Employees Association and its Chapter 154 ("CSEA") dated August 7, 2020 and amended on October 28, 2020 is hereby amended as follows:

1. **Section D.3 (Hazard Pay): Add the following language**
    a. Office staff in the classifications listed below shall earn time and a half (additional 50% of their regular pay) for all hours worked on-site for any day between September 1, 2020 and December 31, 2020 in which five or more visitors were in the office.
        i. Administrative Clerk I, Administrative Clerk II, Administrative Secretary I, Administrative Secretary II, Administrative Secretary III, Child and Families Project Facilitator, Health Clerk, Instructional Media Resource Aide, Licensed Vocational Nurse, Outreach Consultant, and School Administrative Assistant.

2. **Add Section D.5: Hybrid Learning Program**
    a. The District shall implement a Hybrid Learning Program beginning Monday April 12, 2021. The following shall take place as a result of the Hybrid Learning Program.
        i. All classified staff shall return to work on-site as early as Monday April 5, 2021 to prepare for the launch of the Hybrid Learning Program.
        ii. Unit members who work in the paraprofessional job classifications shall only be required to work on-site for the days in which the students they support are on-site.
        iii. Unit members who work at school sites (excluding those in the paraprofessional job classifications) shall work on-site for all days in which students are on campus for the Hybrid Learning Program.
        iv. Depending on student needs, some staff may be allowed to continue to work remotely for all or a portion of their work week, but shall not be disqualified for the one-time off-schedule payment as outlined below.
        v. All classified staff shall be notified of a change in assignment or schedule 24 hours in advance via email communication.
            1. Changes in schedules as a result of the Hybrid Learning Program shall not be subject to the reassignment or hour change notification period as defined in the collective bargaining agreement.
        vi. All unit members returning to work on-site shall earn a one-time off-schedule payment of 7% of the unit member's annual salary to be paid no later than June 30, 2021.
            1. Unit members not returning on site due to a medical restriction and corresponding remote work accommodation shall not earn this additional pay.
            2. Should a unit member return to work on-site after April 12, 2021, but before June 30, 2021, they shall receive a pro-rated one-time off-schedule payment.

3. **Add Section B.3: Senate Bill 95**

a. In accordance with Senate Bill 95, the District shall provide up to 80 hours for full-time employees (pro rata for part-time) of supplemental fully paid sick leave (up to $511 per day and $5,110 in total) beginning retroactively on Jan. 1, 2021 through Sept. 30, 2021 for the following reasons:
    i. The employee is subject to a quarantine or isolation period related to COVID-19, as defined by an order or guidelines of the California Department of Public Health, the federal Centers for Disease Control and Prevention or a local health officer who has jurisdiction over the workplace.
    ii. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
    iii. The employee is attending an appointment to receive a vaccine for protection against contracting COVID-19.
    iv. The employee is experiencing symptoms related to a COVID-19 vaccine that prevent the employee from being able to work or telework.
    v. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
    vi. The employee is caring for a family member, who is subject to an order or guidelines described in the first bullet above or who has been advised to self-quarantine, as described in the second bullet point.
    vii. The employee is caring for a child, whose school or place of care is closed or otherwise unavailable for reasons related to COVID-19 on the premises.
b. All unit members shall be entitled to the leave balances referenced above regardless if they used any portion of FFCRA leave prior to January 1, 2021.
c. Unit members who utilized their own hours of Personal Illness due to one of the COVID related reasons listed above during the period of January 1, 2021 through the execution date of this agreement shall have their balances restored.
d. The District may request verification prior to placing a unit member on paid COVID leave.
e. Any employee reporting to work who is sent home due to coronavirus exposure on site shall not be deducted any leaves or pay for the duration of quarantine period set forth by the District.
f. This section replaces the previous extension of leave as agreed to by the District and CSEA in the Memorandum of Understanding dated February 3, 2021.
g. Nothing in this section is intended to expand the benefits provided under SB95.

4. **Add Section E.1: Assembly Bill 86**
    a. The District and CSEA agree to continue to analyze, review and negotiate as required by law AB86 regarding paraprofessionals supporting students.

Except as expressly amended herein, all other terms and conditions of the MOU shall remain in full force and effect. Nothing in this agreement shall be considered precedent setting or the establishment of a past practice. This amendment have been mutually agreed upon by the parties.

CSEA Representative	04/05/2021 Date	District Representative	04/05/2021 Date
CSEA Representative	04/05/2021 Date	District Representative	Date

san diego county office of EDUCATION
FUTURE WITHOUT BOUNDARIES℠

San Diego County Office of Education **Main Campus**
6401 Linda Vista Road, San Diego, CA 92111
858-292-3500 | www.sdcoe.net

April 30, 2021

Gina Potter, Ed.D.
Superintendent
San Ysidro School District
4350 Otay Mesa Road
San Ysidro, CA 92173

Dear Dr. Potter:

We have received the San Ysidro School District's Disclosure of Collective Bargaining Agreement, which is required as part of AB 1200 (Statutes of 1991, Chapter 1213) and Government Code 3547.5. The disclosure is for the the Classified School Employee Association (CSEA) and is scheduled to be acted upon by the governing board at its meeting on May 13, 2021.

CSEA Amendment #2 to Memorandum of Understanding (MOU) about Coronavirus Response dated April 5, 2021

The amendment establishes Hazard Pay (defined as an additional 50% of regular pay) for all hours worked on-site from September 1, 2020 through December 31, 2020 in which five or more visitors were in the office for the following classifications:

- Administrative Clerk I, II
- Administrative Secretary I, II, III
- Child and Families Project Facilitator
- Health Clerk
- Instructional Media Resource Aide
- Licensed Vocational Nurse
- Outreach Consultant
- School Administrative Assistant

The amendment also details the plan for classified employees and the return to on-site work for the Hybrid Learning Program. All unit members who return to work on-site will receive a one-time off-schedule payment of 7% of their annual salary, to be paid by June 30, 2021. Unit members returning to work on-site after April 12, but before June 30, 2021, will receive a pro-rated payment.

In addition to the above stipulations, the amendment provides paid sick leave in accordance with Senate Bill 95, which replaces the previous extension of leave as agreed to in the MOU between the district and CSEA dated February 3, 2021.

The district estimates an increase in salaries and benefits due to this amendment of approximately $1.1 million in fiscal year 2020-21, and plans to use the ESSER II source from the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act to fund the additional costs. We recommend the district review the planned expenditures from this restricted funding source with the external auditors.

Government Code Section 3547.5(b) requires the district superintendent and chief business official to certify in writing that the cost of the collective bargaining agreement can be met during the term of the agreement. Furthermore, Education Code Section 42142 requires school districts to incorporate necessary budget revisions within 45 days of board approval of a collective bargaining agreement. Please forward a copy of the budget revisions and the original signed certification to our office.

This letter can be found on our website at: https://www.sdcoe.net/business-services/financial-services/business-advisory-services/Pages/Correspondence.aspx.

Sincerely,



Brent Watson
Executive Director
District Financial Services

cc: Marilyn Adrianzen, Chief Business Official, San Ysidro School District
Retirement Reporting Unit, San Diego County Office of Education

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business Services
Marilyn Adrianzen, Chief Business Official

☐ Informational
☒ Action

AGENDA ITEM: AB1200 FOR ASSISTANT SUPERINTENDENT OF EDUCATIONAL LEADERSHIP, PUPIL SERVICES AND SAFETY

BACKGROUND INFORMATION:
The San Ysidro School District approved stipends for both the certificated and classified bargaining units via COVID and Opening of Schools related Memorandums of Understanding for school year 2020-21. In line with those MOUs, the District is providing the Assistant Superintendent of Educational Leadership, Pupil Services and Safety: ▪ a one-time only stipend to administer and support the district's hybrid model. ▪ authorization to work a specific number of days on nonwork days or weekends, effective March 20, 2021 through June 30, 2021.

The extra work days are equivalent to the four (4) furlough days applied to the Assistant Superintendent of Educational Leadership, Pupil Services and Safety employment contract in the 2020-2021 school year prior to the release of Federal stimulus funds.

RECOMMENDATION:
Approve the AB 1200 for the Assistant Superintendent of Educational Leadership, Pupil Services and Safety for the 2020-2021 school year and the submittal of AB 1200 to the San Diego County Office of Education to implement the Hybrid Learning Program. The funding source for this AB 1200 is the Elementary and Secondary School Relief (ESSER II) fund.

LCAP GOAL AND ACTION/SERVICE (please indicate):

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	
2020-2021 $11,859.32 (Amount)	ESSER II Funds (Name of funding source and/or location)	

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

Disclosure of Collective Bargaining Agreement

In Accordance with AB 1200 (Statutes of 1991, Chapter 1213);
GC § 3547.5 (Statutes of 2004, Chapter 52)

San Ysidro School District

Name of Bargaining Unit: Assistant Superintendent of Educational Leadership, Pupil Services and Safety Certificated: X Classified:

The proposed agreement covers the period: Beginning: 07-01-20 Ending: 06-30-21

This agreement will be acted upon by the Governing Board at its meeting on: May 13, 2021 (Date)

A. Proposed Change in Compensation

	Compensation	Cost Prior to Proposed Agreement 03-11-2021 (a) $	Fiscal Impact of Proposed Agreement					
			Current Year 2020-2021		Year 2 2021-2022		Year 3 2022-2023	
			(b) $	(c) %	(b) $	(c) %	(b) $	(c) %
1.	**Step & Column** - Increase (Decrease) due to movement plus any changes due to settlement	$158,854.00	$0.00	0.00%	$3,177.08	2.00%	$3,240.62	2.00%
2.	**Salary Schedule** - Increase (Decrease)	$158,854.00	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%
3.	**Other Compensation** - Increase (Decrease) in Stipends, Bonuses, etc.	$158,854.00	$9,875.19	6.22%	$0.00	0.00%	$0.00	0.00%
4.	**Statutory Benefits** - Increase (Decrease) in STRS, PERS, FICA, WC, UI, Medicare, etc.	$31,916.95	$1,984.12	6.22%	$668.52	1.97%	$681.89	1.97%
5.	**Health/Welfare Benefits** - Increase (Decrease)	$9,500.00	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%
6.	**Total Compensation** - Increase (Decrease) Total Lines 3(a), 4(a), 5(a)	$200,270.95	$11,859.32	5.92%	$3,845.60	1.81%	$3,922.51	1.82%
7.	**Total Number of Represented Employees**	1.00	1.00		1.00		1.00	
8.	**Total Compensation Cost for Average Employee** - Increase (Decrease)	$200,270.95	$11,859.32	5.92%	$3,845.60	1.81%	$3,922.51	1.82%

Impact on other Funds: No impact on other funds

A. Provide a brief narrative of the proposed change in compensation, including percentage change(s), effective date(s), and comments and explanations as necessary:

Effective March 20, 2021 through June 30, 2021, the Assistant Superintendent of Educational Leadership, Pupil Services and Safety will be allowed to work extra days on non- workdays and weekend days (Saturday/Sunday) up to four (4) days at their per diem daily rate. A timesheet must be approved by the site/department supervisor in order to be paid the extra work days.

In addition, the Assistant Superintendent of Educational Leadership, Pupil Services and Safety will receive a one-time stipend in the amount of $7,000 to administer and support the district's hybrid model.

B. Proposed Negotiated Changes in Non-Compensation Items (class size adjustments, staff development days, teacher prep time, etc.)

Not applicable

C. What are the specific impacts on instructional/support programs to accommodate the settlement? Include the impact of non-negotiated changes such as staff reductions and program reductions/eliminations.

There are no specific impacts on instructional / support programs to accommodate the settlement.

D. What contingency language is included in the proposed agreement? Include specific areas identified for reopeners, applicable fiscal years, and specific contingency language.

E. Source of Funding for Proposed Agreement

1. The cost of this MOU will be funded by ESSER II.

2. How will the ongoing cost of the proposed agreement be funded in <u>future</u> years?

The cost of this proposed agreement is one-time only in fiscal year 2020-21.

3. If multi-year agreement, what is the source of funding, including assumptions used, to fund these obligations in future years? (Remember to include compounding effects in meeting obligations)

This is not a multi-year agreement.

Revised 07/04

F. Impact of Proposed Agreement on Current Year Unrestricted Reserves

1. State Reserve Standard

a. Total Expenditures, Transfers Out, and Uses (Including Cost of Proposed Agreement)	$64,529,769
b. State Standard Minimum Reserve Percentage for this District	3.00%
c. Projected P-2 ADA	4,211.37
d. State Standard Minimum Reserve Amount for this District *(Line 1a times Line 1b, or $50,000, whichever is greater, for a district with less than 1,001 ADA)*	$1,935,893.08

2. Budgeted Unrestricted Reserve (After Impact of Proposed Agreement)

a. General Fund Budgeted Unrestricted Designated for Economic Uncertainties	$1,947,796.00
b. General Fund Budgeted Unrestricted Unappropriated Amount	$0.82
c. Special Reserve Fund 17-Bugeted Designated for Economic Uncertainties	$0.00
d. Special Reserve Fund 17-Budgeted Unappropriated Amount	$0.00
e. Total District Budgeted Unrestricted Reserves	$1,947,796.82

3. Do unrestricted reserves meet the state standard minimum reserve amount? **Yes** No

G. Certification

The information provided in this document summarized the financial implications of the proposed agreement and is submitted to the Governing Board for public disclosure of the major provisions of the agreement in accordance with the requirements of AB 1200 and Government Code § 3547.5.

We hereby certify that the costs incurred by the school district under this agreement can be met by the district during the term of the agreement.

Gina Potter — 4/22/2021

District Superintendent (Signature) — Date

Marilyn Adrianzen — 4/22/2021

Chief Business Official (Signature) — Date

Contact Person: Marilyn Adrianzen Telephone No.: (619) 428-4476

Revised: 06/06

Supplement

H. Impact of Proposed Agreement on Current Year Operating Budget*

Date of governing board approval of budget revisions in Col. 2: May 13, 2021
in accordance with Education Code § 42142 and Government Code § 3547.5

Provide a copy of board-approved budget revisions and board minutes. In addition, provide two expenditure reports generated by the district's financial system: one showing the budget by major object before the changes and a second showing the budget by major object after the changes.

If the board-approved revisions are different from the proposed budget adjustments in Col. 2, provide a revised report upon approval of the district governing board.

	(Col. 1) Latest Board-Approved Budget Before Settlement as of 03-11-2021	(Col. 2) Adjustments as a Result of Settlement	(Col. 3) Other Revisions	(Col. 4) (Cols. 1 + 2 + 3) Total Impact on Budget
REVENUES:				
Revenue Limit Sources (8010-8099)	46,255,924			46,255,924
Remaining Revenues (8100-8799)	19,482,101		11,859	19,493,960
TOTAL REVENUES	65,738,025	0	11,859	65,749,884
EXPENDITURES:				0
1000 Certificated Salaries	24,455,336	9,875		24,465,212
2000 Classified Salaries	10,422,919			10,422,919
3000 Employee Benefits	13,175,251	1,984		13,177,235
4000 Books and Supplies	5,723,681			5,723,681
5000 Services and Operating Expenses	9,938,560			9,938,560
6000 Capital Outlay	169,000			169,000
7000 Other	494,681			494,681
TOTAL EXPENDITURES	64,379,427	11,859	0	64,391,286
OPERATING SURPLUS (DEFICIT)	1,358,598	(11,859)	11,859	1,358,598
OTHER SOURCES AND TRANSFERS IN				0
OTHER USES AND TRANSFERS OUT	150,342			150,342
CURRENT YEAR INCREASE (DECREASE) IN FUND BALANCE	1,208,256	(11,859)	11,859	1,208,255
BEGINNING BALANCE	1,325,391			1,325,391
CURRENT YEAR-ENDING BALANCE	2,533,646	(11,859)	11,859	2,533,646
COMPONENTS OF ENDING BALANCE:				
Nonspendable (9711-9719)	50,000			50,000
Restricted (9740)	535,849	(11,859)	11,859	535,849
Committed (9750/9760)				0
Assigned (9780)				0
Reserve Economic Uncertainties (9789)	1,947,796			1,947,796
Unassigned/Unappropriated (9790)	1			1

If the total amount of the adjustment in Column 2 does not agree with the amount of the total cost shown on page 1, please explain:

*This supplement is a composite recap of "all" the bargaining agreements shown on the preceding pages.

DISCLOSURE OF COLLECTIVE BARGAINING AGREEMENT

GENERAL INSTRUCTIONS

- Please submit this form to the county superintendent of schools and make available to the public for review at least ten (10) working days prior to the date the governing board will take action on the proposed bargaining agreement.

- Separate documents must be completed for each collective bargaining agreement, but if more than one agreement is discussed at the same time, you may summarize the financial impact of "all" agreements on page 4 (supplement).

- Include, as applicable, *Cost Prior to Proposed Agreement, Current Year, Year 2 and Year 3* information for the period covered in the proposed agreement. For example, for a 2-year multi-year agreement, complete *Cost Prior to Proposed Agreement, Current Year* and *Year 2.*

- Any time a contract is reopened with a financial impact on "any area of compensation," a disclosure of the proposed agreement must be made.

- The specific manner in which the public is made aware of the proposed agreement and its availability for public inspection and review is at the discretion of the local district.

- The governing board shall adopt revisions to its budget needed in the current fiscal year to fulfill the terms of the collective bargaining agreement within 45 days of adoption (EC § 42142). Provide a copy of the board-approved budget revisions and board minutes to the county office. In addition, provide two expenditure reports generated by the district's financial system: one showing the budget by major object before the changes and a second showing the budget by major object after the changes.

- All revisions to the budget needed in the current fiscal year to meet the costs of the collective bargaining agreement shall be adopted no later than the statutory deadline for certification of the next interim report by the county superintendent of schools (GC § 3547.5, EC § 42131).

SPECIFIC INSTRUCTIONS FOR COMPLETION

PROPOSED CHANGE IN COMPENSATION

1. Step and Column

   a. Cost Prior to Proposed Agreement: Enter the total annual cost of all salaries for the bargaining unit prior to the proposed agreement. Remove any "one-time" bonuses or payments that were paid in prior year, if applicable.
   b. $: Enter the annual increase cost of *Step and Column* movement on the *Salary Schedule* for the affected bargaining unit.
   c. %: Divide the annual cost of *Step and Column*, Line 1(b), by the *Cost Prior to Proposed Agreement*, Line 1(a).

2. Salary Schedule

   a. Cost Prior to Proposed Agreement: Enter the amount from Line 1(a) plus Line 1(b).
   b. $: Enter the annual $ amount of the proposed change in the *Salary Schedule.*

3. Other Compensation

   Description: Indicate specific changes in *Other Compensation* for the current year. For example: 1% off schedule or $200/employee. For *Year 2* and *Year 3*, explain in "Comments" section, if applicable.

   a. Cost Prior to Proposed Agreement: Enter the amount from Line 2(a).
   b. $: Enter the annual amount of the proposed change in *Other Compensation*.
   c. %: Divide the amount by the *Cost Prior to the Proposed Agreement*, Line 3(a).

4. Statutory Benefits

   a. Cost Prior to Proposed Agreement: Enter the total prior year cost of *Statutory Benefits* of the bargaining unit prior to the proposed agreement. If applicable, exclude any "one-time" benefit costs that would not carry over to current year.
   b. $: Enter the amount of the proposed change in *Statutory Benefits* resulting from changes in *Salary Schedule, Step and Column*, and *Other Compensation* reported on Line 1(b) through Line 3(b).
   c. %: Divide Line 4(b) by the amount of dollars shown in *Cost Prior to Proposed Agreement*, Line 4(a).

5. Health/Welfare Benefits

   a. Cost Prior to Proposed Agreement: Enter the total annual cost of *Health/Welfare Benefits* of the bargaining unit prior to the proposed agreement. If applicable, exclude any "one-time" costs that would not carry over to current year.
   b. $: Enter the amount of the proposed change in *Health/Welfare Benefits*, resulting from the affected bargaining unit agreement.
   c. %: Divide Line 5(b) by the amount of dollars shown in *Cost Prior to Proposed Agreement* Line 5(a).

6. Total Compensation

   a. Cost Prior to Proposed Agreement: Total Lines 3(a), 4(a), and 5(a).
   b. $: Total Lines 1(b), 2(b), 3(b), 4(b), and 5(b).
   c. %: Divide the total by *Cost Prior to Proposed Agreement*, Line 6(a).

7. Total Number of Represented Employees

   Enter the total full-time equivalent (FTE) employees for the affected bargaining unit for each applicable year.

8. Total Compensation Cost for Average Employee

   a. Cost Prior to Proposed Agreement: Divide *Cost Prior to Proposed Agreement*, Line 6(a) by Prior Year FTE Employees, Line 7.
   b. $: Divide *Total Compensation*, Line 6(b) by FTE employees, Line 7, for each applicable year.
   c. %: Divide *Total Compensation Cost for Average Employee*, Line 8(b) by *Cost Prior to Proposed Agreement*, Line 8(a).

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Maintenance, Operations, Transportation & Facilities
Paulo Azevedo, Director

☐ Informational
☒ Action

AGENDA ITEM: RESOLUTION NO. 20/21-0032 ACCEPTANCE OF WORK AND NOTICE OF COMPLETION FOR THE NEEDLE POINT BIPOLAR IONIZATION SYSTEM INSTALLATION PROJECT

BACKGROUND INFORMATION:
On December 14, 2020, the agreement with Emcor Services Mesa Energy Systems Inc. (dated November 13, 2020) was approved to provide the installation of the Needle Point Bipolar Ionization (NPBI) system in all of the district's school sites to create a safer environment for staff and students by purifying the air, improving filtration and combating infected surfaces. This system does not replace daily disinfecting or social distancing. This needlepoint Bi-Polarionization system will enhance the learning environment and help eliminate: particulate matters; pathogens, mold spores and viruses (COVID-19); converts VOC's (odors); and air pollution.

The NPBI System project was completed on March 31, 2021 in a satisfactory and timely manner by Emcor Services. The scope of work included 281 Roof Top Unites (RTUs) and 8 Air Handler Units (AHUs) for a cost of $369,248.00.

RECOMMENDATION:
Approve Resolution No. 20/21-0032 for the acceptance of work and notice of completion for the Needle Point Bipolar Ionization System installation by Emcor Services Mesa Energy Systems Inc. in all of the district and school facilities to eliminate particulate matters; pathogens, mold spores and viruses (COVID-19); Converts VOC's (odors); and air pollution.

LCAP GOAL AND ACTION/SERVICE (please indicate):

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications? ☐ Yes ☒ No

Are funds for this item available in the 2020-2021 Budget? ☐ Yes ☐ No

Requisition #

(Amount)

(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

RESOLUTION 20/21-032

RESOLUTION OF THE GOVERNING BOARD OF THE SAN YSIDRO SCHOOL DISTRICT ACCEPTANCE OF WORK AND NOTICE OF COMPLETION FOR NEEDLEPOINT BIPOLAR IONIZATION (NBPI) PROJECT #C2032493

WHEREAS, San Ysidro School District has heretofore entered into a contract with **EMCOR Service, Mesa Energy Systems** of El Cajon, California for the Needlepoint Bipolar Ionization (NBPI) Project which included the HVAC monitors to combat the COVID-19 virus. The project consisted of the installation of the NBPI in all of the district/school facilities located in the San Ysidro School District according to project specifications and scope of work; and

WHEREAS, such work for the project has been completed successfully by the contractor on March 31, 2021 and it is in the interest of the district to accept such work and to file a notice of completion. (Contractor: EMCOR Services Mesa Energy Systems contract date 11-13-2020)

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the San Ysidro School District's Governing Board as follows:

1. That said work be hereby accepted by the district, provided that such acceptance not be construed as constituting any waiver of any rights of the district, and provided further that such acceptance shall not in any way affect the warranties and guaranties given by the contractor as to the quality of the work performed and as to the proper functioning of said facilities.

2. That the Governing Board president and secretary be and they hereby are authorized and directed to execute the Acceptance of Work and Notice of Completion.

PASSED, ADOPTED AND APPROVED this 13th day of May 2021, by the following vote:

AYES:

NOES:

ABSENT:

_____
Antonio Martinez, President

ATTEST:

_____
Gina A. Potter, Ed.D., Secretary

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO:

Name San Ysidro School District

Street Address 4350 Otay Mesa Road

City & State San Ysidro, CA 92173

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

NOTICE OF COMPLETION

Notice is hereby given that:

1. The undersigned is owner or corporate officer of the owner of the interest or estate stated below in the property hereinafter described:
2. The full name of the owner is San Ysidro School District (SYSD)
3. The full address of the owner is 4350 Otay Mesa Road, San Ysidro, CA 92173
4. The nature of the interest or estate of the owner is ~~xxxfee~~ Needlepoint Bipolar Ionization (NBPI) Project
   (If other than fee, strike "in Fee" and insert, for example, "purchaser under contract of purchase," or "lessee")
5. The full names and full addresses of all persons, if any, who hold title with the undersigned as joint tenants or as tenants in common are:

   NAMES ADDRESSES

   None
6. A work of improvement on the property hereinafter described was completed on 04/26/2021 . The work done was: Installation of 281 NBPI rooftop units and 8 GPS air handlers in multiple schools located in SYSD.
7. The name of the contractor, if any, for such work of improvement was EMCOR Service Mesa Energy Systems. (Contract date 11-13-2020)
   (If no contractor for work of improvement as a whole, insert "none") (Date of Contract)
8. The property on which said work of improvement was completed is in the city of San Ysidro (92173)/ San Diego (92154 , County of San Diego , State of California, and is described as follows: San Ysidro School District, and schools: La Mirada, Smythe, Sunset, Ocean View Hills, Willow, San Ysidro Middle School, Vista Del Mar Middle School, Child Development Center, and Sunset Preschool
9. The street address of said property is Various (attached) - SYSD 4350 Otay Mesa Road, San Ysidro, CA 92173
   (If no street address has been officially assigned, insert "none")

Dated: 05/13/2021

Signature of owner of corporate officer of owner named in paragraph 2 or his agent

VERIFICATION

I, the undersigned, say: I am the President of San Ysidro School District's Governing Board the declarant of the foregoing
("President of," "Manager of," "A partner of," "Owner of," etc.)
notice of completion; I have read said notice of completion and know the contents thereof; the same is true of my own knowledge.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 13 , 20 21 , at San Ysidro , California.
(Date of signature) (City where signed)

(Personal signature of the individual who is swearing that the contents of the notice of completion are true)

Needlepoint Bipolarization (NBPI)

Contractor: EMCOR Services Mesa Energy Systems

Contract Date: 11-13-2020

Completion Date: 03-31-2021

Location of work performed:

1. San Ysidro School District, 4350 Otay Mesa Road, San Ysidro, CA 92173
2. La Mirada Elementary School, 222 Avenida De La Madrid, San Ysidro, CA 92173
3. Smythe Elementary School, 1880 Smythe Avenue, San Ysidro, CA 92173
4. Sunset Elementary School, 3825 Sunset Lane, San Ysidro, CA 92173
5. Ocean View Hills School, 4919 Del Sol Blvd., San Diego, CA 92154
6. Willow Elementary School, 226 Willow Road, San Ysidro, CA 92173
7. San Ysidro Middle School, 4345 Otay Mesa Road, San Ysidro, CA 92173
8. Vista Del Mar Middle School, 4885 Del Sol Blvd., San Diego, CA 92154
9. Preschool & Child Development Center, 1880 Smythe Avenue, San Ysidro, CA 92173
10. Sunset Preschool, 3825 Sunset Lane, San Ysidro, CA 92173

EMCOR Services
Mesa Energy Systems

2 CROMWELL ● IRVINE, CA 92618 ● (949) 460-0460 ● FAX (949) 460-8833
LICENSE #611215 (B, C-4, C-10, C-20, C36, C38)

April 15, 2021

San Ysidro School District
4350 Otay Mesa Road
San Ysidro, CA 92173

Re: **San Ysidro School District installation rooftop RTU's, AHU's and NBPI for multiple schools in SYSD. PO #6906**

Subject: **Letter of Notice of Completion**

This Letter of Notice of Completion serves to notify the San Ysidro School District (SYSD), that EMCOR Services / Mesa Energy Systems, Inc. has completed all work on the above stated contract, indicated by the Contract Scope of Work below, and is hereby considered **100% Complete As Of March 31, 2021.**

Contract Scope of Work:

"Provide and Install GPS-iMod modular ionization bar, GPS-FC48-AC and GPS-FC24-AC ionization units for two hundred eighty-one (281) RTUs. These units will utilize magnetic and / or positive attachment anchorage as needed.

Provide and install a combination of the GPS-iMod modular ionization bar and GPS-FC48-AC compact, self-cleaning ionization unit on eight (8) air handlers; these units will utilize magnetic and / or positive attachment anchorage as needed."

Thank You,

Darrin Saatkamp

Darrin Saatkamp
Project Manager, Retrofit
EMCOR Services / Mesa Energy Systems Inc.

Cc: Dave Patterson
proposal 20-32493

EMCOR Service
Mesa Energy Systems
900 Vernon Way, Suite 100 • El Cajon • CA 92020 • (619) 265-5880 • Fax: (619) 265-5950
California License #611215, C4/C10/C20/C36/C38/B

April 7, 2021

CUSTOMER SATISFACTION SURVEY

Attn: Paulo Azevedo
San Ysidro Unified School District
4350 Otay Mesa Rd
San Ysidro, CA 92173

Reference: Mesa Project #C2032493
PM: Darrin Saatkamp

Dear Mr. Azevedo,

We have recently completed the **Needlepoint Bipolar Ionization (NBPI) installation on multiple schools located in the San Ysidro Unified School District.** As part of our ongoing effort to improve our service delivery to all of our customers, please take a few moments to answer the following questions. This *customer satisfaction survey* is the last step in closing out your project. The purpose of this survey is to understand your perspective on our performance, thus allowing us to serve you better on future projects. Please return the completed survey in the enclosed, self-addressed, stamped envelope.

1. Did EMCOR Service/Mesa Energy complete the scope of work as proposed? ☑ Yes ☐ No
   Comments: _____
2. Did EMCOR Service/Mesa Energy complete the project in a timely manner? ☑ Yes ☐ No
   Comments: _____
3. Was EMCOR Service/Mesa's communication pertaining to this project satisfactory? ☑ Yes ☐ No
   Comments: _____
4. Did EMCOR Service/Mesa provide you with close out documents in a timely manner? ☑ Yes ☐ No
   Comments: _____
5. Are you satisfied with the overall project? ☑ Yes ☐ No
   Comments: _____
6. Did EMCOR Service/Mesa Energy meet all of your expectations? ☑ Yes ☐ No
   Comments: _____
7. Will you use EMCOR Service/Mesa Energy again on future projects? ☑ Yes ☐ No
   Comments: _____

We thank you for your business and for taking the time to answer our questions. Your input is highly regarded and integral to our operations. We look forward to working with you again in the near future.
Sincerely,

_____ Customer Signature

Paulo Azevedo, MOTF

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board **BOARD MEETING DATE:** May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business Services
Marilyn Adrianzen, Chief Business Official

☐ Informational
☒ Action

AGENDA ITEM: RESOLUTION NO. 20/21-0033 TO ESTABLISH TEMPORARY INTERFUND BORROWING OF SPECIAL OR RESTRICTED FUND MONEYS

The Governing Board of any school district may direct the moneys held in any fund or account may be temporarily transferred to another fund or account of the district for payment of obligations as authorized by Education Code Section 42603.

This year districts can borrow from other funds, in accordance with Education Code Section 42603. SB 98 adds E.C. 42603.1:

> "(a) For the 2020–21 and 2021–22 fiscal years, if the state defers any payments owed to school districts, the governing board of a school district may authorize, by resolution, moneys held in any fund or account to be temporarily transferred to another fund or account of the school district for payment of obligations. The transfer shall be accounted for as temporary borrowing between funds or accounts and shall not be available for appropriation or be considered income to the borrowing fund or account. Amounts transferred shall be repaid either in the same fiscal year, or in the following fiscal year if the transfer takes place within the final 120 calendar days of a fiscal year. Borrowing shall occur only if the fund or account receiving the money will earn sufficient income, during the current fiscal year, to repay the amount transferred. No more than 85 percent of the maximum of moneys held in any fund or account during a current fiscal year may be transferred.
>
> (b) If a school district elects to exercise the authority described in subdivision (a), the governing board of the school district shall hold a public hearing to take testimony from the public before adopting the required resolution."

The Governing Board of the San Ysidro School District adopts this Resolution for fiscal year 2020-21 and 2021-22 to temporarily transfer (temporary borrowing) funds between the following funds provided that all transfers are approved by the Superintendent and/or designee. A Public Hearing will take place during the regular Board Meeting of May 13, 2021.

General Fund Unrestricted	Child Development Fund
General Fund Restricted	Cafeteria Fund
Building Fund	Capital Facilities Fund
Capital Project Fund for Blended Component Units	

RECOMMENDATION:
Conduct Public Hearing and Adopt Resolution No. 20/21-0033 to establish temporary interfund borrowing of special or restricted fund moneys for fiscal years 2020-21 and 2021-22.

LCAP GOAL AND ACTION/SERVICE (please indicate):

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?	Requisition #
☐ Yes ☒ No	☐ Yes ☐ No	
N/A (Amount)	N/A (Name of funding source and/or location)	

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

SAN YSIDRO SCHOOL DISTRICT
RESOLUTION NO. 20/21-0033

RESOLUTION TO ESTABLISH TEMPORARY INTERFUND BORROWING OF SPECIAL OR RESTRICTED FUND MONEYS

ON MOTION of Member _____, seconded by Member _____, the following resolution is hereby adopted effective July 1, 2020 through June 30, 2022:

WHEREAS, the Governing Board of any school district may direct that moneys held in any fund or account may be temporarily transferred to another fund or account of the district for payment of obligations as authorized by Education Code section 42603, and

WHEREAS, Education Code Section 42603.1 SB 98 adds: (a) For the 2020–21 and 2021–22 fiscal years, if the state defers any payments owed to school districts, the governing board of a school district may authorize, by resolution, moneys held in any fund or account to be temporarily transferred to another fund or account of the school district for payment of obligations. The transfer shall be accounted for as temporary borrowing between funds or accounts and shall not be available for appropriation or be considered income to the borrowing fund or account. Amounts transferred shall be repaid either in the same fiscal year, or in the following fiscal year if the transfer takes place within the final 120 calendar days of a fiscal year. Borrowing shall occur only if the fund or account receiving the money will earn sufficient income, during the current fiscal year, to repay the amount transferred. No more than 85 percent of the maximum of moneys held in any fund or account during a current fiscal year may be transferred.

(b) If a school district elects to exercise the authority described above, the governing board of the school district shall hold a public hearing to take testimony from the public before adopting the required resolution."

WHEREAS, the transfer shall be accounted for as temporary borrowing between funds or accounts and shall not be available for appropriation or be considered income to the borrowing fund or account, and

WHEREAS, amounts transferred shall be repaid either in the same fiscal year, or in the following fiscal year if the transfer takes place within the final 120 calendar days of a fiscal year,

THEREFORE, BE IT RESOLVED that the Governing Board of the San Ysidro School District, in accordance with the provisions of Education Code section 42603 adopts the following authorization for fiscal years 2020-21 and 2021-2022 to temporarily transfer 2020-21 and 2021-22 funds between the following funds provided that all transfers are approved by the Superintendent or his designee:

- General Fund Unrestricted
- General Fund Restricted
- Child Development Fund
- Cafeteria Fund
- Building Fund
- Capital Facilities Fund
- Capital Project Fund for Blended Component Units

PASSED AND ADOPTED by the Governing Board on May 13, 2021, by the following vote:

AYES:
NOES:
ABSENT:

STATE OF CALIFORNIA)
) SS
COUNTY OF SAN DIEGO)

I, Rosaleah Pallasigue, Clerk of the Governing Board, do hereby certify that the foregoing is a full, true, and correct copy of a resolution passed and adopted by the Board at a regularly called and conducted meeting held on said date.

WITNESSED my hand this __13th__ day of _May 2021.

_____
Rosaleah Pallasigue
Clerk of the Governing Board

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business Services
Marilyn Adrianzen, Chief Business Official

☐ Informational
☒ Action

AGENDA ITEM: ANNUAL RESOLUTIONS FOR FISCAL YEAR 2021-2022

BACKGROUND INFORMATION:
Pursuant to various sections of the Education Code, it is necessary that the Governing Board pass a series of resolutions prior to the beginning of each fiscal year in order to maintain a current register of persons authorized to act on behalf of the school district. The resolutions below give the Superintendent and/or designees the signing authority necessary to carry out District business for fiscal year 2021-22 effective July 1, 2021 to June 30, 2022:

Resolution No.	Description
21/22-0001	To receive mail and pick up warrants at the San Diego County Office of Education
21/22-0002	To sign payment orders
21/22-0003	To sign school orders (commercial warrants)
21/22-0004	To issue the replacement of warrants
21/22-0005	To sign bank account checks and school orders
21/22-0006	Delegation of Authority

RECOMMENDATION:
Approve Resolutions Nos. 21/22-0001 through 21/22-0006 designating authorized agents to carry out District business for fiscal year 2021-2022.

LCAP GOAL AND ACTION/SERVICE (please indicate):

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications? ☐ Yes ☒ No

Are funds for this item available in the 2021-2022 Budget? ☐ Yes ☐ No

Requisition #

N/A (Amount)

N/A (Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

RESOLUTION 21/22-0001
DESIGNATING AUTHORIZED AGENT TO RECEIVE MAIL AND PICK UP WARRANTS AT THE COUNTY OFFICE OF EDUCATION

San Ysidro School District, San Diego County ON MOTION OF member _____, seconded by member _____ Effective: July 1, 2021 through June 30, 2022.

IT IS RESOLVED AND ORDERED that:

1. The authorized agent ***(one person only)*** to receive mail from the Accounting/Payroll Sections is
   Marilyn Adrianzen, Chief Business Official

2. The authorized person(s) or district(s) to pick up warrants from the County Office (other than the mail addressee) are:
   Amber Elliott Araceli Felix

	mail	**hold**	consortium	
3. Check one	☐	☑	☐	Monthly payroll warrants each and every month.
Check one	☐	☑	☐	Daily/Hourly payroll warrants each and every month.

IT IS FURTHER RESOLVED that, this motion shall stand and that all additions and deletions shall be submitted in writing to the San Diego County Office of Education.

PASSED AND ADOPTED by said Governing Board on May 13, 2021 by the following vote:
(Date)

AYES: _____ MEMBERS NOES: _____ MEMBERS ABSENT: ___ MEMBERS

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) SS

I, Rosaleah Pallasigue, Clerk of the Governing Board, do hereby certify that the foregoing is a full, true and correct copy of a resolution duly passed and adopted by said Board at a regularly called and conducted meeting held on said date.

_____
Clerk of the Governing Board

Manual signature(s) of authorized person(s):

Marilyn Adrianzen _____ Amber Elliott _____

Araceli Felix _____

RESOLUTION 21/22-0002

DESIGNATING AUTHORIZED AGENT TO SIGN PAYMENT ORDERS

San Ysidro School District, San Diego County ON MOTION OF member _____, seconded by member _____effective July 1, 2021 through June 30, 2022,

IT IS RESOLVED AND ORDERED that, in accordance with the provisions of Section 3100 et seq., Chapter 8, Division 4, Title l of the Governing Code (all districts), the following person(s) be and is hereby designated to ascertain and certify that each employee of said district has taken the oath of allegiance.

Gina A. Potter, Ed.D., Superintendent

Marilyn Adrianzen, Chief Business Official

IT IS FURTHER RESOLVED that this motion shall stand and that all additions and deletions shall be submitted in writing to the San Diego County Office of Education.

PASSED AND ADOPTED by said Governing Board on May 13, 2021 by the following vote:

AYES:_____ NOES:_____ ABSENT:_____

STATE OF CALIFORNIA)
SS
COUNTY OF SAN DIEGO)

I, Rosaleah Pallasigue, Clerk of the Governing Board, do hereby certify that the foregoing is a full, true and correct copy of a resolution duly passed and adopted by said Board at a regularly called and conducted meeting held on said date.

_____
Clerk of the Governing Board

Manual signatures (s) of authorized person(s)

Gina A. Potter, Ed.D., Superintendent _____

Marilyn Adrianzen, Chief Business Official _____

RESOLUTION 21/22-0003

DESIGNATING AUTHORIZED AGENTS TO SIGN SCHOOL ORDERS

(COMMERCIAL WARRANTS)

San Ysidro School District, San Diego County ON MOTION OF member _____, seconded by member _____ effective July 1, 2021 through June 30, 2022.

IT IS RESOLVED AND ORDERED that, pursuant to the provisions of Education Code Section, 425632 or 85232.

Dr. Gina A. Potter and Marilyn Adrianzen

be and are hereby authorized to sign any and all orders in the name of said District, drawn on the funds of said District.

IT IS FURTHER RESOLVED that this motion shall stand and that all additions and deletions shall be submitted in writing to the San Diego County Office of Education.

PASSED AND ADOPTED by said Governing Board on May 13, 2021 by the following vote:

AYES: _____ NOES: _____ ABSENT: _____

STATE OF CALIFORNIA)
SS
COUNTY OF SAN DIEGO)

I, Rosaleah Pallasigue, Clerk of the Governing Board, do hereby certify that the foregoing is a full, true and correct copy of a resolution duly passed and adopted by said Board at a regularly called and conducted meeting held on said date.

_____
Clerk of the Governing Board

Manual signatures (s) of authorized person(s)

Gina A. Potter, Ed.D., Superintendent _____

Marilyn Adrianzen, Chief Business Official _____

SAN YSIDRO SCHOOL DISTRICT

RESOLUTION 21/22-0004

AUTHORIZING AGENTS TO ISSUE THE REPLACEMENT OF WARRANTS

On a motion of Member _____, seconded by Member _____ the following Resolution is adopted effective July 1, 2021 through June 30, 2022:

WHEREAS, during the course of business, this School District issues payroll and commercial warrants for the payments of goods and services received by the District; and

WHERAS, payroll and commercial warrants are lost, stolen, mutilated, or expire upon occasion; and

WHEREAS, a petition for issuance of a new warrant may be presented by the payee pursuant to Government Code section 29802.

NOW, THEREFORE BE IT RESOLVED by the Governing Board of the San Ysidro School District of San Diego County, California, that the following persons shall be authorized to reissue new payroll and commercial warrants upon presentation of a properly completed petition for issuance of a new warrant if such new warrant does not exceed the amount of the original warrant.

Manual Signature

Gina A. Potter, Ed.D., Superintendent _____

Marilyn Adrianzen, Chief Business Official _____

PASSED AND ADOPTED by said Governing Board on May 13, 2021:

AYES:_____ NOES: _____ ABSENT: _____

I, Rosaleah Pallasigue, Clerk of the Governing Board, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the Governing Board at a regularly called and conducted meeting held on said date.

_____
Clerk of the Governing Board

SAN YSIDRO SCHOOL DISTRICT
RESOLUTION NO. 21/22-0005

AUTHORIZING AGENTS TO SIGN BANK ACCOUNT CHECKS AND SCHOOL ORDERS FOR FISCAL YEAR 2021-22

ON MOTION of Member _____ seconded by Member _____, the following resolution is adopted effective July 1, 2021 through June 30, 2022**.**

THE GOVERNING BOARD OF THE SAN YSIDRO SCHOOL DISTRICT DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

1. Authorized signers on established school district bank accounts shall be as follows:
    a. **Cash Clearing Account:** established with an initial balance of $1,000 to deposit funds awaiting transfer to County Treasury.
        i. Gina A. Potter, Ed.D., Superintendent
        ii. Marilyn Adrianzen, Chief Business Official

    b. **Purchase Card Account:** established with an initial balance of $20,000 for payment of obligations resulting from purchase of low cost goods and services at the District level.
        i. Gina A. Potter, Ed.D., Superintendent
        ii. Marilyn Adrianzen, Chief Business Official

    c. **District Revolving Cash Fund Account:** established with an initial balance of $50,000 for payment of obligations resulting from purchase of low cost goods and services at the District level.
        i. Gina A. Potter, Ed.D., Superintendent
        ii. Marilyn Adrianzen, Chief Business Official

    d. **Associated Student Body (ASB) Account:** Established for deposit of funds collected by, and payment of obligations incurred by, the Associated Student Body at San Ysidro School District schools.
        i. Gina A. Potter, Ed.D., Superintendent
        ii. Marilyn Adrianzen, Chief Business Official
        iii. Maria Concepción Rodriguez, Principal, San Ysidro Middle School
        iv. Irene Herrera-Cevallos, Principal, Vista Del Mar School

    e. **Camp Account**: Established for deposit of funds collected for, and payment of obligations incurred for, sending 6th grade students to Camp.
        i. Gina A. Potter, Ed.D., Superintendent
        ii. Marilyn Adrianzen, Chief Business Official

THIS SPACE INTENTIONALLY LEFT BLANK

2. Pursuant to the provisions of Education Code 42632 the following persons are hereby authorized to sign all orders ("Commercial Warrants") in the name of the San Ysidro School District, drawn on the funds of said district.

Name	Position	Manual Signature
Gina A. Potter, Ed.D.	Superintendent	
Marilyn Adrianzen	Chief Business Official	

PASSED AND ADOPTED by the Governing Board on this 13th day of May, 2021 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

STATE OF CALIFORNIA)
) SS
COUNTY OF SAN DIEGO)

I, Rosaleah Pallasigue, Clerk of the Governing Board of the San Ysidro School District, do hereby certify that the foregoing is a full, true, and correct copy of a resolution passed and adopted by the Governing Board at a regularly scheduled and conducted meeting held on said date.

WITNESS my hand:

_____
Clerk of the Governing Board

SAN YSIDRO SCHOOL DISTRICT

Resolution No. 21/22-0006 Delegation of Authority

WHEREAS, Education Code Section 17604 provides that wherever in the code the power to contract is invested in the governing board of the school district or any member thereof, such power may by a majority vote of the board be delegated to its district superintendent, or to such persons as the superintendent may designate; and

WHEREAS, Education Code Section 17604 further provides that no contract made pursuant to such delegation and authorization shall be valid or constitute an enforceable obligation against the district unless and until the same shall have been approved or ratified by the governing board, said approval or ratification to be evidenced by a motion of said board duly passed and adopted;

WHEREAS, any delegation of authority by the Board under section 17604 and section 17605 may establish limits on the dollar value and designate appropriate staff who are authorized to exercise such authority; and

WHEREAS, the Board desires to delegate such contract and signing authority to the District Superintendent and the Chief Business Official for contracts of less than $30,000, respectively; and

WHEREAS, in accordance with Education Code section 17605, this delegation of authority shall also be limited to the statutory threshold set forth in Public Contract Code section 20111, of $15,000, for the award of any contract for public project, as defined in Public Contract Code section 22002(c), pursuant to this delegation of authority.

WHEREAS, the Board desires to authorize the Superintendent and the Chief Business Official to approve and execute change orders to public project contracts up to $15,000 or 10% of the original contract price, whichever is greater.

NOW, THEREFORE BE IT RESOLVED AND DETERMINED that pursuant to Education Code Section 17604 the power to contract on behalf of the Governing Board of the San Ysidro School District of San Diego County, California, is hereby delegated to the Superintendent and the Chief Business Official during the 2021-22 fiscal year, in the maximum amounts of $15,000 for public project contracts and $30,000 for all other contracts, respectively; provided that no contract made pursuant to such delegation and authorization shall be valid or constitute an enforceable obligation against the District unless and until same shall have been approved or ratified by the Governing Board, said approval or ratification to be evidenced by a motion duly passed and adopted.

BE IT FURTHER RESOLVED that the Governing Board hereby delegates the authority to the Superintendent, or such person as the Superintendent may designate to (i) call for bids, including placing advertisements as required pursuant to the Public Contract Code; (ii) reject all bids if rejection is determined by District staff to be in the best interests of the District; (iii) recall and re-advertise for bids; and (iv) take such other action as may be reasonably necessary to accomplish those tasks delegated pursuant to this Section.

IN ADDITION, the Governing Board hereby delegates the authority to the Superintendent and the Chief Business Official to approve and execute change orders to public project contracts up to $15,000 or 10% of the original contract price, whichever is greater.

CAVEATS: All transactions entered into by the officer or employee shall be reviewed by the Governing Board every 60 days (Ref. Education Code Section 17605). In the event of malfeasance in office, the school district official invested by the Governing Board with the power of contract shall be personally liable to the school district employing him or her for any and all moneys of the District paid out as a result of the malfeasance.

PASSED AND ADOPTED by the Governing Board of the San Ysidro School District at San Ysidro, California, on this 13th day of May 2021, by the following vote:

AYES:

NAYS:

ABSTAINED:

ABSENT:

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)

I, Rosaleah Pallasigue, Clerk of the Governing Board of the San Ysidro School District, do hereby certify that the foregoing is a full, true and correct copy of a resolution adopted by said Board at a regular meeting thereof at the time and place of vote stated, which resolution is on file and of record in the office of said Board.

Date: _____

_____
Clerk of the Governing Board

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Maintenance, Operations, Transportation & Facilities
Paulo Azevedo, Director

☐ Informational
☒ Action

AGENDA ITEM: AWARD BID NO. 01-2021 DISTRICT OFFICE NEW GENERATOR PROJECT

BACKGROUND INFORMATION:
Due to the environmental conditions (fires) and the overwhelming issues with the power grid during the summer due to heatwaves. The district office has experienced longer than usual power outages that can affect data equipment in the server rooms and child nutrition services food stored in the refrigerator and freezers located at the district office. These expenses can be eliminated by installing a generator at the district office.

Bid No. 01-2021 was published on the Daily Journal on March 29, 2021 and on April 12, 2021. Three out of five companies that requested bid documentation responded. GEM Industrial Electric, Inc. is a qualified company meeting the District's requirements and who submitted the lowest bid in the amount of $701,820.00. Services include the installation of a new diesel-powered generator that will provide back up electricity during power outages.

RECOMMENDATION:
Award Bid No. 01-2021 District Office New Generator Project to GEM Industrial Electric, Inc. to install a new diesel-powered generator to provide back up electricity during power outages. The funding source will be from the 2012 COPs Refunding Resources.

LCAP GOAL AND ACTION/SERVICE (please indicate): 2.1 Maintain basic operating services of the district including MOT personnel, transportation, contracted services, and utilities.

☐ **Renewal** ☐ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	

BID AMOUNT	
$701.820.00	2012 COPs Refunding Resources
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

San Ysidro Generator Project - Bid Opening Listing

DSA No. 04-119893

Item No.		GEM Industriial, Inc	Fordyce Construction	B.R Building Resources Company	San Diego Remodeling, Inc.	ReTech
1	**Bid Amount (Pgs 7&8)**	**$701,820.00**	**$901,514.00**	**$1,197,000.00**	**No Bid**	**No Bid**
2	**Required Item at Bid Time**					
3	Class B License	X	X	X		
4	Document 00300 Completed Bid Form	X	X	X		
5	Document 00410 Bid Bond	X	X	X		
6	Document 00430 Designation of Subcontractors	X	X	X		
7	Document 00480 Non-Collusion Affidavit	X	X	X		
8	Workmans Comp Cert.	X	X	X		
	New Diesel-Powered Generator	$163,460.00	$219,804.00	$89,448.00		
	Transfer Switch	$13,980.00	$22,250.00	$14,703.00		
	PM Filter	$25,520.00	$34,080.00	$0.00		
	Enclosure, Concrete Pad, Sitework	$498,860.00	$625,380.00	$1,092,849.00		
		$701,820.00	**$901,514.00**	**$1,197,000.00**		
		Using all equipment called out on the sheet.				

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business & Educational Services
Marilyn Adrianzen, Chief Business Official
Cynthia González, Executive Director

☐ Informational
☒ Action

AGENDA ITEM: ADOPT EXPANDED LEARNING OPPORTUNITIES GRANT AND BUDGET PLAN

BACKGROUND INFORMATION:
The Expanded Learning Opportunities (ELO) Grant Plan must be completed by school districts, county offices of education, or charter schools, collectively referred to as Local Educational Agencies (LEAs), that receive ELO Grant funds under California *Education Code* (*EC*) Section 43521(b). The plan must be adopted by the local governing board or body of the LEA at a public meeting on or before June 1, 2021 and must be submitted to the county office of education, the California Department of Education, or the chartering authority within five days of adoption, as applicable.

A LEA receiving ELO Grant funds under *EC* Section 43521(b) is required to implement a learning recovery program that, at a minimum, provides supplemental instruction, support for social and emotional well-being, and, to the maximum extent permissible under the guidelines of the United States Department of Agriculture, meals and snacks to, at a minimum, students who are included in one or more of the following groups: ▪ low-income, ▪ English learners, ▪ foster youth, ▪ homeless students, ▪ students with disabilities, ▪ students at risk of abuse, neglect, or exploitation, ▪ disengaged students, and ▪ students who are below grade level, including, but not limited to, those who did not enroll in kindergarten in the 2020–21 school year, credit-deficient students, and other students identified by certificated staff.

The Plan includes how the District is coordinating its ELO Grant funds with funds received from the federal Elementary and Secondary School Emergency Relief (ESSER) Fund provided through the federal Coronavirus Response and Relief Supplemental Appropriations Act of 2021, also known as ESSER II, to maximize support for students and staff.

RECOMMENDATION:
Adopt the Expanded Learning Opportunities Grant and Budget Plan.

LCAP GOAL AND ACTION/SERVICE:
Goal 1: Student Achievement and Goal 2: Safety, Climate and Student Engagement

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other - Revised**

Financial Implications? ☐ Yes ☒ No

Are funds for this item available in the 2020-2021 Budget? ☐ Yes ☐ No

Requisition #

$4,226,971.00	Expanding Learning Opportunities Grant
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

Expanded Learning Opportunities Grant Plan

Local Educational Agency (LEA) Name	Contact Name and Title	Email and Phone
San Ysidro School District	Gina Potter, Ed D. Superintendent	gina.potter@sysdschools.org (619) 428-4476

The following is the local educational agency's (LEA's) plan for providing supplemental instruction and support to students, including those identified as needing academic, social-emotional, and other supports, including the provision of meals and snacks. The plan will explain how the LEA will use the funds it receives through the Expanded Learning Opportunities (ELO) Grant to implement a learning recovery program for at least the students included in one or more of the following groups: low-income students, English learners, foster youth, homeless students, students with disabilities, students at risk of abuse, neglect, or exploitation, disengaged students, and students who are below grade level, including, but not limited to, those who did not enroll in kindergarten in the 2020–21 school year, credit-deficient students, high school students at risk of not graduating, and other students identified by certificated staff.

For specific requirements please refer to the Expanded Learning Opportunities Grant Plan Instructions.

Plan Descriptions

A description of how parents, teachers, and school staff were involved in the development of the plan.

The San Ysidro School District has engaged stakeholders in a variety of ways through out the 2020-21 school year. The original work that the district completed in alignment with planning for student supports and learning as a part of our Reopening work groups to inform the Learning Continuity and Attendance Plan(LCP). These workgroups included parents, classified staff, certificated staff, as well as district and site administrators. Throughout the course of the year, the district created surveys to monitor feedback from stakeholders including parents, students, and staff on distance and in person learning programs and supports More recently, feedback collection has pivoted to planning for

the Local Control Accountability Plan(LCAP) and the upcoming year. The Executive Director of Educational Services met with school site administrators to gather feedback on needs. Each school site principal met with school site parent groups including parents of students with disabilities and unduplicated students and site staff to present the LCAP overview and solicit feedback in building the plan for the upcoming LCAP cycle. Additionally, students at the middle schools were included as part of the group whose feedback was gathered to create the plan. To gather additional feedback, in April 2021, the district posted an online survey through SurveyMonkey and solicited input from the same stakeholder groups as well as community members. Members of the Educational Services Department reviewed all of the data that was gathered throughout the year and most importantly the data that was collected from February - April to identify the supplemental and instructional strategies that the district would implement to support expanded learning opportunities that are supportive of student growth both academically and in regards to social emotional well being.

Through the analysis of the data that was gathered from feedback the district determined that the big areas of need identified through the feedback were intervention for students, additional support for English language development, sports programs, enrichment opportunities, mental health supports, continued supports for technology, and continued implementation of health and safety practices. The San Ysidro School District has implemented this feedback in the supports and services that we are prioritizing in the creation of this plan.

A description of how students will be identified and the needs of students will be assessed.

The San Ysidro School District will employ the use of diagnostic and ongoing common formative assessment to monitor and assess student academic needs on a 6-12 week basis. The district will implement tiered systems of support to address areas that require mitigation to prevent learning loss and to introduce higher level supports and scaffolds based on student needs. Additionally, the district will implement the use of the California Healthy Kids Survey(CHKS) annually as well as a universal screener to monitor the students social emotional wellbeing on 1-2 times per year. This data will help to inform the level of supports that student need based on the multitiered system of supports that has been established for mental health. Additionally, the Mental Health Program that we are putting into place will allow for us to provide universal supports for all students, tier 2 supports to include small group, 1:1 supports, and referrals for support for family or student needs; as well as Tier 3 referrals for ERMS assessments when necessary.

As a Provision I district, we are able to provide breakfast and lunch to students every day. Due to the current guidance that will allow for community feeding through June 2022, we will continue to provide our school meals program to all students when they are on campus and have community feeding opportunities at several locations throughout the district twice a week.

We will continue to provide and ASES program to provide access to before and after school programs to our students.

A description of how parents and guardians of students will be informed of the opportunities for supplemental instruction and support.

The San Ysidro School District will be using a variety of avenues to inform parents and guardians of student levels, the need for supplemental supports, as well as the opportunities that are available to students on an ongoing basis. The communication will be made available in both English and Spanish, or in any other primary language as required. We will also make every effort to notify parents through

a variety of methods including but not limited to notices sent home in back pack, email, US mail, text, robocall, and follow-up methods of communication such as personal phone calls.

A description of the LEA's plan to provide supplemental instruction and support.

The San Ysidro School District will provide supplemental instruction and support to students through the implementation of several strategies outlined below that will target social emotional well being, enrichment activities(STEAM, Sports, etc.), Academic Language Development(ALD), English Language Development(ELD), English Language Arts(ELA), and math. The plan is organized by the areas of support outlined in the grant requirements, with the focus being quality engaging instruction for all students. Our plan includes the addition of academic and social emotional supports throughout the day in a tiered system, as well as opportunities for enrichment activities such as STEM, sports, technology, VAPA, and Spanish.

Extend Instructional Learning Time

The district will offer a 3 week summer school program as a full day program where students will be offered opportunities to address academic supports through social emotional learning, ELD/ALD, STEAM, career technical topics, and a sports clinic program. As a part of this program we will offer a summer bridge program for students in need of reading and math supports to support their success in the upcoming academic year. This program will be embedded in the full day program, so that students will benefit from academic support and enrichment opportunities. The focus of summer school will be to address immediate academic needs through the implementation of English & academic language supports, enrichment activities to build confidence and social emotional well being for our students. We will be using the results of diagnostic assessments to inform placement in our summer school programs.

A crucial part of the plan to extend instructional learning time will be to expand the instructional day 4 days per week, excluding minimum days for students who are identified to need additional support to access core instruction and accelerated learning. Th expansion of instructional minutes will support the mission of increasing the instructional learning time for students in order to meet each students needs through supports throughout the instructional day. At the middle schools, the implementation will be made through an extension of the school day by one period to support acceleration of progress for ALL students. This plan will allow for periods 1-6 to include the core instructional programs and academic supports through academic electives such as AVID, AVID Excel, ELD and support classes for Math & ELA. The 7th period will then focus on enrichment electives such as, technology, Spanish, STEM, VAPA, and sports opportunities. At the elementary schools the extended instructional time will allow for small group rotations to address the needs of students at their individual level with small group support and targeted tutoring in the areas of ELA, ELD, and math. Additionally, students would have enrichment opportunities on a rotational basis to include STEM, VAPA, social emotional well being, and sports. The focus will be to push targeted support in for each student who needs the support and to introduce enrichment activities to build an engaging learning experience in a positive school climate through the building of community and a climate where are students are valued and supported to have access to achieve the core instructional program and enriching school experiences.

Depending on the additional staffing requirements created by these expanded learning opportunities, the district will work to implement a variety of staffing strategies, which may include a combination of certificated, classified, and temporary intervention teachers.

Addressing Learning Gaps and Accelerating Progress to Close Gaps

To achieve the goal of closing learning gaps the district will focus leveraging extra paraprofessional hours in order to expand the use of small group and 1:1 supports. The program will be to integrate student supports to address other barriers to learning through the use of paraprofessional to support small group instruction for students who require additional support during guided reading, math, and designated ELD groups. Students will be grouped using results of diagnostic and formative assessments to determine the placement of students to be supported in a tiered system of support that would give students additional instructional supports based on a tiered framework. This implementation will come as a build on the instructional design, which provides universal instruction for all students and small group supports depending on student needs. In addition to the whole group lessons/supports, this strategy allows for specific additional supports to be employed for students depending on their need for reteaching and scaffolding supports:
1. Student who are working at or above grade level to have 2 days/week of small group teachers/staff led small group time;
2. Students who are at a targeted or strategic level will get 4 days of small group teachers/staff led 1:1 or small group time;
3. Students who are at an intensive level with 2 daily opportunities for teacher/staff led 1:1 or small group time

This multitiered system helps students to get the level of support that is matched to student need based on data. In order to leverage this practice, and provide students with this multitiered approach across more subject areas, the district will incorporate this practice into designated ELD and math. This will be accomplished by increasing the hours worked by our paraprofessionals, whose push-in support will serve as an additional academic support. The district will support the development of paraprofessionals through professional development in data monitoring and instructional practice, planning, and support throughout the school year. Additionally, the district will work with paraprofessionals to monitor student achievement.

Accelerate Academics &/or English Language Proficiency

The district will employ temporary Intervention Support Teachers who will work with targeted groups of students in a small group setting to increase access to core instruction and accelerate learning. This will support student language proficiency as and accelerate academics in all subject areas. These teachers will be centrally trained in instructional practice, monitoring student data to impact instructional practice, and to support the work of paraprofessionals at each school site. This additional support will be leveraged to enrich the current instructional design and tiered approach as described above that focuses on the needs of students with a multitiered approach to daily instruction. As meaningful partners in the academic success of all learners the district will work to engaging students and families in addressing students' academic needs. This will be through the incorporation of student voice in learning, as well as opportunities for family and student workshops to engage in the educational system.

Quality & Engaging Learning for ALL

The district will employ teachers who provide high quality STEM and physical education with integrated ELD instruction through the Sci-Phy program at our elementary school sites. This program delivers high quality engaging instruction that focuses on Project Lead the Way (PLTW) modules
Training for school staff on data monitoring, instructional planning and implementation will be ongoing and led by the district resource teachers and school site administrators. The district will also use additional funding sources to support professional learning on strategies to support the learning needs of English learners and students with disabilities, as well as develop a stronger system of support for these areas

of need through the strategic use of resource teachers to support teaching and learning in those areas of focus. A similar program will be offered at the middle schools through a computer science module of PLTW during the 7th period elective.

Assessment of Student Learning: Diagnostic and Formative Assessments with Progress Monitoring

Assessment of student learning will be integrated throughout out the year in ELA, ELD, and math through the use of diagnostic (STAR Reading & STAR Math Assessments) as well as local formative assessments. The review of student achievement data using these measures will form part of our Data Review Sessions (DRS) with the intention of informing the direction for guided planning of interventions and instructional best practices to impact classroom instruction. Teachers work with colleagues and their site administrator to analyze the impact of instructional practices and agree on instructional practices to be implemented in the next instructional cycle as well as to identify students who require different tiers of support and determine how that support will be given.

Integrated Student Supports to Address other Barriers to Learning

The district will also continue to provide multitiered support for mental health and social emotional well being through the hiring of 3 additional social workers. These social workers will support the multi-tiered supports that have been in place this school year. This includes the continuation and support of tier 1 interventions for students, such as the continuation and support of Restorative Justice practices and the implementation of the Second Step curriculum for all grades. Additionally, they will provide small group supports, and 1:1 sessions as needed to ensure that tier 2 supports are available to students at all school sites. These supports are intended to support a positive school climate, increase mental health supports at our school sites, and build capacity for staff to deliver tier 1 supports for all students as part of classroom. Additionally, we have a dedicated social worker to provide the needs of students at the tier 3 level including the ERMHS services.

Additionally, social workers will support the professional learning of school staff in the areas of social emotional well being and trauma informed practices. This will help to build capacity among staff to create supportive positive learning environments. This learning will also include students and families, so that the entire school community is able to understand and advocate for one another.

Expenditure Plan

The following table provides the LEA's expenditure plan for how it will use ELO Grant funds to support the supplemental instruction and support strategies being implemented by the LEA.

Supplemental Instruction and Support Strategies	Planned Expenditures	Actual Expenditures
Extending instructional learning time	$2,423,971	
Accelerating progress to close learning gaps through the implementation, expansion, or enhancement of learning supports	$423,000	
Integrated student supports to address other barriers to learning	$345,000	
Community learning hubs that provide students with access to technology, high-speed internet, and other academic supports	0	
Supports for credit deficient students to complete graduation or grade promotion requirements and to increase or improve students' college eligibility	0	
Additional academic services for students	$1,035,000	
Training for school staff on strategies to engage students and families in addressing students' social-emotional health and academic needs	Under Integrated Student Supports	
Total Funds to implement the Strategies	$4,226,971	

A description of how ELO Grant funds are being coordinated with other federal Elementary and Secondary School Emergency Relief Funds received by the LEA.

The San Ysidro School District has worked to coordinate ELO Grant Funds along with ESSER II funds in order to maximize the support for students and staff. The funding sources have been used to maintain and refine services and supports to for students to ensure a support

system for students and an increase in temporary services. ESSER II and ELO has allowed for us to maintain stable support systems through support staff and to hire temporary staff, who will be used to support the immediate academic and social emotional needs of our students, as well as build capacity for continued support from permanent staff after the funding sources are no longer available. Please see a few examples of how we are using resources that are existing and embedding additional resources to supplement and build long term capacity with temporary dollars in support of individual student and staff needs.

In the area of academic supports and enrichment, ELO and ESSER II funds are being used to support the Sci-Phy program which provides students with Project Lead the Way (PLTW) instruction and allows teachers time to implement data reflection sessions and guided planning sessions, which drive our continuous model of improvement. This model informs student interventions, as well as the implementation of best practices to be implemented and monitored during the next instructional cycle. Furthermore, we have anticipated the need for expanded learning time for students through a variety of strategies; two such strategies include the hiring of temporary intervention teachers to increase small group leveled instruction to accelerate learning for all students and an increase in the hours that our paraprofessionals deliver support services to students. We are also mindful of the fact, that this gives us an opportunity to train these teachers and paraprofessionals centrally as well as support them with implementation through our Resource Teachers which will strengthen instructional practice at all levels.

Additionally, the funding sources are being used to support the implementation and support of our Multi-Tiered System of Support(MTSS) which includes the continuation of support positions such as our Outreach Consultants and Full Community Services Coordinator who support families with attendance, engagement, and wrap around services. An additional support for students would be the addition of social workers to support students with mental health needs and support staff by building capacity with the implementation of Tier I support and our social emotional curriculum.

Expanded Learning Opportunities Grant Plan Instructions: Introduction

The Expanded Learning Opportunities Grant Plan must be completed by school districts, county offices of education, or charter schools, collectively referred to as Local Educational Agencies (LEAs), that receive Expanded Learning Opportunities (ELO) Grant funds under California *Education Code* (*EC*) Section 43521(b). The plan must be adopted by the local governing board or body of the LEA at a public meeting on or before June 1, 2021, and must be submitted to the county office of education, the California Department of Education, or the chartering authority within five days of adoption, as applicable. The plan must be updated to include the actual expenditures by December 1, 2022.

*For technical assistance related to the completion of the Expanded Learning Opportunities Grant Plan, please contact ELOGrants@cde.ca.gov.*mailto:lcff@cde.ca.gov

Instructions: Plan Requirements

An LEA receiving ELO Grant funds under *EC* Section 43521(b) is required to implement a learning recovery program that, at a minimum, provides supplemental instruction, support for social and emotional well-being, and, to the maximum extent permissible under the guidelines of the United States Department of Agriculture, meals and snacks to, at a minimum, students who are included in one or more of the following groups:

- low-income,
- English learners,
- foster youth,
- homeless students,
- students with disabilities,
- students at risk of abuse, neglect, or exploitation,
- disengaged students, and
- students who are below grade level, including, but not limited to, those who did not enroll in kindergarten in the 2020–21 school year, credit-deficient students, high school students at risk of not graduating, and other students identified by certificated staff.

For purposes of this requirement

- "Supplemental instruction" means the instructional programs provided in addition to and complementary to the LEAs regular instructional programs, including services provided in accordance with an individualized education program (IEP).
- "Support" means interventions provided as a supplement to those regularly provided by the LEA, including services provided in accordance with an IEP, that are designed to meet students' needs for behavioral, social, emotional, and other integrated student supports, in order to enable students to engage in, and benefit from, the supplemental instruction being provided.
- "Students at risk of abuse, neglect, or exploitation" means students who are identified as being at risk of abuse, neglect, or exploitation in a written referral from a legal, medical, or social service agency, or emergency shelter.

EC Section 43522(b) identifies the seven supplemental instruction and support strategies listed below as the strategies that may be supported with ELO Grant funds and requires the LEA to use the funding only for any of these purposes. LEAs are not required to implement each supplemental instruction and support strategy; rather LEAs are to work collaboratively with their community partners to identify the

supplemental instruction and support strategies that will be implemented. LEAs are encouraged to engage, plan, and collaborate on program operation with community partners and expanded learning programs, and to leverage existing behavioral health partnerships and Medi-Cal billing options in the design and implementation of the supplemental instruction and support strategies being provided (*EC* Section 43522[h]).

The seven supplemental instruction and support strategies are:

1. Extending instructional learning time in addition to what is required for the school year by increasing the number of instructional days or minutes provided during the school year, providing summer school or intersessional instructional programs, or taking any other action that increases the amount of instructional time or services provided to students based on their learning needs.
2. Accelerating progress to close learning gaps through the implementation, expansion, or enhancement of learning supports including, but not limited to, any of the following:
    a. Tutoring or other one-on-one or small group learning supports provided by certificated or classified staff.
    b. Learning recovery programs and materials designed to accelerate student academic proficiency or English language proficiency, or both.
    c. Educator training, for both certificated and classified staff, in accelerated learning strategies and effectively addressing learning gaps, including training in facilitating quality and engaging learning opportunities for all students.
3. Integrated student supports to address other barriers to learning, such as the provision of health, counseling, or mental health services, access to school meal programs, before and after school programs, or programs to address student trauma and social-emotional learning, or referrals for support for family or student needs.
4. Community learning hubs that provide students with access to technology, high-speed internet, and other academic supports.
5. Supports for credit deficient students to complete graduation or grade promotion requirements and to increase or improve students' college eligibility.
6. Additional academic services for students, such as diagnostic, progress monitoring, and benchmark assessments of student learning.
7. Training for school staff on strategies, including trauma-informed practices, to engage students and families in addressing students' social-emotional health needs and academic needs.

As a reminder, *EC* Section 43522(g) requires that all services delivered to students with disabilities be delivered in accordance with an applicable IEP.

Fiscal Requirements

The following fiscal requirements are requirements of the ELO grant, but they are not addressed in this plan. Adherence to these requirements will be monitored through the annual audit process.

- The LEA must use at least 85 percent (85%) of its apportionment for expenditures related to providing in-person services in any of the seven purposes described above.
- The LEA must use at least 10 percent (10%) of the funding that is received based on LCFF entitlement to hire paraprofessionals to provide supplemental instruction and support through the duration of this program, with a priority for full-time paraprofessionals. The supplemental instruction and support provided by the paraprofessionals must be prioritized for English learners and students with disabilities. Funds expended to hire paraprofessionals count towards the LEAs requirement to spend at least 85% of its apportionment to provide in-person services.

- An LEA may use up to 15 percent (15%) of its apportionment to increase or improve services for students participating in distance learning or to support activities intended to prepare the LEA for in-person instruction, before in-person instructional services are offered.

Instructions: Plan Descriptions

Descriptions provided should include sufficient detail yet be sufficiently succinct to promote a broad understanding among the LEA's local community.

A description of how parents, teachers, and school staff were involved in the development of the plan

Describe the process used by the LEA to involve, at a minimum, parents, teachers, and school staff in the development of the Expanded Learning Opportunities Grant Plan, including how the LEA and its community identified the seven supplemental instruction and support strategies that will be implemented. LEAs are encouraged to engage with community partners, expanded learning programs, and existing behavioral health partnerships in the design of the plan.

A description of how parents and guardians of students will be informed of the opportunities for supplemental instruction and support.

Describe the LEA's plan for informing the parents and guardians of students identified as needing supplemental instruction and support of the availability of these opportunities, including an explanation of how the LEA will provide this information in the parents' and guardians' primary languages, as applicable.

A description of how students will be identified and the needs of students will be assessed

Describe the LEA's plan for identifying students in need of academic, social-emotional, and other integrated student supports, including the LEA's plan for assessing the needs of those students on a regular basis. The LEA's plan for assessing the academic needs of its students may include the use of diagnostic and formative assessments.

As noted above in the Plan Requirements, "other integrated student supports" are any supports intended to address barriers to learning, such as the provision of health, counseling, or mental health services, access to school meal programs, before and after school programs, or programs to address student trauma and social-emotional learning, or referrals for support for family or student needs.

A description of the LEA's plan to provide supplemental instruction and support

Describe the LEA's plan for how it will provide supplemental instruction and support to identified students in the seven strategy areas defined in the Plan Requirements section. As a reminder, the LEA is not required to implement each of the seven strategies; rather the LEA will to work collaboratively with its community to identify the strategies that will be implemented. The plan must include a description of how supplemental instruction and support will be provided in a tiered framework that bases universal, targeted, and intensive supports on students' needs for academic, social-emotional, and other integrated student supports. The plan must also include a description of how the services will be provided through a program of engaging learning experiences in a positive school climate.

As a reminder, *EC* Section 43522(g) requires that all services delivered to students with disabilities be delivered in accordance with an applicable individualized education program. Additionally, LEAs are encouraged to collaborate with community partners and expanded learning programs, and to leverage existing behavioral health partnerships and Medi-Cal billing options in the implementation of, this plan (*EC* Section 43522[h]).

Instructions: Expenditure Plan

The ‘Supplemental Instruction and Support Strategies’ column of the Expenditure Plan data entry table lists the seven supplemental instruction and support strategies that may be supported with ELO Grant funds.

Complete the Expenditure Plan data entry table as follows:

In the ‘Planned Expenditures’ column of the data entry table, specify the amount of ELO Grant funds being budgeted to support each supplemental instruction and support strategies being implemented by the LEA and the total of all ELO Grant funds being budgeted.

The plan must be updated to include the actual expenditures by December 1, 2022. In the ‘Actual Expenditures’ column of the data entry table the LEA will report the amount of ELO Grant funds that the LEA actually expended in support of the strategies that it implemented, as well as the total ELO Grant funds expended.

A description of how these funds are being coordinated with other federal Elementary and Secondary School Emergency Relief Funds received by the LEA

Describe how the LEA is coordinating its ELO Grant funds with funds received from the federal Elementary and Secondary School Emergency Relief (ESSER) Fund provided through the federal Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (Public Law 116-260), also known as ESSER II, to maximize support for students and staff.

California Department of Education
March 2021

An LEA receiving ELO Grant funds under *EC* Section 43521(b) is required to:

1. **Learning Recovery Program**
   - ➢ Supplemental Instruction
   - ➢ Support for Social Emotional Well-Being
   - ➢ Provide Meals & Snacks

2. **Students Served by Grant:**
   - ➢ low-income,
   - ➢ English learners,
   - ➢ foster youth,
   - ➢ homeless students,
   - ➢ students with disabilities,
   - ➢ students at risk of abuse, neglect, or exploitation,
   - ➢ disengaged students, and
   - ➢ students who are below grade level, including, but not limited to, those who did not enroll in kindergarten in the 2020–21 school year, credit-deficient students, high school students at risk of not graduating, and other students identified by certificated staff.

3. **Definitions:**
   - ➢ **"Supplemental instruction"** means the instructional programs provided in addition to and complementary to the LEAs regular instructional programs, including services provided in accordance with an individualized education program (IEP).
   - ➢ **"Support"** means interventions provided as a supplement to those regularly provided by the LEA, including services provided in accordance with an IEP, that are designed to meet students' needs for behavioral, social, emotional, and other integrated student supports, in order to enable students to engage in, and benefit from, the supplemental instruction being provided.
   - ➢ **"Students at risk of abuse, neglect, or exploitation"** means students who are identified as being at risk of abuse, neglect, or exploitation in a written referral from a legal, medical, or social service agency, or emergency shelter.

7 Supplemental Strategies Supported by ELO Grant Funds	
***EC* Section 43522(b)** identifies the seven supplemental instruction and support strategies listed below as the strategies that may be supported with ELO Grant funds and requires the LEA to use the funding only for any of these purposes.	
Extend Instructional Learning Time	➢ Increase the number of instructional days or minutes provided during the school year ➢ Provide summer school or intersessional instructional programs ➢ Take any other action that increases the amount of instructional time or services provided to students based on their learning needs.
Accelerate Progress to Close Gaps	➢ Implement, expand or enhance learning supports ○ Tutoring or 1:1 Small Groups ➢ Learning Recover Programs & Materials ○ Accelerate Academics &/or ○ English Language Proficiency ➢ Educator Professional Learning ○ Accelerating learning ○ Addressing learning gaps ○ Quality & engaging learning for ALL
Integrated student supports to address other barriers to learning	➢ Health supports ➢ Counseling/Mental health supports ➢ Before & After school programs ➢ Programs for Trauma & SEL ➢ Referrals for Support for family/student needs
Community learning hubs that provide students with access to	➢ Technology ➢ High-speed internet ➢ Academic supports
Supports for credit deficient students to	➢ Complete graduation or grade promotion requirements ➢

	➢ To increase or improve students' college eligibility.
Additional academic services for students	➢ Assessment of Student Learning: ○ Diagnostic ○ Progress monitoring ○ Benchmark
Training for school staff on strategies,	➢ Trauma-informed practices ➢ Engaging students and families in addressing students' social-emotional health needs ➢ Engaging students and families in addressing students' academic needs.
As a reminder, *EC* Section 43522(g) requires that all services delivered to students with disabilities be delivered in accordance with an applicable IEP.	

Fiscal Requirements

The following fiscal requirements are requirements of the ELO grant, but they are not addressed in this plan. Adherence to these requirements will be monitored through the annual audit process.

- The **LEA must use at least 85 percent (85%) of its apportionment for expenditures related to providing in-person services** in any of the seven purposes described above.
- The **LEA must use at least 10 percent (10%) of the funding that is received based on LCFF entitlement to hire paraprofessionals to provide supplemental instruction and support through the duration of this program**, with a priority for full-time paraprofessionals. The supplemental instruction and support provided by the paraprofessionals must be prioritized for English learners and students with disabilities. Funds expended to hire paraprofessionals count towards the LEAs requirement to spend at least 85% of its apportionment to provide in-person services.
- An **LEA may use up to 15 percent (15%) of its apportionment to increase or improve services for students participating in distance learning** or to support activities intended to prepare the LEA for in-person instruction, before in-person instructional services are offered.

CURRICULUM & INSTRUCTION

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Educational Services
Cynthia González, Executive Director

☐ Informational
☒ Action

AGENDA ITEM: ENGLISH LEARNER RECLASSIFICATION CRITERIA

BACKGROUND INFORMATION:
The San Ysidro School District provides services to assist and support students who are English learners in becoming fluent English proficient students. A variety of programs are offered to students which involve the daily application of English Language development (ELD) to promote steady growth of skills in reading, writing, listening and speaking skills. The District measures growth with a number of assessments and most notably with the English Language Proficiency Assessment for California (ELPAC) Test.

The District's goal for English learner students is to become fully proficient in English and to master State standards for academic achievement as rapidly as possible. To be in compliance with the guidelines from the State Board of Education the District reclassification includes students that take ELPAC and students with IEP's that also take the ELPAC or an alternative assessment, see the attached criteria for details.

RECOMMENDATION:
Approve the English Learner Reclassification Criteria to be in compliance with the guidelines from the State Board of Education the District reclassification includes students that take ELPAC and students with IEP's that also take the ELPAC or an alternative assessment, see the attached criteria for details.

LCAP GOAL AND ACTION/SERVICE:
Goal 1: Student Achievement, Action 1.18: Continue to support, monitor, and evaluate the services for English Learners to ensure students acquire proficiency in English.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2021-2022 Budget?	Requisition #
☐ Yes ☒ No	☐ Yes ☐ No	

N/A	
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

San Ysidro Reclassification Criteria for Students Taking ELPAC

Evaluation Measure	Minimum Criteria
State Approved Assessment of English Language Proficiency	• ELPAC: Overall Performance Level 4
Comparison of Performance in Basic Skills	• Two ELA district assessments with proficient scores (benchmark or challenge) - or – • CAASPP overall ELA score in the proficiency band of Standard Met or Standard Exceeded - or – • District approved diagnostic assessment for ELA indicating grade level or better
Teacher Evaluation and Academic Indicator	• Completed Teacher Evaluation Form (grade-level teacher for grades 2-6 and ELA teacher for grades 7-8) indicating a recommendation of reclassification based on the academic characteristics of a student.
Parent Opinion and Consultation	• Letter mailed home to notify parents/guardians of their rights and encourage them to participate in the reclassification process with the opportunity for a face-to-face meeting.

Reclassification Criteria for Students who have Individualized Education Plan (IEP)

Evaluation Measure	Minimum Criteria
If agreed upon by the IEP team based on results gathered from 4 criteria.	
State Approved Assessment of English Language Proficiency	• Most recent ELPAC or Alternative Assessment
Comparison of Basic Skills: Academic Data	• Progress towards IEP goals • Curriculum Based Assessments • Work Samples
Teacher Evaluation and Academic Indicator	• Completed Teacher Conference Form evaluating student's language skills based on the student's academic performance
Parent Opinion and Consultation	• Parent is asked to give input on expressive (speaking) and receptive (listening) skills at home to compare with the progress being made at school
If the team determines that the primary reason the student does not meet reclassification criteria is due to the disability rather than second language learning and the student no longer needs English Learners services, the team can reclassify the student to Reclassified Fluent English Proficient (RFEP).	

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Educational Services
Cynthia González, Executive Director

☐ Informational
☒ Action

AGENDA ITEM: SPRING REVISIONS TO THE SCHOOL PLANS FOR STUDENT ACHIEVEMENT (SPSA)

BACKGROUND INFORMATION:

The School Plan for Student Achievement (SPSA) is a plan of action to improve academic performance by coordinating all educational services and resources. The California Department of Education (CDE) website explains the legal specifics and purpose of the SPSA as follows:

EC Section 64001 specifies that schools and districts that receive state and federal or other applicable funding through the district's Consolidated Application (ConApp) process prepare a SPSA for any recipient school. The SPSA is a blueprint to improve the academic performance of all students.

The purpose of the SPSA is to coordinate all educational services at the school. The SPSA shall, at a minimum, address how funds provided to the school through any of the sources identified in EC Section 64000 will be used to improve the academic performance of all pupils. School goals shall be based upon an analysis of verifiable state data. The SPSA must integrate the purposes and requirements of all state and federal categorical programs in which the school participates. The SPSA serves as the organizer for an individual school's improvement process. The plan should be developed with a deep understanding of root causes of student academic challenges and identify and implement research-based instructional strategies to raise the achievement of students who are not yet proficient by state standards. A well-developed SPSA can ensure that students are better equipped to meet the Common Core State Standards in English and math.

Each school's SPSA include the school parent and family engagement policy and the school-parent compact and have been reviewed and approved by their School Site Councils, as required.

- SPSA reports under separate cover -

RECOMMENDATION:

Approve the spring revisions for the 2020-2021 School Plans for Student Achievement (SPSA) for La Mirada, Smythe, Sunset, Willow, Ocean View Hills, Vista Del Mar Middle, and San Ysidro Middle Schools, to reconcile with the updated allocations of Title I funds.

LCAP GOAL AND ACTION/SERVICE:

Goal 1: Student Achievement – Action 1.11 – Continue with personnel for State and Federal Programs to ensure program accountability and compliance with federal, state and local regulations.

☐ **Renewal** ☐ **New** ☐ **Amendment** ☐ **Ratify** ☒ **Other - Revised**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?
☐ Yes ☒ No	☐ Yes ☐ No

N/A	N/A
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Educational Services Department
Cynthia González, Executive Director

☐ Informational
☒ Action

AGENDA ITEM: STUDENT PARTICIPATION IN THE COLLEGE FOR KIDS SUMMER PROGRAM FROM SOUTHWESTERN COLLEGE'S Y.E.S. ACADEMY

BACKGROUND INFORMATION:
Youth Excellence and Success (Y.E.S.) Academy at Southwestern College provides options for families to enroll their entering 4th-12th grade students into a variety of summer academic and enrichment courses.

College for Kids is part of the Y.E.S. Academy and it offers challenging & enriching courses that allow students to learn something new or refine their skills through projects, practice, discussions, and hands-on experiences. Each course provides students with a new and unique experience into a college atmosphere that promotes a well-rounded opportunity to learn through instruction and experiential learning.

Eligible students are those who are currently identified as Gifted or talented and will be 6th – 8th grade in the fall of 2021. All courses will be online, and students can register to up to 2 courses in the 1st summer session, which is programmed from June 21 thru July 1, 2021.

Registration fees will be covered by the District for approximately 50-60 students.

RECOMMENDATION:
Approve the participation of approximately sixty Gifted and talented students in grades 6th–8th at the College for Kids Summer Program from Southwestern College's Y.E.S. Academy at the total cost of $16,120.00 from the Supplemental and Concentration fund.

LCAP GOAL AND ACTION/SERVICE:
Goal #2: Safety, Climate, and student engagement. – Action 2.6: Provide enrichment opportunities and programs for students to improve the academic environment (i.e., College Readiness, Compact for Success, Junior Achievement, etc.) and to include extended year educational experiences and activities.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	

$16,120.00	Supplemental & Concentration Funds
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

SWC SOUTHWESTERN COLLEGE CONTINUING EDUCATION

Y.E.S. ACADEMY

SRS

Y.E.S. ACADEMY

SUMMER 2021: VIRTUAL PROGRAMS

Youth Excellence & Success
Southwestern College

>>> www.swccd.edu/yes <<<



COLLEGE FOR KIDS COURSES
4th-9th Grade Students
Register by 4/30 for *$10 off* per course



SALLY RIDE SCIENCE COURSES
4th-9th Grade Students
Register by 4/30 for *$10 off* per course



Free!
CAREER EXPLORATION WEBINARS
High School Students



Free!
PARENT UNIVERSITY WORKSHOPS
Parents & Caregivers

LEARN MORE ABOUT OUR PROGRAMS & REGISTER AT WWW.SWCCD.EDU/YES

Questions? Contact us at:
(619) 421-6700 ext. 5953
SWCYESAcademy@swccd.edu

Follow Us!

JUNE 21-JULY 1, 2021 (M-TH)

$149 PER COURSE (RECEIVE $10 OFF BY 4/30)

COLLEGE FOR KIDS:

4th-6th Grade Courses:

Crime Scene Investigation I
Move + Motivate!
American Sign Language
Cartoon Character Sketch
Textiles as Art

Build your own custom experience!

7th-9th Grade Courses:

Mixed Media Masterpieces (free art kits provided courtesy of the SWC Foundation)
Crime Scene Investigation I
Law in the Era of Zoom Trials
Breaking Into Business
Texts for Change: Developing Your Activist Voice
Making Movies

VIEW COURSE TIMES & REGISTER HERE OR VISIT US ONLINE AT WWW.SWCCD.EDU/YES

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
San Ysidro/Vista Del Mar Middle Schools
Maria Rodriguez, Principal
Irene Herrera-Cevallos, Principal

☐ Informational
☒ Action

AGENDA ITEM: SCHOOL WIDE LICENSE RENEWAL/SUBSCRIPTION FOR THE EDPUZZLE PROGRAM AT SAN YSIDRO AND VISTA DEL MAR MIDDLE SCHOOLS

BACKGROUND INFORMATION:
Edpuzzle standardizes the way K-12 teachers deliver their video lessons and allows students to access personalized video learning safely. Using Edpuzzle allows students to view YouTube videos safely, with no access to inappropriate content. Edpuzzle is a unique tool because its assessment feature tracks student progress, making it easy for teachers to differentiate their instruction. It's also the perfect platform to empower students with self-paced learning for all subjects and grade levels.

The Principals at our Middle Schools are requesting approval to renew/implement the license subscription for the EdPuzzle program. Teachers will have unlimited school wide access, which will benefit their instruction with Hybrid and Distance Learning programs.

Services for each school:

School	Product Description	Period	Cost
San Ysidro Middle	Unlimited access to Edpuzzle for all teachers	1 Year	$1,300.00
Vista Del Mar Middle	Unlimited access to Edpuzzle for all teachers	2 Years	$2,400.00

RECOMMENDATION:
Approve the school wide license renewal/subscription of the Edpuzzle Program for San Ysidro and Vista Del Mar Middle Schools at the total cost of $3,700.00 from the Title I Fund.

LCAP GOAL AND ACTION/SERVICE:
Goal 1: Student Achievement ~ Action 1.10: Continue to provide supplemental programs and resources (i.e. Reading Renaissance, math manipulatives, etc.) to support student achievement in core content areas.

☒ **Renewal** ☐ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications? ☒ Yes ☐ No

Are funds for this item available in the 2020-2021 Budget? ☒ Yes ☐ No

Requisition #

$3,700.00
(Amount)

Title I Fund
(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

edpuzzle

PO BOX 446
SAN FRANCISCO, CA 94104-0446
UNITED STATES

Bill To Name	San Ysidro Middle School	Quote Number	00026774
Bill To	4345 OTAY MESA RD SAN YSIDRO, CA 92173 US	Created Date	4/27/2021
		Expiration Date	10/21/2021
		Prepared By	Amanda Dougher
Contact Name	Maria Rodriguez	Email	amanda@edpuzzle.com
Email	maria.rodriguez@sysdschools.org		

Product	Period	Product Description	Sales Price	Quantity	Total Price
Pro School	1 year	Unlimited access to Edpuzzle for all the teachers in the school.	$1,300.00	1.00	$1,300.00

Subtotal	$1,300.00
Total Price	$1,300.00
Grand Total	$1,300.00

School-wide license renewal || Offered for purchase before "expiration date" above.
Questions? Please email amanda@edpuzzle.com

FAQ's

Does Edpuzzle accept purchase orders?
Yes, we do! This quote can be used to generate a PO. If you need any other information or would prefer a credit card payment instead just let us know. We will get you set up with Pro within 24h of receiving the order.

What payment methods does Edpuzzle accept?
We accept credit card payments, checks, and direct deposits (wire transfers).

Can we use next year's funds this school year?
Yes! Send us your PO by June 30th and we can invoice you in July so that you can use next year's funds to purchase at this year's rates.

Terms & Conditions

(1) All spots from the license will expire at the end of the term, regardless utilization or use. (2) Each spot is assigned to one teacher and cannot be replaced by another teacher on a general basis. (3) The general rules of copyright and license ownership will apply in case of a teacher leaving the School or District, regarding the video-content he or she has generated. (4) This agreement will automatically renew at the end of each term for a further term of 1 year unless either party gives the other written notice of termination at least 30 days prior to the end of the relevant term.

edpuzzle

PO BOX 446
SAN FRANCISCO, CA 94104-0446
UNITED STATES

Bill To Name	Vista Del Mar Middle School	**Quote Number**	918514
Bill To	4885 Del Sol Blvd.	**Created Date**	5-3-2021
	San Diego, California, United States of America	**Expiration Date**	7-31-2021
		Prepared By	Edpuzzle Sales Team
Contact Name	Irene Herrera-Cevallos	**Email**	sf@edpuzzle.com
Email	irene.herrera-cevallos@sysdschools.org		

Product	Period	Product Description	Sales Price	Quantity	Total Price
Pro School	2 years	Unlimited access to Edpuzzle for all the teachers in the school.	USD 2,400	1.00	USD 2,400

Subtotal	USD 2,400
Total Price	USD 2,400
Grand Total	USD 2,400

FAQ's

Does Edpuzzle accept purchase orders?
Yes, we do! This quote can be used to generate a PO. If you need any other information or would prefer a credit card payment instead just let us know. We will get you set up with Pro within 24h of receiving the order.

What payment methods does Edpuzzle accept?
We accept credit card payments, checks, and direct deposits (wire transfers).

Can we use next year's funds this school year?
Yes! Send us your PO by June 30th and we can invoice you in July so that you can use next year's funds to purchase at this year's rates.

License Terms & Conditions

(1) All spots from the license will expire at the end of the term, regardless utilization or use.

(2) Each spot is assigned to one teacher and cannot be replaced by another teacher on a general basis.

(3) The general rules of copyright and license ownership will apply in case of a teacher leaving the School or District, regarding the video-content he or she has generated.

(4) For school/district wide agreements, the renewal price will increase by 8% upon every renewal.

(5) This agreement will automatically renew at the end of each term for a further term of 1 year unless either party gives the other written notice of termination at least 30 days prior to the end of the relevant term.

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

▶ Go to *www.irs.gov/FormW9* for instructions and the latest information.

Give Form to the requester. Do not send to the IRS.

Print or type. See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
Edpuzzle, Inc.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC ☑ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.
PO BOX 446

Requester's name and address (optional)

6 City, state, and ZIP code
SAN FRANCISCO, CA, 94104-0446

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number
[ ][ ][ ] - [ ][ ] - [ ][ ][ ][ ]

or

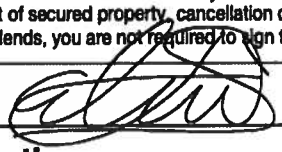
Employer identification number
6 8 - 0 6 8 3 3 9 0

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here Signature of U.S. person ▶  Date ▶ 08/13/2020

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/FormW9*.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, *later.*

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
San Ysidro Middle School
Maria Rodriguez, Principal

☐ Informational
☒ Action

AGENDA ITEM: RENEWAL OF THE DELTA MATH PLUS ONLINE MATH PRACTICE SUBSCRIPTION FOR SAN YSIDRO MIDDLE SCHOOL

BACKGROUND INFORMATION:
DeltaMath has long been a free online tool used to give automatic and detailed feedback to students for Math practice on over 1,400 different math problem types. Given the current health crisis, this immediate feedback is more important than ever. DeltaMath Plus has newer features that give teachers a lot more flexibility in creating assignments, attaching videos to assignments, and creating online tests and writing new questions on DeltaMath.

San Ysidro Middle School started using the DeltaMath Plus program during the 2020-21 school year. Principal is requesting approval to renew this program with a 2-year subscription starting July 2021 thru June 2023.

RECOMMENDATION:
Approve the renewal of the DeltaMath Plus program with a 2-year subscription for San Ysidro Middle School at the total cost of $1,300.00 from the Title I Fund.

LCAP GOAL AND ACTION/SERVICE:
Goal 1: Student Achievement – Action 1.19: Continue to provide supplemental programs and resources (i.e., Reading Renaissance, math manipulatives, etc.) to support student achievement in core content areas.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	

$1,300.00	Title I Fund
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

DeltaMath Solutions Inc.
510 Hommocks Road
Larchmont, NY 10538
orders@deltamath.com

Quote

ADDRESS
San Ysidro Middle School
4345 Otay Mesa Rd
San Diego, CA 92154

QUOTE # 4663
DATE 04/20/2021

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
	School License, DeltaMath Plus	Schoolwide license for DeltaMath Plus, SY 21-22 and SY 22-23 for all teachers/students (based on publicly available numbers, grades 6-12). Includes instructional videos, creation of online assessments, school admin portal, and additional features.	2	650.00	1,300.00

2 year license

TOTAL **USD 1,300.00**

For: San Ysidro Middle School

UPDATED W9 2021: deltamath.com/files/w9.pdf

Accepted By

Accepted Date

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Vista Del Mar Middle School
Irene Herrera-Cevallos, Principal

☐ Informational
☒ Action

AGENDA ITEM: SUBSCRIPTION FOR THE SWORKIT STUDENT ENGAGEMENT PORTAL AS A PHYSICAL EDUCATION TOOL FOR VISTA DEL MAR MIDDLE SCHOOL

BACKGROUND INFORMATION:
The Sworkit Student Engagement Portal gives athletic directors, coaches, teachers, and administrators the power to monitor student progress and participation to award PE credit, and help better engage athletes with their conditioning training.

Some of the benefits of using the Sworkit Student Engagement Portal are:

- Teachers can easily monitor student activity and make PE grading easy.
- Athletic Directors and Coaches can assign and track both class and team conditioning training during school, at home, in-season, and off-season.
- Administrators can organize students into classes, sport teams, and even competitive school groups.
- Provide feedback for student physical activity journals, and
- Verify students are meeting weekly or monthly physical activity requirements.

The Principal at Vista Del Mar Middle School is requesting approval to purchase the annual subscription for the Sworkit Student Engagement Portal to be used by Physical Education teachers to monitor student progress and participation and help engage students with conditioning and training.

RECOMMENDATION:
Approve the purchase of the subscription for the Sworkit Student Engagement Portal to be used as a Physical Education tool for Vista Del Mar Middle School at a cost not to exceed $1,290.00 from Title I fund.

LCAP GOAL AND ACTION/SERVICE:
Goal 1: Student Engagement and Goal 2: Safety, Climate and Student Engagement

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	6645

$1,290.00	SPSA Title I, Goal 1
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

Sworkit

Vista Del Mar Middle School - Sworkit Student Engagement Portal

Vista Del Mar Middle School

Irene Herrera-Cevallos
Principal
irene.herrera-cevallos@sysdschools.org
6194284476

Reference: 20210429-200150804
Quote created: April 29, 2021
Quote expires: July 28, 2021
Quote created by: Rynnie Cotter
Director, Sworkit Youth
rynnie@sworkit.com

Comments from Rynnie Cotter

Teacher(s)/coach access can be used with up to 430 students for one year, with a July 26, 2021 start date.

Products & Services

Item & Description	Quantity	Unit Price	Total
1-Year Access Sworkit Student Engagement Portal	430	$3.00	$1,290.00

Subtotals

One-time subtotal	$1,290.00
Total	**$1,290.00**

Questions? Contact me



Rynnie Cotter
Director, Sworkit Youth
rynnie@sworkit.com

Sworkit
7315 Wisconsin Ave, Suite 400W
Bethesda, MD 20814
United States

SWORKIT

Terms of Use Agreement for Sworkit by Nexercise App, Inc

1. Hello!
Welcome, bienvenue, and willkommen! Thank you for visiting our little corner of the web and, if you're a really cool dude or dudette, downloading our App. Please read this Terms of Use Agreement carefully because it sets forth legal rights and obligations and by clicking the "I AGREE" button or otherwise using the Service (as defined below), you are agreeing to be bound by this Terms of Use Agreement.
If you use or subscribe to the Service for a defined period of time (the "Initial Term"), then, unless you decline to renew your subscription in accordance with the below, this Terms of Use Agreement will be automatically renewed for additional periods of the same duration as the Initial Term at Nexercise's then-current rates for such Service.

2. Words Mean Things
We're no Noah Webster, but we do consider ourselves pretty good at explaining things. For example: "Agreement" refers to this Terms of Use Agreement;
"App(s)" refers to our mobile applications made available to you through Apple AppStore, Google Play, Android Marketplace or other mobile app stores;
"Nexercise" refers to one of the following: our company (the official name of which is "Nexercise, Inc."); our Site; our Service (currently offered under the brands SworkitTM and NexTrackTM); or a combination of all or some of the foregoing, depending on the context in which the word "Nexercise" is used;
"Registered User" refers to a User who has registered for an account via a Service ("Account") or has a valid account on a social networking service ("SNS") through which the User has connected to the Services (each such account, a "Third-Party Account").
"Service" or "Services" refers to the services that we provide, including our Apps and our Site; "Site" refers to any website controlled by us where this Agreement appears, including www.nexercise.com and www.sworkit.com;
"User" refers to users of our Services;
"You" (whether or not capitalized, and including variations such as "your," etc.) refers to you, the person who is entering into this Agreement with Nexercise.

3. Nexercise? What's a Nexercise? For that matter, what does Sworkit mean?
Sworkit is a digital platform (mobile, web, and future formats) that assembles exercises in real time, into "workout playlists" that can fit most time and environmental constraints. Sworkit merges individual video exercises into a targeted workout of any length by matching metadata with audio guidance.
NexTrack is a mobile app that tracks your physical activities without any hardware accessory (other than your phone), motivates you using community leaderboards, and offers rewards for successfully accomplishing your goals. The rewards are intrinsic, in the form of points, levels, and badges; and extrinsic, in the form of discounts and coupons on real products provided by third-party providers. Nexercise is also a fun game and social support network. Finally, NexTrack tracks and validates exercise activity using the accelerometer, gyroscope, and GPS functions of your mobile device. Together, Sworkit and NexTrack have the advantages of a high school gym teacher without the yelling or smelling of five-day-old B.O.
Nexercise also offers other products and services that help you pursue your fitness goals, including the ability to interact with certified personal trainers.

4. Eligibility
We're a fun company, but we do have to have a few standards. If you wanna use the awesomeness that is our Services:
· You must not be in violation of any embargoes, export controls, or other laws of the United States or other countries having jurisdiction over this Agreement, Nexercise, and yourself. For example, if the Office of Foreign Assets Control prohibits conducting financial transactions with nationals, residents, or banks of your country, you must not use our Service.
· To make any purchases through our App, you must be the minimum age required to enter into a contract in the area in which you reside, and, in any event, you must not be under 18 years age.
· To download our Service, to install our Service, including our App, on any device, and/or to provide any information to us, you must be at least 13 years of age.

5. Warning
We appreciate that you like our App and you're enthusiastic about exercising, but please don't overdo it! If you have any medical conditions or are thinking about starting an exercise program or engaging in strenuous or unusual physical activity, you should consult your doctor first. Smartphones are great, but they're not that great as defibrillators or asthma inhalers, so please make safety your #1 priority!
For some Nexercise offerings, such as our "Rehabilitation and Care" workout collection, the videos cannot and should not be used without first consulting a licensed physician or physiotherapist about your underlying injuries. Even after this consultation, please tell your physician or physiotherapist of any changes you might notice in the injured or affected area so that they may continue treat those injuries appropriately.
For our pre- and post-natal workout offerings, we suggest you get the OK from your doctor prior to participating in any of the videos, make sure that you pay close attention to how your body feels during and after those workouts and stop participating in the videos upon any sort of discomfort. Safety first!

6. License to Bill
Subject to your compliance with this Agreement, we grant you a limited non-exclusive, non-transferable, non-sublicensable, revocable license to download, install and/or use the Services on any device that you own or control, solely for your own personal, non-commercial use. Furthermore, with respect to any App accessed through or downloaded from the Apple App Store (an "App Store Sourced Application"), you will only use the App Store Sourced Application (i) on an Apple-branded product that runs iOS (Apple's proprietary operating system) and (ii) as permitted by the "Usage Rules" set forth in the Apple App Store Terms of Service.
You understand that the Site, Apps and the Services are evolving. As a result, we may require you to accept updates to the Site, Apps or the Services that you have installed on your mobile device. You acknowledge and agree that we may update the Site, Apps and/or

the Services with or without notifying you. As a part of the Services, you may have access to materials, products and services that are hosted or provided by another party. You agree that it is impossible for Nexercise to monitor such materials and that you access these materials at your own risk.

In order to access certain features of the Services you may be required to become a Registered User. If you access the Services through a social networking service ("SNS") as part of the functionality of the Services, you may link your Account with Third-Party Accounts, by either (i) providing your Third-Party Account login information to Nexercise through the Services; or (ii) allowing Nexercise to access your Third-Party Account, as is permitted under the applicable terms and conditions that govern your use of each Third-Party Account. You represent that you are entitled to disclose your Third-Party Account login information to Nexercise and/or grant Nexercise access to your Third-Party Account (including, but not limited to, for use for the purposes described herein) without breach by you of any of the terms and conditions that govern your use of the applicable Third-Party Account and without obligating Nexercise to pay any fees or making Nexercise subject to any usage limitations imposed by such third-party service providers. By granting Nexercise access to any Third-Party Accounts, you understand that Nexercise shall have the right to access, make available and store (if applicable) certain of the Content (as defined below) that you have provided to and stored in your Third-Party Account ("SNS Content") so that it is available on and through the or Services via your Account. Unless otherwise specified in this Agreement, all SNS Content shall be considered to be Your Content (as defined below) for all purposes of this Agreement. Depending on the Third-Party Accounts you choose and subject to the privacy settings that you have set in such Third-Party Accounts, personally identifiable information that you post to your Third-Party Accounts will be available on and through your Account on the Services. Please note that if a Third-Party Account or associated service becomes unavailable or Nexercise's access to such Third-Party Account is terminated by the third party service provider, then SNS Content will no longer be available on and through the Services. You have the ability to disable the connection between your Account and your Third-Party Accounts at any time by accessing the "Settings" section of the App. PLEASE NOTE THAT YOUR RELATIONSHIPS WITH THE THIRD-PARTY SERVICE PROVIDERS ASSOCIATED WITH YOUR THIRD-PARTY ACCOUNTS ARE GOVERNED SOLELY BY YOUR AGREEMENT(S) WITH SUCH THIRD-PARTY SERVICE PROVIDERS. Nexercise makes no effort to review any SNS Content for any purpose, including but not limited to, for accuracy, legality or noninfringement and Nexercise is not responsible for any SNS Content.
You are responsible for all activities that occur under your Account. You may not share your Account or password with anyone, and you agree to (1) notify Nexercise immediately of any unauthorized use of your password or any other breach of security; and (2) exit from your Account at the end of each session.
You must provide all equipment and software necessary to connect to the Services, including, but not limited to, a mobile device that is suitable to connect with and use the Services. You are solely responsible for any fees, including Internet connection or mobile fees, that you incur when accessing the Services.

7. Rules of Use

Once you have signed up for Sworkit, NexTrack, or any other Nexercise Service, we have some additional rules (Ha! You thought it'd be anarchy, didn't you?). You must not:
· Make the Apps available to any third party or try to sell access to the Apps for money or anything else of value.
· Modify, translate, adapt, merge, make derivative works of, disassemble, decompile, reverse compile or reverse engineer any part of the Services.
· Access the Services in order to build a similar or competitive products or services.
· Use any manual or automated software, devices or other processes (including but not limited to spiders, robots, scrapers, crawlers, avatars, data mining tools or the like) to "scrape" or download data from the Services.
· Violate the laws of the United States, its states, alien planets, or any foreign political entity having jurisdiction over this Agreement, whether or not the foreign political entity is a country or a subdivision (such as a state or province) or municipality (such as a city, town, county, or region) of a foreign country. Or a foreign planet – intergalactic laws can sometimes be tricky.
· Post or send anything violent, threatening, pornographic, racist, hateful, or otherwise objectionable. What is "objectionable" is up to us.
· Infringe on anyone's intellectual property rights (including privacy and publicity rights), defame anyone, impersonate anyone, or otherwise violate the rights of a third party. Basically, don't do anything online to someone that would get you a black eye if you did it in real life.
· Hack, crack, phish, SQL inject, or otherwise compromise the security or integrity of our Services or any property, product or service of any of our Users. · Run around the pool.
· Share videos accessed through the subscription Service with other users that have not paid for that subscription Service. No free riders!
· Do anything else that Nexercise believes could harm us or any third party. Nexercise, its suppliers and service providers reserve all rights not granted in this Agreement. Any unauthorized use of the Services terminates the licenses granted by Nexercise pursuant to this Agreement.

8. Paid Goods

We may offer third-party goods and services through our Services. Except with respect to our subscription Service, which provides you access to premium content and services, please note that all terms surrounding payment, order fulfillment, and refunds are covered by our third-party providers and not Nexercise, and are hereby incorporated into this Agreement by reference. So, if your order placed with one of these third parties doesn't get to you in time for your big weekly Sworkit fan club meeting, please don't yell at us because it wasn't our fault. Our subscription Service is a subscription fee-based Service, which gives you access to content and services, including our "Ask a Trainer" Service, where you can ask personal trainers questions about fitness and your specific fitness-related goals. All subscription Services provide access through the Site and the App. You can become a subscriber by purchasing a subscription to the Service from the Site or within the App. Please note that, once purchased, the sale is final and we will not provide a refund.
Fees for our periodic subscriptions are due in periodic installments (for example, if your subscription is monthly, fees are due monthly, that sort of thing). For each period of time that your monthly subscription is active, you acknowledge and agree that Nexercise is authorized to charge the same credit card or payment method as you used for the initial subscription fee in the same amount or in the amount of the then-current periodic subscription fee. The periodic renewal fees will continue to be billed to the same payment method you provided, automatically until cancelled. You must cancel your subscription before it renews in order to avoid billing of the next periodic subscription fee to the payment method you provided. Refunds cannot be claimed for any partial subscription period.

Longer subscriptions (e.g., annual subscriptions) are paid for by an upfront one-off payment with automatic renewals. You acknowledge and agree that Nexercise is authorized to charge the payment method used for the initial subscription fee at the rate secured at the time of purchase. You must cancel your subscription before it renews in order to avoid billing of the renewal subscription fee to the payment method you provided. Refunds will not be issued for any partial subscription period.
You agree to notify Nexercise promptly of any changes to the payment method you provided while any subscriptions remain outstanding. You are responsible for all applicable fees and charges incurred, including applicable taxes, and all subscriptions purchased by you.
The fees quoted by Nexercise are net of any applicable sales tax. If any Service, or payment for any Service, under this Agreement is subject to sales tax in any jurisdiction and you have not remitted the applicable sales tax to Nexercise, you will be responsible for the payment of such sales tax and any related penalties or interest to the relevant tax authority and you will indemnify Nexercise for any liability or expense we may incur in connection with such sales tax. Upon our request, you will provide us with official receipts issued by the appropriate taxing authority, or such evidence that you have paid all applicable taxes.

9. Rewards and Referrals
Through the Services, Nexercise may offer rewards to its Users like points, levels, and badges. We know you're saying, "Wow, that's awesome and it's a great motivator, and I totally want to use NexTrack now." But wait! There's more!
Not only do we give you cool achievement rewards that you can show off, but we also give you opportunities to refer Sworkit to friends, sometimes in exchange for a Sworkit credit or discount. You can refer a friend for no incentive or can choose from two different referral types: (i) "refer a friend, get $10" or (ii) "refer a friend, get 20% discount for referral" here. You can also choose our affiliate campaign, in which you can refer a friend, receive a 10% discount for the referral and receive a payment for 20% of your friend's subscription rate. We use a third party, Rewardful, to manage our referral/affiliate program offerings.
If Nexercise suspects that you (or any referred friend you refer to Sworkit) has used or attempted to use the referral/affiliate program offerings in a fraudulent or abusive manner or in violation of this Agreement, we reserve the right to suspend or terminate your Account.

10. Content
You acknowledge that all information, data, text, software, music, sound, photographs, graphics, video, messages, tags and/or other materials accessible through the Services, whether publicly posted or privately transmitted ("Content"), are the sole responsibility of the individual or entity from which such Content originated. This means that you, and not Nexercise, are entirely responsible for all Content that you upload, post, e-mail, transmit or otherwise make available ("Make Available") through the Services ("Your Content"), and other Users of the Services, and not Nexercise, are similarly responsible for all Content they Make Available through the Services ("User Content").
You acknowledge that Nexercise has no obligation to pre-screen Content (including, but not limited to, Your Content and User Content), although Nexercise reserves the right in its sole discretion to pre-screen, refuse to display or remove any Content. By entering into this Agreement, you hereby provide your irrevocable consent to the foregoing. You acknowledge and agree that you have no expectation of privacy concerning the transmission of Your Content, including without limitation chat, text, or voice communications. Without limiting the foregoing, Nexercise shall have the right to remove any Content that, as determined in Nexercise's sole discretion, violates this Agreement or is otherwise objectionable.
Unless expressly agreed to by Nexercise in writing elsewhere, Nexercise has no obligation to store any of Your Content that you Make Available via the Services. Nexercise has no responsibility or liability for the deletion or accuracy of any Content, including Your Content; the failure to store, transmit or receive transmission of Content; or the security, privacy, storage, or transmission of other communications originating with or involving use of the Services. Certain Services may enable you to specify the level at which such Services restrict access to Your Content. You are solely responsible for applying the appropriate level of access to Your Content. If you do not choose, the Nexercise system may default to its most permissive setting. You agree that Nexercise retains the right to create reasonable limits on the use and storage of the Content, including Your Content, such as limits on file size, storage space, processing capacity, and similar limits described via the Services and as otherwise determined by Nexercise in its sole discretion.
Nexercise allows supportive comments from other Users (Wooooh, you can do it!), but we need to know that you wrote those comments and not Litigious Industries Incorporated or something because we don't need to be spending our time responding to copyright complaints. Whenever you submit Your Content to our Services or any content relating to our Service on any public areas of any social media services, you agree that you are granting us a non-exclusive, universal, perpetual, irrevocable, sublicensable, commercial and non-commercial right to use, distribute, sell, creative derivative works from, publish, and otherwise make use of Your Content that you submit to us. You warrant to us that you have the right to grant us these rights in and to Your Content, and that you will indemnify us for any loss resulting from a breach of this warranty and defend us against claims regarding the same.
Except with respect to Your Content, you agree that you have no right or title in or to any Content that appears on or in the Services, including, but not limited to, the virtual goods or currency appearing or originating in any Nexercise game, whether earned in a game or purchased from Nexercise, or any other attributes associated with an Account or stored via the Services.
Notwithstanding anything contained herein to the contrary, by submitting Your Content to any forums, comments or any other area on the Services, you hereby expressly permit Nexercise to identify you by your username (which may be a pseudonym) as the contributor of Your Content in any publication in any form, media or technology now known or later developed in connection with Your Content.
Notwithstanding anything to the contrary herein, you acknowledge and agree that you shall have no ownership or other property interest in your Account, and you further acknowledge and agree that all rights in and to your Account are and shall forever be owned by and inure to the benefit of Nexercise.
You agree that submission of any ideas, suggestions, documents, and/or proposals to Nexercise through its suggestion, feedback, wiki, forum or similar pages ("Feedback") is at your own risk and that Nexercise has no obligations (including without limitation obligations of confidentiality) with respect to such Feedback. You represent and warrant that you have all rights necessary to submit the Feedback. You hereby grant to Nexercise a fully paid, royalty-free, perpetual, irrevocable, worldwide, non-exclusive, and fully sublicensable right and license to use, reproduce, perform, display, distribute, adapt, modify, re-format, create derivative works from, and otherwise commercially or non-commercially exploit in any manner, any and all Feedback, and to sublicense the foregoing rights, in connection with the operation and maintenance of the Services or any other products or services offered by Nexercise or any affiliate.

11. Third-Party Services.
The Services may contain links to third-party platforms ("Third-Party Platforms") and advertisements for third parties (collectively, "Third-Party Platforms & Ads"). When you click on a link to a Third-Party Platform or Ad, we will not warn you that you have left our Service and you acknowledge and agree that you will then be subject to the terms and conditions (including privacy policies) of another platform or destination. Such Third-Party Platforms are not under the control of Nexercise. Nexercise is not responsible for any Third-Party Platforms & Ads. Nexercise provides these Third-Party Platforms & Ads only as a convenience and does not review, approve, monitor, endorse, warrant, or make any representations with respect to Third-Party Platforms & Ads, or their products or services. You use all links in Third-Party Platforms & Ads at your own risk. When you leave our Services, this Agreement no longer governs. You should review applicable terms and policies, including privacy and data gathering practices, of any Third-Party Platform, and should make whatever investigation you feel necessary or appropriate before proceeding with any transaction with any third party.
You acknowledge and agree that the availability of the Services is dependent on the third-party platform from which you access the Services, e.g., the Apple iPhone or Android app stores ("App Store"). You acknowledge that this Agreement is between you and Nexercise and not with the App Store. Nexercise, not the App Store, is solely responsible for the Services, the content thereof, maintenance, support services, and warranty therefor, and addressing any claims relating thereto. In order to use the Services, you must have Internet connectivity and you agree to pay all fees associated with such connectivity. You also agree to pay all fees (if any) charged by the App Store in connection with the App. You agree to comply with, and your license to use the App is conditioned upon your compliance with, all applicable third-party terms of agreement (e.g., the App Store's terms and policies) when using the App and the Services. You acknowledge that the App Store (and its subsidiaries) are third-party beneficiaries of this Agreement and will have the right to enforce it to the extent the rights of the operator of any App Store are affected hereby.

12. Our Name
"Nexercise," "Sworkit" and "NexTrack" are trademarks used by us, Nexercise, Inc., to uniquely identify our Site, Apps, Service, and business. You agree not to use these marks anywhere without our prior written consent. Additionally, you agree not to use our trade dress, or copy the look and feel of our Services or their design, without our prior written consent. You agree that this paragraph goes beyond the governing law on intellectual property law, and includes prohibitions on any activity that violates the provisions of this paragraph, including starting your own app that competes with our Services. The exception to this paragraph is that you may put our trademark on the Moon so that it's visible from Earth. Not only would we be really impressed, but we'd make you our Emperor of Public Relations.

13. Revocation of Consent
We may revoke our consent for your use of our intellectual property, or any other permission granted to you under this Agreement, at any time. You agree that if we so request, you must take immediate action to remove any usage of our intellectual property that you may have engaged in, or surrender it to us, even if it would cause a loss to you. Basically, don't write "Sworkit" on your car if it's a really cool car, because if we find out about it we'll probably just take it from you.

14. Plagiarism's Bad!
Once upon a time, elves gave us a magical shield to protect us from evil copyright lawyers who might try to sue us just 'cause someone else posted something without permission on our Site: That shield was called the Digital Millennium Copyright Act (which, if you're too cool for school, you just refer to as the "DMCA"). If you believe that your copyright has been infringed, stop moping and send us a DMCA notice which contains:
- Your name.
- The name of the party whose copyright has been infringed, if different from your name.
- The name and description of the work that is being infringed.
- The location on our Site of the infringing copy.
- A statement that you have a good faith belief that use of the copyrighted work described above is not authorized by the copyright owner (or by a third party who is legally entitled to do so on behalf of the copyright owner) and is not otherwise permitted by law.
- A statement that you swear, under penalty of perjury, that the information contained in this notification is accurate and that you are the copyright owner or have an exclusive right in law to bring infringement proceedings with respect to its use.

You must sign this notification and send it to our Copyright Agent at contact@sworkit.com (a signature made of electrons instead of ink is fine since you're e-mailing it). And please, don't e-mail us just to say "What'chu talkin' 'bout?"
Although U.S. law does not provide for a similar procedure for trademark infringement (apparently the elves who invented the DMCA liked copyright owners more), we recommend that you send us similar information to that above in regards to any allegation of trademark infringement.

15. Things Mean People Say
We know this may come as a surprise, but sometimes people on the Internet can act way tougher than they are in person and maybe even say some defamatory things when they're tossing out insults. Similar to the DMCA provisions above, United States law—specifically Section 230 of the Communications Decency Act—creates a defense for us for the actions of third parties in regards to any defamatory content posted on our Site. Although we are not liable for defamatory words posted on our Site by our Users even if given notice, we do prohibit defamation under this Agreement and we may, if we believe the situation warrants it, take action against the offending User, including but not limited to telling their mom on them. Please notify us at contact@sworkit.com if any of our Users has posted anything that you believe is defamatory.

16. Representations & Warranties; Limits on Our Liability
YES, OUR LAWYERS KNOW HOW A CAPS LOCK KEY WORKS, BUT THIS SECTION IS REALLY IMPORTANT BECAUSE IT LIMITS OUR LIABILITY TO YOU SO WE DECIDED TO YELL. WE MAKE NO REPRESENTATIONS OR WARRANTIES AS TO THE MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF OUR SERVICES. YOU AGREE THAT YOU ARE RELEASING US FROM ANY LIABILITY THAT WE MAY OTHERWISE HAVE TO YOU IN RELATION TO OR ARISING FROM THIS AGREEMENT OR OUR SERVICES, FOR REASONS INCLUDING, BUT NOT LIMITED TO, FAILURE OF OUR SERVICES, NEGLIGENCE, OR ANY OTHER TORT. TO THE EXTENT THAT APPLICABLE LAW RESTRICTS THIS RELEASE OF LIABILITY, YOU AGREE THAT WE ARE ONLY LIABLE TO YOU FOR THE MINIMUM AMOUNT OF DAMAGES THAT THE LAW RESTRICTS OUR LIABILITY TO, IF SUCH A MINIMUM EXISTS.

YOU AGREE THAT WE ARE NOT RESPONSIBLE IN ANY WAY FOR DAMAGES CAUSED BY THIRD PARTIES WHO MAY USE OUR SERVICES, INCLUDING BUT NOT LIMITED TO PEOPLE WHO COMMIT INTELLECTUAL PROPERTY INFRINGEMENT, DEFAMATION, TORTIOUS INTERFERENCE WITH ECONOMIC RELATIONS, RUDE NOISES, FUNNY FACES, OR ANY OTHER ACTIONABLE CONDUCT TOWARDS YOU. WE ARE NOT RESPONSIBLE FOR ANY FAILURE OF A THIRD PARTY, INCLUDING ANY COUPON PARTNERS, TO FULFILL THEIR COMMITMENTS TO YOU. YELLING AT US ABOUT THEM WILL ONLY MAKE US SAD.

WE ARE NOT LIABLE FOR ANY FAILURE OF THE GOODS OR SERVICES OF OURS OR OF A THIRD PARTY, INCLUDING ANY FAILURES OR DISRUPTIONS, UNTIMELY DELIVERY, SCHEDULED OR UNSCHEDULED, INTENTIONAL OR UNINTENTIONAL, ON OUR SITE WHICH PREVENT ACCESS TO OUR SITE TEMPORARILY OR PERMANENTLY.
NEXERCISE IS NOT A MEDICAL SERVICE AND DOES NOT OFFER MEDICAL ADVICE. THE SERVICES ARE NOT INTENDED FOR MEDICAL DIAGNOSIS OR DRUG PRESCRIPTION OR ADVICE CONCERNING WHICH DRUGS OR TREATMENT MAY BE APPROPRIATE FOR YOU, AND YOU SHOULD DISREGARD ANY SUCH ADVICE IF DELIVERED THROUGH THE SERVICES. WE DO NOT ENDORSE SPECIFIC PRODUCTS, PROCEDURES, OPINIONS, OR OTHER INFORMATION THAT MAY BE MENTIONED OR DESCRIBED THROUGH THE SERVICES. IF YOU RELY ON ANY CONTENT OBTAINED BY YOU OR THROUGH THE SERVICES, YOU DO SO SOLELY AT YOUR OWN RISK. ANY CONTENT OR INFORMATION ACCESSED OR RECEIVED THROUGH THE SERVICES, INCLUDING FROM ANY PERSONAL TRAINERS, ARE NOT INTENDED TO BE MEDICAL ADVICE. THE PERSONAL TRAINERS YOU MAY INTERACT WITH THROUGH THE SERVICES ARE NOT OUR EMPLOYEES, AGENTS OR REPRESENTATIVES. NEXERCISE ASSUMES NO RESPONSIBILITY FOR ANY ACT, OMISSION, ACTIVITY, PRODUCT OR SERVICE OF ANY PERSONAL TRAINER. NEXERCISE DOES NOT GUARANTEE ANY RESULTS IN CONNECTION WITH THE SERVICES.

THE CONTENT SHOULD NOT BE USED DURING A MEDICAL EMERGENCY OR FOR THE DIAGNOSIS OR TREATMENT OF ANY MEDICAL CONDITION. PLEASE CONSULT YOUR DOCTOR OR OTHER QUALIFIED HEALTH CARE PROVIDER IF YOU HAVE ANY QUESTIONS ABOUT A MEDICAL CONDITION, OR BEFORE TAKING ANY DRUG, CHANGING YOUR DIET, OR COMMENCING OR DISCONTINUING ANY COURSE OF TREATMENT. DO NOT IGNORE OR DELAY OBTAINING PROFESSIONAL MEDICAL ADVICE BECAUSE OF INFORMATION ACCESSED THROUGH THE SITE, APPS OR SERVICES. CALL 911 OR YOUR DOCTOR FOR ALL MEDICAL EMERGENCIES. THE PROVISION OF OUR SERVICES TO YOU IS CONTINGENT ON YOUR AGREEMENT WITH THIS AND ALL OTHER SECTIONS OF THIS AGREEMENT. NOTHING IN THE PROVISIONS OF THIS "REPRESENTATIONS & WARRANTIES" SECTION SHALL BE CONSTRUED TO LIMIT THE GENERALITY OF THE FIRST PARAGRAPH OF THIS SECTION.

For jurisdictions that do not allow us to limit our liability: Notwithstanding any provision of this Agreement, if your jurisdiction has provisions specific to waiver or liability that conflict with the above then our liability is limited to the maximum extent possible by law. Specifically, in those jurisdictions not allowed, we do not disclaim liability for: (a) death or personal injury caused by our negligence or that of any of our officers, employees or agents; or (b) fraudulent misrepresentation; or (c) any liability which it is not lawful to exclude either now or in the future.

YOU UNDERSTAND AND AGREE THAT IN NO EVENT SHALL NEXERCISE BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE SITE, APPS, THE SERVICES OR CONTENT, INCLUDING, WITHOUT LIMITATION, ANY DAMAGES RESULTING FROM LOSS OF USE, DATA, OR PROFITS, MEDICAL, LEGAL OR MALPRACTICE DAMAGE CLAIMS OR AWARDS, PAIN AND SUFFERING, OR MEDICAL BILLS, WHETHER OR NOT NEXERCISE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY DAMAGES FOR PERSONAL INJURY, BODILY INJURY, EMOTIONAL DISTRESS, OR WRONGFUL DEATH, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, OR FROM ANY COMMUNICATIONS, INTERACTIONS OR MEETINGS WITH ANY PERSONAL TRAINERS FACILITATED VIA THE SERVICES OR OTHER USERS OF THE SERVICES, ON ANY THEORY OF LIABILITY, INCLUDING ANY OF THE FOREGOING RESULTING FROM: (1) THE USE OR INABILITY TO USE THE SITE, THE APPS OR THE SERVICES; (2) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; (3) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (4) STATEMENTS OR CONDUCT OF ANY THIRD PARTY, INCLUDING ANY PERSONAL TRAINER, ON THE SITE, APPS OR THE SERVICES; OR (5) ANY OTHER MATTER RELATED TO THE SITE, APPS OR THE SERVICES, WHETHER BASED ON BREACH OF WARRANTY, COPYRIGHT, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER LEGAL THEORY.

UNDER NO CIRCUMSTANCES WILL NEXERCISE BE LIABLE TO YOU FOR MORE THAN THE AMOUNT RECEIVED BY NEXERCISE AS A RESULT OF YOUR USE OF THE SITE, APPS AND THE SERVICE IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE CIRCUMSTANCES GIVING RISE TO YOUR CLAIM. IF YOU HAVE NOT PAID NEXERCISE ANY AMOUNTS, NEXERCISE'S SOLE AND EXCLUSIVE LIABILITY SHALL BE LIMITED TO FIFTY DOLLARS ($50).
THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN NEXERCISE AND YOU.

CALIFORNIA RESIDENTS, WHO ARE TOTAL HIPPIES, MUST, AS A CONDITION OF THIS AGREEMENT, WAIVE THE APPLICABILITY OF CALIFORNIA CIVIL CODE SECTION 1542, WHICH STATES, "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR." YOU HEREBY WAIVE THIS SECTION OF THE CALIFORNIA CIVIL CODE. IF YOU ARE A RESIDENT OF ANOTHER JURISDICTION THAT REQUIRES A SPECIFIC STATEMENT REGARDING RELEASES, THEN (YOU MAY OR MAY NOT BE A HIPPIE AND) THE FOLLOWING APPLIES: YOU HEREBY WAIVE ANY SIMILAR PROVISION IN LAW, REGULATION, OR CODE THAT HAS THE SAME INTENT OR EFFECT AS THE AFOREMENTIONED RELEASE. YOU HEREBY DO THE WAVE AT A BASEBALL GAME.

17. Indemnity (Don't break it if you don't want to buy it)
You agree to defend, indemnify and hold harmless Nexercise, its related entities, affiliates, and its and their directors, officers, managers, employees, agents, and licensors, from and against any losses, expenses, damages, costs, and claims by you or any third party which may arise from or relate to this Agreement or the provision of our Services to you, including any damages caused by your

use of our Services, your interaction with any other users of the Service or personal trainers facilitated via the Service, or acceptance of the offers contained therein. You also agree that you have a duty to defend us against such claims and we may require you to pay for an attorney(s) of our choice in such cases. You agree that this indemnity extends to requiring you to pay for our reasonable attorneys' fees, court costs, and disbursements. In the event of a claim such as one described in this paragraph, we may elect to settle with the party/parties making the claim, and you shall be liable for the damages as though we had proceeded with a trial.

18. Throwing Down the Gauntlet

This Agreement shall be governed by the laws in force in the State of Delaware. The offer and acceptance of this Agreement are deemed to have occurred in the State of Delaware.

You agree that any dispute arising from or relating to this Agreement will be heard in the lowest civil court in the State of Delaware ("Small Claims Court"). Uncivil courts are too rude so we're going to stick with the civil ones.

If a dispute involves multiple claims and one or more of those claims would be eligible to be heard by the Small Claims Court, you agree not to bring the other claims against us and to instead proceed within the Small Claims Court.

If you would be entitled in a dispute to an amount exceeding the monetary jurisdiction of the Small Claims Court, you agree to waive your right to collect any damages in excess of the monetary jurisdiction and instead still bring your claim within the Small Claims Court. In other words, if the small claims limit is $10,000 and you think we owe you $10,001, you'll have to bite the bullet and not go after that extra $1. You agree that if a dispute is eligible to be heard in Small Claims Court but you would be entitled to an additional or alternative remedy in a higher court, such as injunctive relief, you will waive your right to that remedy and still bring the dispute within the Small Claims Court.

If you bring a dispute in a manner other than in accordance with this section, you agree that we may move to have it dismissed, and that you will be responsible for our reasonable attorneys' fees, court costs, and disbursements in doing so.

You agree that the unsuccessful party in any dispute arising from or relating to this Agreement will be responsible for the reimbursement of the successful party's reasonable attorneys' fees, court costs, and disbursements.

19. Force Majeure (Fancy French word for "Not our bad")

You agree that we are not responsible to you for anything that we may otherwise be responsible for, if it is the result of events beyond our control, including, but not limited to, acts of God, war, insurrection, riots, terrorism, crime, happy thoughts, labor shortages (including lawful and unlawful strikes), embargoes, zombie attacks, postal disruption, communication disruption, evil dolphins from outer space, failure or shortage of infrastructure, shortage of materials, or any other event beyond our control.

20. Severability

In the event that any provision of this Agreement is found to be unlawful, conflicting with another provision of this Agreement, or otherwise unenforceable, the Agreement will remain in force as though it had been entered into without that unenforceable provision being included in it.

21. Non-Waiver

Nexercise reserves all rights afforded to us under this Agreement as well as under the provisions of any applicable law, including but not limited to the Geneva Convention and the Bylaws of the International Society of Lawn Bowling. Our non-enforcement of any particular provision or provisions of this Agreement or any applicable law should not be construed as our waiver of the right to enforce that same provision under the same or different circumstances at any time in the future. So, don't think we'll let you get away with something just because you happen to know that we didn't go after Bob for the same thing.

22. Term and Termination (Hasta la vista, baby)

We may terminate your Account and/or access to our Site, Apps and Service at our discretion without explanation, though we will strive to provide a timely explanation in most cases. Under no circumstances will we be liable for any losses related to any such termination or cancellation or any actions of other Users. As set forth above, after the Initial Term of any subscription Service, you may terminate your subscription to the Service by not renewing your subscription prior to the commencement of the next renewal period.

23. Assignment of Rights

You may not assign your rights and/or obligations under this Agreement to any other party without our prior written consent. We may assign our rights and/or obligations under this Agreement to any other party at our discretion.

24. Amendments

We may amend this Agreement from time to time. When we amend this Agreement, we will post the changes, so even though it's boring, you have to keep reading this Agreement each time you use our Services since you agree that you will—well, agree—to the changes through your continued use of our Services. If you do not agree to the changes, you must cease using our Services immediately.

25. Downloading Apps from iTunes. The following applies to any App accessed through or downloaded from the Apple App Store ("App Store Sourced Application"):

(a) You acknowledge and agree that (i) this Agreement is concluded between you and Nexercise only, and not Apple, and (ii) Nexercise, not Apple, is solely responsible for the App Store Sourced Application and content thereof. Your use of the App Store Sourced Application must comply with the App Store Terms of Service.

(b) You acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the App Store Sourced Application.

(c) In the event of any failure of the App Store Sourced Application to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price for the App Store Sourced Application to you and, to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the App Store Sourced Application. As between Nexercise and Apple, any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be the sole responsibility of Nexercise.

(d) You and Nexercise acknowledge that, as between Nexercise and Apple, Apple is not responsible for addressing any claims you have or any claims of any third party relating to the App Store Sourced Application or your possession and use of the App Store

Sourced Application, including, but not limited to: (i) product liability claims; (ii) any claim that the App Store Sourced Application fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation.
(e) You and Nexercise acknowledge that, in the event of any third-party claim that the App Store Sourced Application or your possession and use of that App Store Sourced Application infringes that third party's intellectual property rights, as between Nexercise and Apple, Nexercise, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim to the extent required by this Agreement.
(f) You and Nexercise acknowledge and agree that Apple, and Apple's subsidiaries, are third-party beneficiaries of this Agreement as related to your license of the App Store Sourced Application, and that, upon your acceptance of the terms and conditions of this Agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce this Agreement as related to your license of the App Store Sourced Application against you as a third-party beneficiary hereof.
(g) Without limiting any other terms of this Agreement, you must comply with all applicable third-party terms of agreement when using the App Store Sourced Application.

26. Downloading Apps from Google Play. The following applies to any Google Play Sourced Application accessed through or downloaded from Google Play ("Google Play Sourced Application"):
(a) You acknowledge and agree that (i) the Terms of Use are concluded between you and Nexercise only, and not Google, and (ii) Nexercise, not Google, is solely responsible for the Google Play Sourced Application and content thereof. Your use of the Google Play Sourced Application must comply with the Google Play Agreement of Service.
(b) Google is only a provider of Google Play where you obtained the Google Play Sourced Application.
(c) Nexercise, and not Google, is solely responsible for its Google Play Sourced Application;
(d) Google has no obligation or liability to you with respect to Nexercise's Google Play Sourced Application or these Terms of Use; and
(e) You acknowledge and agree that Google is a third-party beneficiary to these Terms of Use as it relates to Nexercise's Google Play Sourced Application.

27. Consumer Complaints. In accordance with California Civil Code §1789.3, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by contacting them in writing at 400 R Street, Sacramento, CA 95814, or by telephone at (800) 952-5210.

Last Modified: October 15, 2019

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Vista Del Mar Middle School
Irene Herrera-Cevallos, Principal

☐ Informational
☒ Action

AGENDA ITEM: PURCHASE OF GIMKIT PRO SUBSCRIPTION FOR VISTA DEL MAR MIDDLE SCHOOL

BACKGROUND INFORMATION:
Gimkit Pro is a quiz learning game for students and teachers, created and maintained by students. After signing up, teachers begin by creating "kits" (live learning games) to create quizzes. Teachers can create from scratch, import an existing quiz, or copy quizzes from the GimKit gallery to modify for their use.

The Principal at Vista Del Mar Middle School is requesting approval to purchase the GimKit Pro subscription, which will give access to all teachers in the school for 1 year.

RECOMMENDATION:
Approve the purchase of the GimKit Pro 1-year subscription for Vista Del Mar Middle School at the total cost of $1,000.00 from the Title I Fund.

LCAP GOAL AND ACTION/SERVICE:
Goal 1: Student Achievement – Action 1.19: Continue to provide supplemental programs and resources (i.e., Reading Renaissance, math manipulatives, etc.) to support student achievement in core content areas.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	6735

$1,000.00	Title I Fund, Goal 1
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

Gimkit

QUOTE

415 1st Ave N, PO BOX 19833
Seattle, WA 98109

Date: 05/03/2021

Bill To:

Vista Del Mar Middle School

Balance Due: $1,000.00

Item	Quantity	Rate	Amount
Gimkit School Subscription Gimkit Pro for all educators at your school	1	$1,000.00	$1,000.00

Total: $1,000.00

Notes:

If you have any questions, email groupsubscriptions@gimkit.com
Access this quote anytime at https://www.gimkit.com/quote/uKRyIgLX-

Terms:

1 year of access to Gimkit Pro

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Vista Del Mar Middle School
Irene Herrera-Cevallos, Principal

☐ Informational
☒ Action

AGENDA ITEM: PURCHASE OF THE JUNIOR SCHOLASTIC DIGITAL SUBSCRIPTION FOR VISTA DEL MAR MIDDLE SCHOOL

BACKGROUND INFORMATION:
Junior Scholastic shows students how civics, history and geography impact their lives and give them a deeper understanding of America, the world, and their place in it.

Benefits of Junior Scholastic:

- Access an Online Library of Fascinating Stories ~ and add optional print magazines, delivered to your school year long.
- Use the Flexible Digital Teaching Tools with any LMS ~ to transform every story into an engaging lesson that meets the needs of every reader.
- Create an Exciting Learning Environment ~ that ignites student interest and inspires civic action.

The Principal at Vista Del Mar Middle School is requesting approval to purchase the Junior Scholastic 1-Year Digital subscription, which will give access to up to 200 students. Scholastic Classroom Magazines are intended for classroom use, in both onsite and remote learning settings.

RECOMMENDATION:
Approve the purchase of the Junior Scholastic 1-Year Digital subscription for Vista Del Mar Middle School at the total cost of $1,530.00 from the Title I Fund.

LCAP GOAL AND ACTION/SERVICE:
Goal 1: Student Achievement – Action 1.19: Continue to provide supplemental programs and resources (i.e., Reading Renaissance, math manipulatives, etc.) to support student achievement in core content areas.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications? ☒ Yes ☐ No

Are funds for this item available in the 2020-2021 Budget? ☒ Yes ☐ No

Requisition # 6737

$1,530.00 (Amount)

Title I Fund, Goal 1 (Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

SCHOLASTIC

Review & Submit

Please Note:

• Subscriptions for the 2021-22 school year begin with digital access in August 2021 and (if applicable) print magazines in or before September 2021.

Order Summary



Junior Scholastic (Digital Only) Full Year

Price: **$7.65**

Qty: **200** $1530.00

Edit

Minimum of 10 req.

Billing Information Edit

Bill my school

Irene Herrera Cevallos
irene.herrera-cevallos@sysdschools.org
Vista Del Mar Middle School
4885 Del Sol Blvd.
San Diego
California
92154
6194539125

Promo Code: Edit

Note: special offer discounts will be included on the invoice.

Order Total:

Item Total	$1530.00
Shipping & Handling	$0.00
Total Price	**$1530.00**

Terms of Sale (/content/classroom_magazines/magazine of-sale.html)

Shipping Information Edit

Irene Herrera Cevallos

irene.herrera-cevallos@sysdschools.org
Vista Del Mar Middle School
4885 Del Sol Blvd.
San Diego
California
92154
6194539125

SUBMIT

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92154
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Shipping Information

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irene.herrera-cevallos@sy
sdschools.org
Vista Del Mar Middle Scho
ol
4885 Del Sol Blvd.
San Diego
California
92154
6194539125

Other Classroom Resources You Might Like

View All Scholastic Magazines (http://classroommagazines.scholastic.com/category/product-type/magazines)



Upfront (https://upfront.scholastic.com/home-page-logged-out.html)

Grades 9–12

Get teens talking about today's biggest news stories!

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Educational Services
Cynthia González, Executive Director

☐ Informational
☒ Action

AGENDA ITEM: PURCHASE OF 2021 LAS LINKS ONLINE SUB-TEST PACKAGE FROM DATA RECOGNITION CORPORATION (DRC)

BACKGROUND INFORMATION:
Data Recognition Corporation (DRC) is a service firm specializing in test and survey administration and processing. DRC has developed and implemented a robust and secure Remote Testing Plan for LAS Links Online (K-12) in English and Spanish. DRC's remote testing solution allows the LAS Links Online and preLAS assessments to retain 3 critical factors: reliability, validity, and security.

A total of 104 students from Our Lady of Mount Carmel Private School have been identified as possible English Learners and need to be evaluated to determine their English Proficiency. Educational Services Department is requesting approval to purchase the 2021 LAS Links Online Sub-Test package from Data Recognition Corporation (DRC).

LAS Links Online test components include:

- 416 Sub-test Administration: Writing, Reading, Listening & Speaking ~ $2,641.60.
- 104 Hand Scoring: Writing, Reading & Speaking ~ $1,534.00.
- 1 Web-based Training – English ~ $1,072.00

RECOMMENDATION:
Approve the purchase of the 2021 LAS Links Online Sub-test package from Data Recognition Corporation at the total cost of $5,247.60 from the General fund.

LCAP GOAL AND ACTION/SERVICE:
Goal 1: Student Achievement, Action 1.18: Continue to support, monitor, and evaluate the services for English Learners to ensure students acquire proficiency in English.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2021-2022 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	

$5,247.60	General Fund
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

2021 LAS Links Online® Sub-test Administration Order Form
English Forms A, B, C, & D and Español A & B

Ship to		**Bill to**	
Name:	Nadia Aviles	Name:	Blanca Vega
Organization Name:	San Ysidro School District	Organization Name:	San Ysidro School District
Shipping Address:	4350 Otay Mesa Road	Billing Address:	4350 Otay Mesa Road
City:	San Ysidro	City:	San Ysidro
State:	CA Zip Code: 92173	State:	CA Zip Code: 92173
Phone:	619-726-1900	Phone:	619-726-1900
Email Address:	nadia.aviles@sysdschools.org	Email:	blanca.vega@sysdschools.org

P.O. #: MJC Quote | 104 students- L,S,R,W | Order Date: 1 test window 4-28-21

LAS LINKS ONLINE Sub-test ADMINISTRATIONS

The minimum LAS Links Online Sub-Test Administration order is $2,540.00

Administrations can be used interchangeably for all forms of LAS Links English and Español Online.

Qty	ISBN	Quantity Break	Item Description	Unit	Price	Total
416	C8761000	400 - 1,000	LAS Links Online Sub-test Administration	Each	$6.35	$2,641.60
	C8761100	1,001 - 5,000	LAS Links Online Sub-test Administration	Each	$5.15	
	C8761200	5,001 - 10,000	LAS Links Online Sub-test Administration	Each	$4.25	
	C8761300	10,001 - 20,000	LAS Links Online Sub-test Administration	Each	$3.90	
	C8761400	20,001 - 60,000	LAS Links Online Sub-test Administration	Each	$3.65	
	C8761500	60,001 +	LAS Links Online Sub-test Administration	Each	$3.40	

LAS LINKS ONLINE HAND SCORING

	C8987201	LAS Links Online Hand Scoring: Write & Read	Each	$6.00	
	C8987202	LAS Links Online Hand Scoring: Speaking	Each	$8.75	
104	C8987203	LAS Links Online Hand Scoring: Writing, Reading, & Speaking	Each	$14.75	$1,534.00

LAS LINKS ONLINE TRAINING

1	C8717400	LAS Links Online Web-Based Training - English	Each	$1,072.00	$1,072.00
	C8184900	LAS Links Online On-Site Training - English	Each	$4,058.00	
	C8739700	LAS Links Online Web-Based Training - Español	Each	$1,072.00	
	C8184901	LAS Links Online On-Site Training - Español	Each	$4,058.00	
	C8739400	LAS Links Online Web-Based Training - Post Test Data Dive	Each	$1,072.00	
	C8717300	LAS Links Online On-Site Training - Post Test Data Dive	Each	$4,058.00	
Please attach purchase order and any special billing forms. Applicable state and local taxes are prepaid and will be added to your invoice. Prices effective through December 31, 2021.				Subtotal:	$5,247.60
				Grand Total:	**$5,247.60**

Please submit your orders to DRC Shelf Customer Service via phone, fax, email, or mail.

PO Box 398, Hopkins, MN 55343-0398

Phone: 800-538-9547 Fax: 800-282-0266

Email: ShelfCustomerService@DataRecognitionCorp.com

Order Form Privacy Statement: DRC shall have the right to use student personal information and data and Licensee Information for research purposes for development of assessment tests, statistical analysis and norms and other research purposes (collectively "Research"), provided that students' identifiable information will be used only in the aggregate so the privacy of the individual's such information will be maintained.

Customer Privacy Notice: DRC respects your privacy. We use your contact information to fulfill your requests and service your account. Your information is located in a secure database in the U.S. and access is limited to authorized persons. You may contact DRC, 13490 Bass Lake Road, Maple Grove, MN 55311 or call 1.800.538.9547 to Opt Out, review your data or ask questions. For more information about Data Recognition Corporation's Privacy Policy, visit our website at www.datarecognitioncorp.com/Pages/privacy.aspx.

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SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A.Potter, Ed.D.
Superintendent

FROM:
Educational Services,
Cynthia González, Executive Director

☐ Informational
☒ Action

AGENDA ITEM: PROFESSIONAL DEVELOPMENTS – MAY

BACKGROUND INFORMATION:
In order to stay in compliance with State, Federal and local laws, our staff at the different sites and/or departments will participate in diverse professional developments throughout the year. These trainings/conferences and/or workshops will give our staff the opportunity to be better prepared and will reflect in the academic success of our students.

The following is a list of professional developments up for the May 13, 2021 Board meeting:

- 2021 ACSD Empowered and Connected Conference
- AVID Summer Professional Development
- BSCF Leveraging Collaboration Virtual Convening
- CABE Spring 2021 Parent and Para-Educators One-Day Virtual Conference
- Collaboration with Community Partners and Service Providers
- Construction Basics and Accounting
- Forged by Reading: Kylene Beers & Bob Probst
- Homeless Education and Early Education Webinar
- Identification Strategies for Homeless Children and Youth
- Indigenous Voices: Authentic Children's Literature in the Classroom & Library
- Model Schools Conference
- "QPR: Question, Persuade and Refer" Gatekeeper Training for Suicide Prevention
- SDCOE Budget Perspectives Workshop, May Revision 2021
- South County SELPA 13th Annual Awards & Recognition Event

Cost implications might include: Registration fees, lodging, parking, meals, mileage and substitute teacher compensation, as needed.

RECOMMENDATION:
Approve/Ratify the attendance and participation of District staff to the different professional developments, as attached.

LCAP GOAL AND ACTION/SERVICE:
Goal 1: Student Achievement – Action 1.14: Provide professional development opportunities to improve teaching and learning in the areas of English Language Arts (ELA), English Language Development (ELD), Mathematics, Science, and Social Studies. Professional development includes training specifically designed to address the achievement gap for students with disabilities.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☒ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	

APPROXIMATE COST	
$20,897.00	General, Title I and II Funds
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

Professional Development Backup Information – May 13, 2021

PARTICIPANT(S)	EVENT	PLACE	FROM/TO	COST	FUNDING
Stephanie Hake	2021 ACSD Empowered and Connected Conference	Online	June 23-25, 2021	$612.00	Title I Fund
Jaime Abarca, Carolanne Brandt, Sarina Hemungkorn, Jerry Herrera, Jose Herrera, Ray Lozada, Marisela Lozano, Carmen Martinez-Rivera, Juan Molina, Mei-Ling Murray, Guillermina Sandez	AVID Summer Professional Development	Online	June 23 – August 6, 2021 Teachers will be attending different dates	$15,290.00	Title I Fund
Omar Calleros	BSCF Leveraging Collaboration Virtual Convening	Online	April 22, 2021	$0	No Cost
Consuelo Carranza, Erika Meza, OVH Parents: Prikshata Behal, Karina Breslin, Maria Castro, Yazmin Cueva, Linda Denton, Yahaira Dominguez, Melba Emazon, Eloisa Felix, Maida Gonsales, Roberta Gonzalez, Graciela Gomez, Karen Larios, Alejandra Lopez, Ruth Martinez, Monet Montes, Elizabeth Moreno, Juana Murillo,	CABE Spring 2021 Parent and Para-Educators One-Day Virtual Conference	Online	May 12, 2021	$2,800.00	Title I Fund (SPSA, Goal 3)

Nancy Nieblas, Dafne Noguez, Hello Osmani, Ixchel Pena, Saiasy Ramirez, Elvia Valenzuela, Jennifer Villanueva, Tina Zavala, Melissa Zurita					
Veronica Medina	Collaboration with Community Partners and Service Providers	Online	May 12, 2021	$0	No Cost
Marilyn Adrienzen, Amber Elliott, Paulo Azevedo, Blanca Vega	Construction Basics and Accounting	Online	May 4 & 6, 2021	$1,100.00	General Fund
Marci Begins, Gustavo Lopez	Forged by Reading: Kylene Beers & Bob Probst	Online	April 29, 2021	$100.00 IMRA Compensation	General Fund
Veronica Medina	Homeless Education and Early Education Webinar	Online	June 2, 2021	$0	No Cost
Veronica Medina	Identification Strategies for Homeless Children and Youth	Online	August 11, 2021	$0	No Cost
Marci Begins, Gustavo Lopez	Indigenous Voices: Authentic Children's Literature in the Classroom & Library	Online	May 25 & 26, 2021	$0	No Cost
Marsha Omelina	Model Schools Conference	Nashville, TX	June 27-30, 2021	$995.00	Title II Fund
Denise Villezcas	"QPR: Question, Persuade and Refer" Gatekeeper	Online	May 20, 2021	$0	No Cost

	Training for Suicide Prevention				
Dr. Gina A. Potter, Rudy Lopez, Irene Lopez, Dr. David Farkas, Marilyn Adrianzen	SDCOE Budget Perspectives Workshop, May Revision 2021	Online	May 24, 2021	$0	No Cost
Marianna Rochin	South County SELPA 13th Annual Awards & Recognition	Online	May 27, 2021	$0	No Cost

BUSINESS

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board **BOARD MEETING DATE:** May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business Services
Marilyn Adrianzen, Chief Business Official

☐ Informational
☒ Action

AGENDA ITEM: PURCHASING REPORT

BACKGROUND INFORMATION:
In order for the District to conduct the educational programs, expenditures are necessary. The function of a purchase order is to receive pre-approval for expenditures and set aside funds before services are performed and goods are received. When possible, purchase orders are made estimating the amount to be used over the course of the school year. Purchase orders are created and approved in the Business Services Department in addition to requisitions created by sites and other departments.

Report #10 (April 2, 2021 through May 2, 2021): ▪ General Fund: 0000007119-0000007135, 0000007137-0000007145, 0000007147-0000007152, 0000007154-0000007211 ▪ Child Nutrition Fund: 0000007146, 0000007212

RECOMMENDATION:
Approve/Ratify the following purchase orders incurred by the District during the period April 2, 2021 through May 2, 2021.

LCAP GOAL AND ACTION/SERVICE (please indicate):

☐ **Renewal** ☒ **New** ☐ **Amendment** ☒ **Ratify** ☐ **Other**

Financial Implications? ☒ Yes ☐ No

Are funds for this item available in the 2020-2021 Budget? ☒ Yes ☐ No

Requisition #

$804,883.27
(Amount)

As listed above
(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

PURCHASING REPORT (04/02/21 - 05/02/21)

PO No.	PO Date	Supplier	Supplier	PO Ref	Fund	Resource	Object	Site	Total by Account
0000007119	4/2/2021	004185	B&H PHOTO,VIDEO	TECHNOLOGY SUPPLIES	0100	0000000	4300002	067	$ 734.30
0000007120	4/2/2021	004678	AMAZON.COM, INC.	INSTRUCTIONAL SUPPLIES	0100	3210000	4300001	080	$ 241.27
0000007121	4/5/2021	0000000760	CAL PACIFIC TRUCK CENTER ,LLC	CONTRACTED SERVICES	0100	0982000	5600005	074	$ 1,386.94
0000007122	4/5/2021	0000000727	GORM, INC.	COVID SUPPLIES	0100	3212000	4300020	010	$ 46,085.26
0000007123	4/5/2021	0000000709	SDSU RESEARCH FOUNDATION/NCUST	PROFESSIONAL SERVICES	0100	3182001	5800010	012	$ 16,493.50
0000007123	4/5/2021	0000000709	SDSU RESEARCH FOUNDATION/NCUST	PROFESSIONAL SERVICES	0100	3182001	5800010	022	$ 16,493.50
0000007124	4/6/2021	001012	CDW GOVERNMENT LLC	TECHNOLOGY SUPPLIES	0100	0000000	4300002	067	$ 520.72
0000007125	4/6/2021	004678	AMAZON.COM, INC.	OFFICE SUPPLIES	0100	0000000	4300011	064	$ 129.62
0000007126	4/6/2021	000136	WAXIE SANITARY SUPPLY	COVID SUPPLIES	0100	3212000	4300020	010	$ 2,702.91
0000007127	4/7/2021	004678	AMAZON.COM, INC.	INSTRUCTIONAL MATERIAL	0100	3220000	4300001	025	$ 824.50
0000007128	4/7/2021	004678	AMAZON.COM, INC.	INSTRUCTIONAL SUPPLIES	0100	3010000	4300000	024	$ 4,369.10
0000007129	4/7/2021	0000000728	A & I REPROGRAPHICS	OFFICE SUPPLIES	0100	3010000	4300000	024	$ 1,742.32
0000007130	4/7/2021	004678	AMAZON.COM, INC.	OFFICE SUPPLIES	0100	3220000	4300001	024	$ 681.52
0000007131	4/7/2021	000136	WAXIE SANITARY SUPPLY	COVID SUPPLIES	0100	3212000	4300020	010	$ 5,729.97
0000007132	4/7/2021	0000000267	MANO A MANO FOUNDATION	PROFESSIONAL SERVICES	0100	3010004	5800010	018	$ 4,000.00
0000007133	4/7/2021	002355	I B TROPHIES & AWARDS	OFFICE SUPPLIES	0100	0000000	4300001	025	$ 123.45
0000007134	4/8/2021	003377	SOUTHWEST SCHOOL & OFFICE	CONVID SUPPLIES	0100	3212000	4300020	010	$ 7,021.64
0000007135	4/8/2021	0000000779	TRAFERA, LLC	INSTRUCTIONAL MATERIAL	0100	0300020	4300000	020	$ 19,627.74
0000007135	4/8/2021	0000000779	TRAFERA, LLC	INSTRUCTIONAL MATERIAL	0100	0300020	4300001	020	$ 288.00
0000007137	4/8/2021	000136	WAXIE SANITARY SUPPLY	CUSTODIAL SUPPLIES	0100	0000000	4300020	069	$ 5,741.16
0000007138	4/8/2021	000136	WAXIE SANITARY SUPPLY	CUSTODIAL SUPPLIES	0100	0000000	4300020	069	$ 6,423.84
0000007139	4/8/2021	0000000692	NADIA BRAUN	PROFESSIONAL SERVICES	0100	3220000	5800000	054	$ 21,120.00
0000007140	4/8/2021	000540	WESTERN PSYCHOLOGICAL SERVICES	INSTRUCTIONAL SUPPLIES	0100	3220000	4300003	054	$ 905.10
0000007141	4/8/2021	004678	AMAZON.COM, INC.	INSTRUCTIONAL SUPPLIES	0100	3220000	4300001	024	$ 1,834.53
0000007142	4/9/2021	003313	BEST BUY	INSTRUCTIONAL MATERIAL	0100	0000000	4300002	067	$ 675.85
0000007142	4/9/2021	003313	BEST BUY	INSTRUCTIONAL MATERIAL	0100	3212000	4300000	010	$ 2,611.39
0000007143	4/9/2021	004601	SIR SPEEDY PRINTING 02890	OFFICE SUPPLIES	0100	0000000	4300011	064	$ 80.81
0000007143	4/9/2021	004601	SIR SPEEDY PRINTING 02890	OFFICE SUPPLIES	0100	3212000	4300000	010	$ 275.84
0000007144	4/9/2021	0000000728	A & I REPROGRAPHICS	OFFICE SUPPLIES	0100	3212000	4300000	010	$ 1,103.36
0000007145	4/12/2021	004678	AMAZON.COM, INC.	INSTRUCTIONAL MATERIAL	0100	3220000	4300001	024	$ 196.08
0000007147	4/13/2021	004857	ONE TRIPP TREE SERVICE INC.	CONTRACTED SERVICES	0100	0000000	5600005	069	$ 5,064.00
0000007148	4/13/2021	000136	WAXIE SANITARY SUPPLY	CUSTODIAL SUPPLIES	0100	0000000	4300020	069	$ 3,587.96
0000007149	4/13/2021	002355	I B TROPHIES & AWARDS	AWARDS & INCENTIVES	0100	0000000	4300001	022	$ 117.20
0000007150	4/13/2021	000136	WAXIE SANITARY SUPPLY	CUSTODIAL SUPPLIES	0100	0000000	4300020	069	$ 1,017.16
0000007151	4/13/2021	0000000223	NINYO & MOORE	PROFESSIONAL SERVICES	0100	8150000	5600005	070	$ 3,065.00
0000007152	4/13/2021	0000000338	MAXIM HEALTHCARE SERVICES, INC	PROFESSIONAL SERVICES	0100	3220000	5800010	054	$ 50,000.00
0000007154	4/14/2021	001755	WILLIAM V. MAC GILL & CO.	MEDICAL SUPPLIES	0100	3212000	4300000	010	$ 96.98
0000007155	4/14/2021	001673	DIDAX EDUCATIONAL RESOURCES	INSTRUCTIONAL SUPPLIES	0100	4127000	4300000	061	$ 800.00
0000007156	4/15/2021	000136	WAXIE SANITARY SUPPLY	COVID SUPPLIES	0100	3212000	4300020	010	$ 7,490.35
0000007157	4/16/2021	000208	SCHOOL HEALTH CORPORATION	MEDICAL SUPPLIES	0100	0000000	4300011	050	$ 230.82
0000007158	4/16/2021	004678	AMAZON.COM, INC.	INSTRUCTIONAL SUPPLIES	0100	0000000	4200000	024	$ 1,905.85

PO No.	PO Date	Supplier	Supplier	PO Ref	Fund	Resource	Object	Site	Total by Account
0000007159	4/16/2021	0000000488	DOLLARDAYS INTERNATIONAL, INC.	OFFICE SUPPLIES	0100	0000000	4300011	061	$ 1,573.49
0000007160	4/19/2021	001984	KERN COUNTY SUPERINTENDENT	REGISTRATION FEES	0100	4035000	5200003	061	$ 200.00
0000007161	4/19/2021	0000000077	AZTEC CONTAINER	RENTAL AGREEMENT	0100	8150000	5600001	070	$ 1,616.24
0000007162	4/19/2021	004678	AMAZON.COM, INC.	TECHNOLOGY SUPPLIES	0100	0000000	4300002	067	$ 320.88
0000007163	4/19/2021	0000000780	ROOF CONSTRUCTION	CONTRACTED SERVICES	0100	8150000	5600005	070	$ 5,240.00
0000007164	4/19/2021	0000000779	TRAFERA, LLC	TECHNOLOGY COVID SUPPLIES	0100	3220000	4400000	080	$ 46,402.54
0000007165	4/20/2021	004822	CALIFORNIA FINANCIAL SERVICES	PROFESSIONAL SERVICES	0100	0000000	5800010	071	$ 20,000.00
0000007166	4/20/2021	0000000390	DANNIS WOLIVER KELLEY	LEGAL SERVICES	0100	0000000	5800150	054	$ 2,288.00
0000007167	4/20/2021	004711	AMERI-MEX PLUMBING INC	CONTRACTED SERVICES	0100	8150000	5600005	070	$ 975.00
0000007168	4/20/2021	004678	AMAZON.COM, INC.	INSTRUCTIONAL MATERIAL	0100	0300020	4300001	020	$ 969.10
0000007169	4/20/2021	003377	SOUTHWEST SCHOOL & OFFICE	INSTRUCTIONAL SUPPLIES	0100	0000000	4300011	050	$ 1,410.71
0000007170	4/20/2021	0000000782	LORD ARCHITECTURE INC.	CONTRACTED SERVICES	0100	9010005	6200000	080	$ 51,080.00
0000007171	4/21/2021	004678	AMAZON.COM, INC.	INSTRUCTIONAL SUPPLIES	0100	3220000	4300001	054	$ 62.48
0000007172	4/21/2021	000809	OFFICE DEPOT	OFFICE SUPPLIES	0100	0000000	4300011	061	$ 1,547.79
0000007173	4/21/2021	004678	AMAZON.COM, INC.	INSTRUCTIONAL SUPPLIES	0100	3220000	4300001	024	$ 1,316.90
0000007174	4/21/2021	0000000783	KAMI	INSTRUCTIONAL MATERIAL	0100	3220000	5800006	024	$ 99.00
0000007175	4/21/2021	0000000762	EMCOR SERVICES MESA ENERGY	CONTRACTED SERVICES	0100	3210000	5600006	010	$ 24,830.00
0000007176	4/21/2021	003311	SAN DIEGO COUNTY SUPERINTENDEN	REGISTRATION FEES	0100	3010000	4300001	025	$ 30.00
0000007177	4/21/2021	0000000783	KAMI	INSTRUCTIONAL MATERIAL	0100	3220000	5800006	024	$ 99.00
0000007178	4/21/2021	000437	CURRICULUM ASSOC. INC.	INSTRUCTIONAL SUPPLIES	0100	3220000	4300001	012	$ 12,561.98
0000007179	4/22/2021	0000000784	AED SUPERSTORE	MEDICAL SUPPLIES	0100	0490000	4300010	054	$ 323.25
0000007180	4/22/2021	000136	WAXIE SANITARY SUPPLY	COVID SUPPLIES	0100	3212000	4300020	010	$ 64,767.99
0000007181	4/26/2021	004678	AMAZON.COM, INC.	INSTRUCTIONAL SUPPLIES	0100	0000000	4300001	025	$ 740.48
0000007182	4/26/2021	0000000646	DUDE SOLUTIONS, INC	CONTRACTED SERVICES	0100	0000000	5800006	067	$ 11,581.89
0000007183	4/27/2021	004678	AMAZON.COM, INC.	INSTRUCTIONAL SUPPLIES	0100	0000000	4300001	025	$ 821.76
0000007184	4/27/2021	000136	WAXIE SANITARY SUPPLY	CUSTODIAL SUPPLIES	0100	0000000	4300020	069	$ 3,039.61
0000007185	4/27/2021	004678	AMAZON.COM, INC.	INSTRUCTIONAL SUPPLIES	0100	3010000	4300001	022	$ 217.93
0000007186	4/27/2021	000136	WAXIE SANITARY SUPPLY	TRANSPORTATION SUPPLIES	0100	0982000	4300060	074	$ 788.49
0000007187	4/27/2021	000809	OFFICE DEPOT	OFFICE SUPPLIES	0100	0982000	4300011	074	$ 423.47
0000007188	4/27/2021	000136	WAXIE SANITARY SUPPLY	CUSTODIAL SUPPLIES	0100	0000000	4300020	069	$ 157.96
0000007189	4/27/2021	004762	WHOLESALE SCHOOLWEAR, INC.	UNIFORMS	0100	5630000	4300019	061	$ 20,000.00
0000007190	4/27/2021	000136	WAXIE SANITARY SUPPLY	OFFICE SUPPLIES	0100	3220000	4300001	054	$ 98.07
0000007191	4/27/2021	000588	SCHOOL SERVICES OF CALIFORNIA	REGISTRATION FEES	0100	0000000	5200003	071	$ 2,300.00
0000007192	4/27/2021	000124	WILKINSON HADLEY KING &	PROFESSIONAL SERVICES	0100	0000000	5800001	071	$ 18,250.00
0000007193	4/27/2021	001755	WILLIAM V. MAC GILL & CO.	MEDICAL SUPPLIES	0100	5640000	4300001	054	$ 484.88
0000007194	4/27/2021	002326	THERAPRO, INC.	INSTRUCTIONAL SUPPLIES	0100	3220000	4300001	054	$ 90.76
0000007195	4/28/2021	004917	TEACHER SYNERGY LLC	INSTRUCTIONAL MATERIAL	0100	3220000	4300001	024	$ 151.59
0000007196	4/29/2021	000983	CASBO	REGISTRATION FEES	0100	0000000	5200003	071	$ 1,185.00
0000007197	4/29/2021	0000000778	MIRIAM M NINO	PROFESSIONAL SERVICES	0100	3010004	5800010	024	$ 2,000.00
0000007198	4/29/2021	004711	AMERI-MEX PLUMBING INC	CONTRACTED SERVICES	0100	8150000	5600005	070	$ 8,950.00
0000007199	4/30/2021	000356	GRAINGER	COVID SUPPLIES	0100	3212000	4300000	010	$ 9,452.75

PURCHASING REPORT (04/02/21 - 05/02/21)

PO No.	PO Date	Supplier	Supplier	PO Ref	Fund	Resource	Object	Site	Total by Account
0000007200	4/30/2021	004678	AMAZON.COM, INC.	INSTRUCTIONAL SUPPLIES	0100	4127000	4300000	061	$ 732.27
0000007201	4/30/2021	004917	TEACHER SYNERGY LLC	INSTRUCTIONAL MATERIAL	0100	3220000	4300001	024	$ 147.99
0000007202	4/30/2021	003192	WAL- MART COMMUNITY/GECRB	OFFICE SUPPLIES	0100	0490000	4300011	054	$ 210.66
0000007203	4/30/2021	004678	AMAZON.COM, INC.	INSTRUCTIONAL SUPPLIES	0100	0000000	4300001	025	$ 559.24
0000007203	4/30/2021	004678	AMAZON.COM, INC.	INSTRUCTIONAL SUPPLIES	0100	3010000	4300001	025	$ 369.84
0000007204	4/30/2021	004628	FOLLETT SCHOOL SOLUTIONS,INC	INSTRUCTIONAL SUPPLIES	0100	0000000	4300006	022	$ 193.95
0000007205	4/30/2021	004678	AMAZON.COM, INC.	MAINTENANCE SUPPLIES	0100	8150000	4300007	070	$ 295.26
0000007206	4/30/2021	002682	BENCHMARK EDUCATION COMPANY	INSTRUCTIONAL MATERIAL	0100	3220000	4300001	054	$ 232,721.10
0000007207	4/30/2021	004267	CITY NATIONAL BANK	CONTRACTED SERVICES	0100	0000000	5800010	071	$ 145.00
0000007208	4/30/2021	000809	OFFICE DEPOT	OFFICE SUPPLIES	0100	6500000	4300011	054	$ 1,663.30
0000007209	4/30/2021	004678	AMAZON.COM, INC.	OFFICE SUPPLIES	0100	6500000	4300011	054	$ 224.23
0000007210	4/30/2021	000540	WESTERN PSYCHOLOGICAL SERVICES	INSTRUCTIONAL MATERIAL	0100	3220000	4300003	054	$ 538.75
0000007211	4/30/2021	003313	BEST BUY	TECHNOLOGY SUPPLIES	0100	0000000	4400000	067	$ 3,771.14
							Total for 0100		**$ 803,561.26**
0000007146	4/12/2021	0000000314	CHEF'S TOYS & STAR RESTUARANT	CAFETERIA SUPPLIES	1300	5310000	4300026	085	$ 856.56
0000007212	5/2/2021	0000000314	CHEF'S TOYS & STAR RESTUARANT	CAFETERIA SUPPLIES	1300	5310000	4300026	085	$ 465.45
							Total for 1300		**$ 1,322.01**
							Grand Total		**$ 804,883.27**

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business Services
Marilyn Adrianzen, Chief Business Official

☐ Informational
☒ Action

AGENDA ITEM: EXPENDITURE REPORT

BACKGROUND INFORMATION:
The District is required to pay for goods and services it uses to conduct the educational and support programs. Prior to payment, supporting documents such as contracts with the appropriate approvals and proof of receipt for the goods or services are collected. Invoices to be paid are submitted to the Business Services Department for payment processing. Warrants are printed at San Diego County Office of Education then returned to the Business Services Department for signature.

The following are expenditures incurred by the District during the period of April 2, 2021 through April 29, 2021 with checks #14-765725 through #14-773220 for a total expenditure of $1,375,647.53 from the following sources:

General Fund - $1,372,820.90
Child Development Fund- $1,166.84
Child Nutrition Fund- $1,659.79

RECOMMENDATION:
Approve/Ratify the expenditures incurred by the District during the period of April 2, 2021 through April 29, 2021 for a total expenditure of $1,375,647.53.

LCAP GOAL AND ACTION/SERVICE (please indicate):
Goal No.: Base Services and Safety
2.1 Maintain basic operating services of the district including MOT personnel, transportation, contracted services, and utilities.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☒ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	

$1,375,647.53	Various (see above)
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

Expenditure Report
4/3/21-4/29/21

Warrant ID	Payee	Date	Warrant Amount	Fund	Description
14765725	MAXIM HEALTHCARE SERVICES, INC	4/5/2021	$ 11,375.00	0100	PROFESSIONAL SERVICES
14765726	CAL PACIFIC TRUCK CENTER ,LLC	4/5/2021	$ 5,230.48	0100	CONTRACTED SERVICES
14765727	EDUPOINT EDUCATIONAL SYSTEMS	4/5/2021	$ 26,534.18	0100	CONTRACTED SERVICES
14766458	MRC SMART TECHNOLOGY SOLUTIONS	4/8/2021	$ 7,572.94	0100	MAINTENANCE AGREEMENT
14766459	NINYO & MOORE	4/8/2021	$ 27,669.50	0100	PROFESSIONAL SERVICES
14766460	LORENA GUERRERO	4/8/2021	$ 4,427.43	0100	PAYROLL OVERAGE CHECK
14766461	CAPITOL ADVISORS GROUP, LLC	4/8/2021	$ 2,000.00	0100	PROFESSIONAL SERVICES
14766462	AARDVARK ANT & PEST CONTROL INC.	4/8/2021	$ 750.00	0100	CONTRACTED SERVICES
14766463	SDSU RESEARCH FOUNDATION/NCUST	4/8/2021	$ 24,740.00	0100	PROFESSIONAL SERVICES
14766464	ACADEMIC SUPPLIER	4/8/2021	$ 625.29	0100	OFFICE SUPPLIES
14766465	WILKINSON HADLEY KING &	4/8/2021	$ 10,950.00	0100	PROFESSIONAL SERVICES
14766466	SCHOOL SPECIALTY	4/8/2021	$ 353.76	0100	INSTRUCTIONAL SUPPLIES
14766467	OFFICE DEPOT	4/8/2021	$ 1,337.39	0100	INSTRUCTIONAL SUPPLIES
14766468	RAINBOW BOOK COMPANY	4/8/2021	$ 9,827.69	0100	INSTRUCTIONAL SUPPLIES
14766469	REPUBLIC SERVICES	4/8/2021	$ 7,854.77	0100	UTILITIES
14766470	ASELTINE SCHOOL	4/8/2021	$ 4,990.40	0100	NON-PUBLIC SERVICES
14766471	CALIFORNIA ELECTRIC SUPPLY	4/8/2021	$ 157.69	0100	MAINTENANCE SUPPLIES
14766472	FEDEX	4/8/2021	$ 27.55	0100	POSTAGE
14766473	PTM DOCUMENT SYSTEMS	4/8/2021	$ 255.40	0100	INSTRUCTIONAL MATERIAL
14766474	GALLAGHER BENEFIT SERVICES, INC	4/8/2021	$ 438.60	0100	PROFESSIONAL SERVICES
14766475	FOLLETT SCHOOL SOLUTIONS,INC	4/8/2021	$ 488.27	0100	LIBRARY SUPPLIES
14767472	JAZMINE GELFAND, ATTORNEY	4/12/2021	$ 4,500.00	0100	LEGAL SERVICES
14767473	CAL PACIFIC TRUCK CENTER ,LLC	4/12/2021	$ 4,878.62	0100	CONTRACTED SERVICES
14768573	P.I.P.S.	4/15/2021	$ 74,440.66	0100	PROFESSIONAL SERVICES
14768574	BMR HEALTH SERVICES, INC	4/15/2021	$ 27,734.08	0100	PROFESSIONAL SERVICES
14768575	MANO A MANO FOUNDATION	4/15/2021	$ 4,000.00	0100	PROFESSIONAL SERVICES
14768576	MAXIM HEALTHCARE SERVICES, INC	4/15/2021	$ 2,711.51	0100	PROFESSIONAL SERVICES
14768577	HORIZON DISTRIBUTORS	4/15/2021	$ 987.75	0100	GROUNDS SUPPLIES
14768578	DOLLARDAYS INTERNATIONAL, INC.	4/15/2021	$ 542.05	0100	INSTRUCTIONAL SUPPLIES
14768579	PANERA BREAD COMPANY	4/15/2021	$ 524.55	0100	REFRESHMENTS
14768580	AMBER ELLIOTT	4/15/2021	$ 59.47	0100	MILEAGE
14768581	PAULO AZEVEDO	4/15/2021	$ 48.00	0100	REIMBURSEMENT
14768582	DECLUES, BURKETT & THOMPSON, APC	4/15/2021	$ 3,515.00	0100	LEGAL FEES

Expenditure Report
4/3/21-4/29/21

Warrant ID	Payee	Date	Warrant Amount	Fund	Description
14768583	WALSH & ASSOCIATES, APC	4/15/2021	$ 6,378.42	0100	LEGAL FEES
14768584	NADIA BRAUN	4/15/2021	$ 2,240.00	0100	PROFESSIONAL SERVICES
14768585	TOM SILVA CONSULTING	4/15/2021	$ 2,587.50	0100	PROFESSIONAL SERVICES
14768586	CAL PACIFIC TRUCK CENTER ,LLC	4/15/2021	$ 3,524.38	0100	CONTRACTED SERVICES
14768587	TEACHING STRATEGIES, LLC	4/15/2021	$ 1,400.00	0100	INSTRUCTIONAL MATERIAL
14768588	ACADEMIC SUPPLIER	4/15/2021	$ 936.52	0100	OFFICE SUPPLIES
14768589	WAXIE SANITARY SUPPLY	4/15/2021	$ 61,617.50	0100	CUSTODIAL SUPPLIES
14768590	LAKESHORE	4/15/2021	$ 9,984.08	0100	INSTRUCTIONAL SUPPLIES
14768591	DUNN-EDWARDS CORP.	4/15/2021	$ 480.37	0100	MAINTENANCE SUPPLIES
14768592	MARTIN GALANTE	4/15/2021	$ 173.91	0100	REIMBURSEMENT
14768593	SPRINT	4/15/2021	$ 4,465.53	0100	CONTRACTED SERVICES
14768594	THE INSTITUTE FOR EFFECTIVE	4/15/2021	$ 9,296.40	0100	PROFESSIONAL SERVICES
14768595	CDW GOVERNMENT LLC	4/15/2021	$ 575,423.55	0100	TECHNOLOGY SUPPLIES
14768596	HOME DEPOT	4/15/2021	$ 2,056.15	0100	MAINTENANCE SUPPLIES
14768597	CALIFORNIA DEPT. OF JUSTICE	4/15/2021	$ 49.00	0100	CONTRACTED SERVICES
14768598	WILLIAM V. MAC GILL & CO.	4/15/2021	$ 188.96	0100	MEDICAL SUPPLIES
14768599	APPLE INC	4/15/2021	$ 246.69	0100	INSTRUCTIONAL MATERIAL
14768600	ABA EDUCATION FOUNDATION	4/15/2021	$ 2,293.50	0100	PROFESSIONAL SERVICES
14768601	SOUTH BAY COMMUNITY SERVICES	4/15/2021	$ 17,426.00	0100	PROFESSIONAL SERVICES
14768602	XEROX CORPORATION	4/15/2021	$ 4,019.92	0100	MAINTENANCE AGREEMENT
14768603	STOTZ EQUIPMENT	4/15/2021	$ 855.92	0100	GROUNDS SUPPLIES
14768604	EBS - EDUATIONAL BASED SERVICES	4/19/2021	$ 47,424.00	0100	PROFESSIONAL SERVICES
14768605	EMCOR SERVICES MESA ENERGY	4/19/2021	$ 18,462.40	0100	CONTRACTED SERVICES
14769840	BRENDA A HUERTA	4/22/2021	$ 150.00	0100	BENEFIT DEDUCTION REFUND
14769841	AZTEC CONTAINER	4/22/2021	$ 1,616.24	0100	RENTAL AGREEMENT
14770916	VECTOR USA	4/22/2021	$ 7,363.53	0100	PROFESSIONAL SERVICES
14770917	CSM CONSULTING INC.	4/22/2021	$ 1,500.00	0100	PROFESSIONAL SERVICES
14770918	NINYO & MOORE	4/22/2021	$ 3,065.00	0100	PROFESSIONAL SERVICES
14770919	OFFICESUPPLY.COM	4/22/2021	$ 543.06	0100	INSTRUCTIONAL SUPPLIES
14770920	ANIXTER INC.	4/22/2021	$ 424.31	0100	MAINTENANCE SUPPLIES
14770921	WLC ARCHITECTS INC	4/22/2021	$ 7,500.00	0100	CONTRACTED SERVICES
14770922	CAL PACIFIC TRUCK CENTER ,LLC	4/22/2021	$ 1,372.17	0100	CONTRACTED SERVICES
14770923	BATTERY JUNCTION	4/22/2021	$ 256.15	0100	OFFICE SUPPLIES

Expenditure Report
4/3/21-4/29/21

Warrant ID	Payee	Date	Warrant Amount	Fund	Description
14770924	WAXIE SANITARY SUPPLY	4/22/2021	$ 7,156.47	0100	CUSTODIAL SUPPLIES
14770925	PARADIGM HEALTHCARE SERVICES	4/22/2021	$ 500.00	0100	PROFESSIONAL SERVICES
14770926	SCHOLASTIC , INC	4/22/2021	$ 850.85	0100	INSTRUCTIONAL MATERIAL
14770927	CURRICULUM ASSOC. INC.	4/22/2021	$ 7,866.64	0100	INSTRUCTIONAL SUPPLIES
14770928	WESTERN PSYCHOLOGICAL SERVICES	4/22/2021	$ 547.50	0100	INSTRUCTIONAL SUPPLIES
14770929	EWING IRRIGATION	4/22/2021	$ 1,019.36	0100	GROUNDS SUPPLIES
14770930	FERGUSON ENTERPRISES,INC#1350	4/22/2021	$ 140.90	0100	MAINTENANCE SUPPLIES
14770931	KERN COUNTY SUPERINTENDENT	4/22/2021	$ 200.00	0100	REGISTRATION FEES
14770932	HARBOR FREIGHT TOOLS	4/22/2021	$ 330.51	0100	TRANSPORTATION SUPPLIES
14770933	YMCA OF SAN DIEGO COUNTY	4/22/2021	$ 161,753.06	0100	PROFESSIONAL SERVICES
14770934	AT&T	4/22/2021	$ 6,806.33	0100	UTILITIES
14770935	VALLEY INDUSTRIAL SPECIALTIES	4/22/2021	$ 470.90	0100	MAINTENANCE SUPPLIES
14770936	PRO POWER	4/22/2021	$ 492.93	0100	GROUNDS SUPPLIES
14770937	SIR SPEEDY PRINTING 02890	4/22/2021	$ 356.65	0100	OFFICE SUPPLIES
14770938	SAN DIEGO CENTER FOR CHILDREN	4/22/2021	$ 4,568.80	0100	PROFESSIONAL SERVICES
14770939	FLYERS ENERGY	4/22/2021	$ 1,865.23	0100	CONTRACTED SERVICES
14770940	BrainPOP LLC	4/22/2021	$ 3,250.00	0100	CONTRACTED SERVICES
14770941	KEENAN & ASSOCIATES	4/26/2021	$ 104.22	0100	CONTRACTED SERVICES
14770942	CRISTINA D'OLEIRE	4/26/2021	$ 22.18	0100	MILEAGE
14772196	DANNIS WOLIVER KELLEY	4/26/2021	$ 2,288.00	0100	LEGAL SERVICES
14772197	PANERA BREAD COMPANY	4/26/2021	$ 298.21	0100	REFRESHMENTS
14772198	AMBER ELLIOTT	4/26/2021	$ 39.65	0100	MILEAGE
14772199	AARDVARK ANT & PEST CONTROL INC.	4/26/2021	$ 1,122.00	0100	CONTRACTED SERVICES
14772200	A & I REPROGRAPHICS	4/26/2021	$ 1,742.32	0100	OFFICE SUPPLIES
14772201	TRAFERA, LLC	4/26/2021	$ 65,457.86	0100	INSTRUCTIONAL MATERIAL
14772202	RAINBOW BOOK COMPANY	4/26/2021	$ 9,928.75	0100	INSTRUCTIONAL SUPPLIES
14772203	A-Z BUS SALES, INC.	4/26/2021	$ 3,122.95	0100	CONTRACTED SERVICES
14772204	I B TROPHIES & AWARDS	4/26/2021	$ 240.64	0100	OFFICE SUPPLIES
14772205	SAN DIEGO COUNTY SUPERINTENDEN	4/26/2021	$ 60.00	0100	REGISTRATION FEES
14772206	CALIFORNIA FINANCIAL SERVICES	4/26/2021	$ 20,000.00	0100	PROFESSIONAL SERVICES
14772207	WEX BANK	4/29/2021	$ 3,348.80	0100	CONTRACTED SERVICES
	Total Fund 01		**$ 1,372,820.90**		

Expenditure Report
4/3/21-4/29/21

Warrant ID	Payee	Date	Warrant Amount	Fund	Description
14772208	CORODATA RECORDS MANAGEMENT, INC.	4/15/2021	$ 799.06	1200	OFFICE SUPPLIES
14772209	OFFICE DEPOT	4/15/2021	$ 367.78	1200	INSTRUCTIONAL SUPPLIES
	Total Fund 12		**$ 1,166.84**		
14772210	JOHNSON CONTROLS	4/26/2021	$ 1,515.12	1300	CONTRACTED SERVICES
14773220	OFFICE DEPOT	4/26/2021	$ 144.67	1300	OFFICE SUPPLIES
	Total Fund 13		**$ 1,659.79**		
	Grand Total		$ 1,375,647.53		

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business Services
Marilyn Adrianzen, Chief Business Official

☐ Informational
☒ Action

AGENDA ITEM: ACCEPTANCE OF DONATIONS

BACKGROUND INFORMATION:
The San Ysidro School District appreciates the support of individuals and organizations that contribute to the enhancement of the District's educational programs. These gifts/donations are in keeping with the criteria of Board Policy 3290.

The District would like to accept and thank the organizations and/or individuals on the attached list for their generous contributions to education, students and staff.

RECOMMENDATION:
Accept donations valued at $1,000.00 to help support and enrich our educational programs.

LCAP GOAL AND ACTION/SERVICE (please indicate):

☐ **Renewal** ☒ **New** ☐ **Amendment** ☒ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?	Requisition #
☐ Yes ☒ No	☐ Yes ☐ No	

DONATIONS $1,000.00	Cash/Checks Only Donations Account
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

San Ysidro School District 2020-21 DONATIONS

BOARD MEETING: May 13, 2021		Donation		
From	To	Cash/Check Amount	Estimated Value of items/supplies	Purpose / Description
Altrusa International of Chula Vista, Inc.	District	NA	$200.00	USB drives
San Ysidro Health Center	Willow	NA	$800.00	Safety equipment for school

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Special Education Department
Oscar Madera, Director

☐ Informational
☒ Action

AGENDA ITEM: AGREEMENT WITH ORANGE COUNTY SUPERINTENDENT OF SCHOOLS FOR SCHOOL-BASED MEDI-CAL ADMINISTRATIVE ACTIVITIES (SMAA) PARTICIPATION FOR 2021-2022 SCHOOL YEAR

BACKGROUND INFORMATION:

The School-Based Medi-Cal Administrative Activities (SMAA) Program offers a way for Local Governmental Agencies (LGAs) and Local Educational Consortia (LECs) to obtain federal reimbursement for the cost of certain administrative activities necessary for the proper and efficient administration of the Medi-Cal program. SMAA activities include: Medi-Cal outreach, Facilitating the Medi-Cal application, Non-emergency & non-medical transportation of Medi-Cal eligible individuals to Medi-Cal covered services, Contracting for Medi-Cal services, Program planning and policy development, SMAA coordination and claims administration, TCM coordination and claims administration, Training, and General administration .

The San Ysidro School District is a Local Educational Agency (LEA) eligible to bill the California State Medi-Cal office for services relative to administrative activities involving Medi-Cal Outreach, individual health services, and assessment/testing/evaluations. As such, the District has been part of the Region 9 Local Educational Consortium established under California State Medi-Cal requirements for purposes of billing for services. This consortium serves as the designated entity assisting in the management of services billed by eligible school districts throughout Southern California.

The contract for our participation in this Local Educational Consortium requires annual renewal. They have no increases in cost for our participation in the Local Education Agency Medi-Cal billing process. This is an extension of the existing agreement specifying cost for San Ysidro School District participation at 4.5 % of Local Education Agency Medi-Cal revenues received by the District. In addition, by using State RMTS software, the district has to pay $0.67/participant during the first qurter (July - September), and $1.34/participant for the three remaining quarters (October – June).

RECOMMENDATION:

Approve the agreement with Orange County Superintendent of Schools for the 2021- 2022 school year for School-Based Medi-Cal Administrative Activities (SMAA).

LCAP GOAL AND ACTION/SERVICE:

☒ **Renewal** ☐ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	

To be determined	Special Education
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

AGREEMENT NUMBER: 51488

SAN YSIDRO SCHOOL DISTRICT
SCHOOL-BASED MEDI-CAL ADMINISTRATIVE ACTIVITIES (SMAA)
PARTICIPATION AGREEMENT

This AGREEMENT is hereby entered into this 1st day of July, 2021, by and between the Orange County Superintendent of Schools, 200 Kalmus Drive, Costa Mesa, California 92626, Region 9 Local Educational Consortium (LEC), hereinafter referred to as SUPERINTENDENT, and the San Ysidro School District, 4350 Otay Mesa Road, San Ysidro, California 92173, hereinafter referred to as DISTRICT. SUPERINTENDENT and DISTRICT shall be collectively referred to as the Parties.

WITNESSETH:

WHEREAS, SUPERINTENDENT has entered into an Agreement with the California State Department of Health Care Services, hereinafter referred to as STATE, which is incorporated herein by this reference, to serve as the Local Educational Consortium (LEC) for the Region 9 in accordance with the California Welfare and Institutions Code Section 14132.47(c) (1); and

WHEREAS, SUPERINTENDENT has been designated by the STATE to represent school districts and county offices located in Region 9, hereinafter referred to as LEA (Local Education Agency) to administer School-Based Medi-Cal Administrative Activities (SMAA) described as Administrative Claiming process in the California Welfare and Institutions Code Section 14132.47(c) (1); and

WHEREAS, the goal of the School-Based Medi-Cal Administrative Activities (SMAA) Program is to improve the availability and accessibility of Medi-Cal services to Medi-Cal eligible and

potentially eligible individuals, and their families where appropriate, served by the SUPERINTENDENT and participating LEA'S; and

WHEREAS, DISTRICT is providing School-Based Medi-Cal Administrative Activities and wishes to participate in the School-Based Medi-Cal Administrative Activities Program.

NOW, THEREFORE, the Parties hereby agree as follows:

1.0 TERM. The term of this AGREEMENT shall be for a period of one (1) year commencing on July 1, 2021, and ending on June 30, 2022, subject to termination as set forth in this AGREEMENT.

2.0 RESPONSIBILITIES OF SUPERINTENDENT.

a. Responsibilities of SUPERINTENDENT and DISTRICT will be amended as necessary to comply with all Federal, state and SUPERINTENDENT'S program requirements.

b. "Certify" to the STATE:

1. The amount of DISTRICT'S general funds or any other funds allowed under Federal law and regulation expended are allowable "Program activities".

2. The availability and expenditure of one hundred percent (100%) of the non-Federal cost of performing Program activities.

3. That DISTRICT expenditures represent costs that are eligible for Federal financial participation for that fiscal year.

c. Act as liaison between STATE and DISTRICT and as mandated by STATE, attend STATE trainings.

d. As mandated, provide a software platform through a third party vendor, through which the DISTRICT shall utilize the Random Moment Time Survey (RMTS) process. Although the SUPERINTENDENT will make every reasonable effort to facilitate the use of the software platform, the SUPERINTENDENT is not responsible for problems resulting from software platform or system errors.

e. Represent DISTRICT'S issues, concerns, and questions at scheduled statewide LEC Advisory Committee meetings, STATE meetings, and SMAA Program work groups.

f. Conduct Region 9 LEC DISTRICT SMAA Coordinator meetings and trainings and provide STATE approved training materials and updates to DISTRICT.

g. On behalf of STATE, provide SMAA and RMTS program technical assistance.

h. Code all RMTS moments and make available to the DISTRICT its RMTS results. Coding is based on the presumption that the responses received from the DISTRICT are accurate and all necessary documentation exists to support it. The LEC shall not be responsible for monitoring, reviewing or verifying documentation for any coded moment.

i. Review and submit the Random Moment Time Survey (RMTS) quarterly invoices and related supporting documentation to the STATE on behalf of the DISTRICT and convey to the DISTRICT by warrant all funds received on behalf of DISTRICT from the STATE less any amount due the

SUPERINTENDENT as defined in Section 5.0 of this AGREEMENT. No funds will be conveyed to DISTRICT for invoices that have been disallowed by the STATE or any federal agency.

j. Work with DISTRICT to resolve any outstanding matters that prevent SUPERINTENDENT'S certification of claim.

k. Monitor SMAA and RMTS compliance of DISTRICT with all Federal, STATE, and SUPERINTENDENT'S Program requirements.

l. Designate an employee to act as liaison to DISTRICT regarding issues relating to this AGREEMENT.

m. Offer the DISTRICT the option of the LEC preparing the RMTS quarterly invoice for a mutually agreed to additional fee (See Appendix "C").

n. Assist the DISTRICT with the calculation of the LEA Medi-Cal Eligibility Rate or "Data Match percentage" from student data submitted by the DISTRICT.

o. Provide DISTRICT access to STATE SMAA Appeal Process upon request and appeal DISTRICT decision or action through the STATE SMAA Appeal Process as necessary.

3.0 RESPONSIBILITIES OF DISTRICT.

a. Responsibilities of SUPERINTENDENT and DISTRICT will be amended as necessary to comply with all Federal, STATE and SUPERINTENDENT'S program requirements.

b. Comply fully with all Title XIX Federal, STATE, and SUPERINTENDENT'S Program requirements.

c. RMTS software platform may be accessed only by employees of the DISTRICT for RMTS purposes. DISTRICT agrees to comply with the confidentiality and other requirements associated with use of the RMTS software platform. DISTRICT shall be responsible for any unauthorized use and understands that the DISTRICT may be held liable.

d. Quarterly assess SMAA claiming potential within the DISTRICT and determine which staff perform SMAA activities and what direct charges, if applicable, will be claimed. The DISTRICT will determine which staff participate in the quarterly Random Moment Time Survey (RMTS).

e. Certify to the SUPERINTENDENT and STATE:

1. The amount of DISTRICT'S general funds or any other funds allowed under Federal law and regulations expended on the allowable "Program activities".

2. The availability and expenditure, from allowable non-Federal funding sources, of one hundred percent (100%) of the cost of performing Program activities.

3. Expenditures represent costs that are eligible for Federal financial participation for that fiscal year.

f. If subcontracting for certain administrative activities, provide SUPERINTENDENT with a copy of the DISTRICT'S contract with vendor. DISTRICT may include vendor's allowable costs on its invoice, to the extent that same tasks are not performed by the SUPERINTENDENT and with

the understanding that the total annual vendor fees cannot exceed fifteen percent (15%).

g. Ensure that DISTRICT'S designated SMAA Coordinator attends quarterly Region 9 LEC SMAA Coordinators trainings and meetings.

h. Adhere to timelines established by the STATE and SUPERINTENDENT for completion of Program documentation (e.g., Program invoices, Random Moment Time Survey (RMTS) Rosters, Coding reports, etc.). Respond in a timely manner to all STATE and SUPERINTENDENT requests for information and documentation.

i. Respond to SUPERINTENDENT reviews with information and corrected documents upon request and work with SUPERINTENDENT to resolve any outstanding matters.

j. Appeal SUPERINTENDENT's decision through the STATE SMAA LEA Appeal Process if necessary.

k. Complete quarterly Random Moment Time Survey (RMTS), as required by the Centers for Medicare and Medicaid Services (CMS), to determine the amount of paid time spent on Program claimable activities.

l. DISTRICT will maintain a minimum response rate of eighty-five percent (85%) of the moments assigned per time study quarter. If DISTRICT is unable to maintain the required response rate, DISTRICT will have sanctions applied according to the School-Based Medi-Cal Administrative Activities (SMAA) Manual.

m. Develop and maintain at the DISTRICT an Audit File to include at a minimum the following:

- Training materials.
- Random Moment Time Survey (RMTS) Time Survey Participant (TSP) Roster Reports and other documentation, including validation of time survey participant attendance.
- Time certification and supporting documentation for direct charge staff.
- Job Descriptions.
- Medi-Cal Percentage documentation.
- Invoice documents and supporting documentation.
- Contracts/MOU.
- Organizational Charts.
- School Calendar.
- Resource Directories and outreach materials.
- Program review documentation.

n. Prepare and certify School-Based MAA invoices to the LEC in conformance with STATE requirements and timelines providing SUPERINTENDENT with copies of SMAA invoice supporting documentation upon request.

o. DISTRICT agrees to maintain and preserve, documentation for a period of not less than five years after termination of Agreement and final payment from Department of Health Care Services (DHCS) to SUPERINTENDENT, to permit Department of Health Care Services (DHCS) or any duly authorized representative, to have access to examine or audit any pertinent books, documents, papers and records related to this AGREEMENT and to allow interviews of any employee who might reasonably have information related to such records.

p. If DISTRICT'S AGREEMENT is in excess of Ten thousand dollars ($10,000.00), DISTRICT shall agree and comply with the following terms and conditions:

1. Maintain books, records, documents, and other evidence, accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this AGREEMENT, including any matching costs and expenses. The foregoing constitutes "records" for the purpose of this provision.

2. DISTRICT'S facility or office or such part thereof as may be engaged in the performance of this AGREEMENT and its records shall be subject at all reasonable times to inspection, audit, and reproduction.

3. The Department of Health Care Services (DHCS), the Department of General Services, the Bureau of State Audits, or their designated representatives including the Comptroller General of the Unites States shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this AGREEMENT. DISTRICT agrees to allow the auditor(s) access to such records during normal business hours and to allow

interviews of any employees who might reasonably have information related to such records. Further, DISTRICT agrees to include a similar right of the STATE to audit records and interview staff related to performance of this AGREEMENT.

4. Preserve and make available its records (1) for a period of five (5) years from the date of final payment under this AGREEMENT, and (2) for such longer period, if any, as required by applicable statute, by any other provision of this AGREEMENT, or by subparagraphs (a) or (b) below:

(a) If this AGREEMENT is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of five (5) years from the date of resulting final settlement.

(b) If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the five-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of

the regular five-year period, whichever is later.

5. DISTRICT shall comply with the above requirements and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in Public Contract Code §10115.10, if applicable.

6. DISTRICT, may at its discretion, following receipt of final payment under this AGREEMENT, reduce its accounts, books and records related to this AGREEMENT to microfilm, computer disk, CD ROM, DVD, or their data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, DISTRICT must supply or make available applicable devices, hardware, and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to microfilm readers and microfilm printers, etc.

q. The STATE, through any authorized representatives, has the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed hereunder and the premises in which it is being performed. If any inspection or evaluation is made of the premises of DISTRICT, DISTRICT shall provide all reasonable

facilities and assistance for the safety and convenience of the authorized representative in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

r. In the event an invoice is revised or is disallowed by the STATE, agree to reimburse SUPERINTENDENT within thirty (30) days of receipt of an invoice from SUPERINTENDENT evidencing SUPERINTENDENT'S payment to the STATE for DISTRICT'S revised or disallowed invoice.

s. Ensure no duplicative billings.

t. Hold SUPERINTENDENT harmless from any Federal disallowance of SMAA claim payments made to DISTRICT by the STATE.

u. Designate an employee to act as a liaison with SUPERINTENDENT to provide DISTRICT specific information relative to SMAA Program administration and fiscal issues.

v. Provide SUPERINTENDET with student data files required for the calculation of the LEA Medi-Cal Eligibility Rate or "Data Match percentage".

w. **Complete and return with the fully executed AGREEMENT, SUPERINTENDENT'S School-Based Medi-Cal Administrative Activities (SMAA) District Information 2021-2022 form, Appendix "A", the School-Based Medi-Cal Administrative Activities (SMAA) LEC Fee Information 2021-2022 form, Appendix "C", Certification Regarding Lobbying form,**

Appendix "D", and Data Use Agreement, Appendix "E", attached hereto and incorporated by reference herein.

4.0 DATA USE AGREEMENT. The Parties agrees to secure data and documents that reside in the California Department of Health Care Services (DHCS) Medi-Cal system of records, or with its agents, to ensure the integrity, security, and confidentiality of such data and documents, and to permit only appropriate disclosure and use as may be permitted by law as specified in School-Based Medi-Cal Administrative Activities (SMAA) Agreement for Disclosure and Use of Medi-Cal Data 2021-2022 (DATA USE AGREEMENT), Appendix "E", attached hereto and incorporated by reference herein. The DATA USE AGREEMENT must be signed by the Custodian of Records on behalf of the DISTRICT.

5.0 DISTRICT CLAIM REIMBURSEMENT. Upon satisfactory compliance of DISTRICT'S responsibilities outlined in Section 3.0 of this AGREEMENT and after SUPERINTENDENT has received reimbursement from the STATE for DISTRICT'S quarterly SMAA claim(s), SUPERINTENDENT shall convey to DISTRICT by warrant, all funds received on behalf of DISTRICT from the STATE less any amount due the SUPERINTENDENT and STATE as determined in Section 5.0 below. No funds will be conveyed to DISTRICT for invoices that have been revised or disallowed by the STATE or Federal. Payment to DISTRICT shall be made within forty-five (45) days of receipt and reconciliation of STATE funds by SUPERINTENDENT.

6.0 FEE SCHEDULE.

a. RMTS Software Platform Fee. DISTRICT will be responsible for DISTRICT'S share of the RMTS Software Platform Fee, which is based on the DISTRICT'S actual cost of utilizing

the RMTS Software Platform through a third party administrator selected by the Region 9 LEC for the Random Moment Time Survey. SUPERINTENDENT will bill DISTRICT for DISTRICT'S share of the software platform fees as described in the School-Based Medi-Cal Administrative Activities (SMAA) RMTS Fee Information 2021-2022 form, Appendix "B", attached hereto and incorporated by reference herein.

b. SUPERINTENDENT'S LEC Fees.

1. After SUPERINTENDENT has received reimbursement from the STATE for DISTRICT'S quarterly SMAA claim(s), SUPERINTENDENT will transfer to DISTRICT an amount equal to the Federal share of cost received as reimbursement for DISTRICT'S SMAA claim submitted by DISTRICT, less four and one-half percent (4.5%) fee per quarterly claim which will be used to support SUPERINTENDENT'S SMAA administration. The four and one-half percent (4.5%) fee may be amended as necessary to support compliance with all Federal, STATE and SUPERINTENDENT'S program requirements. LEC fee will include DISTRICT'S share of the STATE Participation Fee, which is based on the STATE'S cost for administering the SMAA claiming process.

2. Optional Services. If the DISTRICT selects the option of having the LEC prepare the RMTS quarterly invoice, an additional two percent (2.0%) will be added to the LEC Fee percentage mentioned in 5.b.1 above, but billed separately. SUPERINTENDENT will provide Optional Services upon written request of DISTRICT (See Appendix "C").

c. The obligations of SUPERINTENDENT and DISTRICT under this AGREEMENT are contingent upon the availability of funds furnished by the United States Government and the State of California. In the event that such funding is terminated or reduced, this AGREEMENT may be terminated, and SUPERINTENDENT'S and DISTRICT'S fiscal obligations hereunder shall be limited to a pro-rated amount of funding actually received by the SUPERINTENDENT and DISTRICT from the United States Government and the State of California under this AGREEMENT. SUPERINTENDENT shall provide DISTRICT written notification of such termination. Notice shall be deemed given when received by the DISTRICT or no later than three (3) days after the day of mailing, whichever is sooner.

7.0 FEDERAL CLAIMING.

a. TITLE 31 - Money and Finance, Subtitle V - General Assistance Administration, Chapter 75 - Requirements for Single Audits, Section 7502 requires each pass through

entity provide the sub-recipient program names and any identifying numbers from which such assistance is derived. The Catalog of Federal Domestic Assistance (CFDA) number for this Federal program is 93.778, Medical Assistance Program (Medi-Cal).

b. A "Vendor" means a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a Federal program. These goods or services may be for an organization's own use or for the use of beneficiaries of the Federal program. Additional guidance on distinguishing between a sub-recipient and a vendor is provided in OMB Circular A-133.

8.0 INDEPENDENT CONTRACTOR. SUPERINTENDENT, in the performance of this AGREEMENT, shall be and act as an independent contractor. SUPERINTENDENT understands and agrees that he/she and all of his/her employees shall not be considered officers, employees or agents of the DISTRICT, and are not entitled to benefits of any kind or nature normally provided employees of the DISTRICT and/or to which DISTRICT'S employees are normally entitled, including, but not limited to, State Unemployment Compensation or Workers' Compensation. SUPERINTENDENT assumes full responsibility for the acts and/or omissions of his/her employees or agents as they relate to the services to be provided under this AGREEMENT. SUPERINTENDENT shall assume full responsibility for payment of all Federal, STATE and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to SUPERINTENDENT'S employees.

9.0 COPYRIGHT. DISTRICT understands and agrees that all forms, plans, and related instructional materials developed by SUPERINTENDENT or DISTRICT under this AGREEMENT shall become the exclusive property of the Department of Health Care Services. The Department of Health Care Services shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent all forms and related instructional materials developed under this AGREEMENT.

10.0 HOLD HARMLESS.

a. SUPERINTENDENT hereby agrees to indemnify, defend, and hold harmless DISTRICT, its Governing Board, and its officers, agents, and employees from liability and claims of liability for bodily injury, personal injury, sickness, disease, or death of any person or persons, or damage to any property, real, personal, tangible or intangible, arising out of the negligent acts or omissions of employees, agents or officers of SUPERINTENDENT or the Orange County Board of Education during the term of this AGREEMENT.

b. DISTRICT hereby agrees to indemnify, defend, and hold harmless SUPERINTENDENT, the Orange County Board of Education, and its officers, agents, and employees from liability and claims of liability for bodily injury, personal injury, sickness, disease, or death of any person or persons, or damage to any property, real, personal, tangible or intangible, arising out of the negligent acts

or omissions of employees, agents or officers of DISTRICT during the term of this AGREEMENT.

11.0 CONFIDENTIALITY.

a. SUPERINTENDENT and DISTRICT shall maintain confidentiality of their respective records and information, governing the confidentiality of client or student information for Medi-Cal clients served under this AGREEMENT. Applicable laws include, but are not limited to, 42 U.S.C. Section 1396a(a)7, 42 CFR Section 431.300, Welfare and Institutions Code, Section 14100.2 and 22 California Code of Regulations Section 51009 and all applicable Federal and/or STATE laws or regulations as each may now exist or be hereafter amended. The confidentiality obligations contained in this section shall survive termination of this AGREEMENT.

b. DISTRICT understands and agrees to take all reasonable steps to avoid unauthorized disclosure of any of SUPERINTENDENT'S agents' proprietary data provided for purposes of this AGREEMENT hereinafter defined as data file specifications, related instructions, management reports, training materials, plans or other information relating to the performance of SUPERINTENDENT'S agents services hereunder, disclosed by SUPERINTENDENT to DISTRICT pursuant to this AGREEMENT. DISTRICT shall not during or after the term of this AGREEMENT, permit the copying, duplication, or use of any of SUPERINTENDENT'S

agents' proprietary data by or to any person other than authorized employees, agents or representatives of DISTRICT.

12.0 ACCURACY OF INFORMATION. DISTRICT shall make reasonable effort to assure that the information supplied to SUPERINTENDENT hereunder shall be true, complete, and accurate in all respects. DISTRICT shall assume sole responsibility for the truth, completeness and accuracy of all information supplied to SUPERINTENDENT and agrees that SUPERINTENDENT shall have no responsibility or liability for the truth, completeness or accuracy of any information submitted by DISTRICT hereunder. SUPERINTENDENT reserves the right to not certify SMAA invoice(s) that do not comply with STATE and Federal SMAA requirements.

13.0 LIMITATION OF LIABILITY. SUPERINTENDENT shall not be liable for damages or losses to DISTRICT employees, agents, independent contractors or students relating to lost medical services or lost data under this AGREEMENT. SUPERINTENDENT shall not be liable for any sums DISTRICT does not obtain in reimbursement from the STATE, or for any incidental, indirect, special or consequential damages to DISTRICT arising from the denial of any request for reimbursement from the STATE.

14.0 ASSIGNMENT. The obligations of the DISTRICT pursuant to this AGREEMENT shall not be assigned by the DISTRICT without prior written approval of SUPERINTENDENT.

15.0 COMPLIANCE WITH APPLICABLE LAWS. The services completed herein must meet the approval of the DISTRICT and shall be subject to the

DISTRICT'S general right of inspection to secure the satisfactory completion thereof. SUPERINTENDENT and DISTRICT agree to comply with all Federal, STATE and local laws, rules, regulations and ordinances that are now or may in the future become applicable to SUPERINTENDENT or DISTRICT'S, equipment and personnel engaged in operations covered by this AGREEMENT or accruing out of the performance of such operations.

16.0 LOBBYING RESTRICTIONS AND DISCLOSURE CERTIFICATION. **DISTRICT shall complete and return with the fully executed AGREEMENT the Certification Regarding Lobbying form, Appendix "D", attached hereto and incorporated by reference herein**, that the DISTRICT has not made, and will not make, any payment prohibited by Item 1 of the Certification Regarding Lobbying form.

17.0 DEBARMENT AND SUSPENSION CERTIFICATION. By signing this AGREEMENT, DISTRICT certifies to the best of its knowledge and belief, that it:

a. Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;

b. Has not within a three-year period preceding this AGREEMENT been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, STATE or local) transaction or contract under a public transaction; violation of Federal or STATE antitrust statutes or

commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

c. Is not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, STATE or local) with commission of any of the offenses enumerated in Section 16.0(b) herein; and

d. Has not within a three-year period preceding this AGREEMENT had one or more public transactions (Federal, STATE or local) terminated for cause or default.

e. The terms and definitions herein have the meanings set out in the Definitions and Coverage sections of the rules implementing Federal Executive Order 12549.

f. If DISTRICT is unable to certify to any of the statements in this certification, DISTRICT shall submit an explanation to SUPERINTENDENT.

g. If DISTRICT knowingly violates this certification, in addition to other remedies available to the Federal Government, the Department of Health Care Services (DHCS) may terminate this AGREEMENT for cause or default.

18.0 HIPAA. DISTRICT agrees to inform all students and faculty of the importance of complying with all relevant State and Federal confidentiality laws, including the Health Insurance Portability and Accountability Act of 1996 (HIPPA) to the extent applicable. In addition, DISTRICT agrees to provide students and faculty with training in the requirements of the privacy and security provisions of HIPAA

and to advise them of the importance of complying with Facility's policies and procedures relative to HIPAA.

19.0 NON-DISCRIMINATION. In the performance of this AGREEMENT, SUPERINTENDENT and DISTRICT agree that they shall not engage nor employ any unlawful discriminatory practices in employment of personnel or in any other respect on the basis of sex, race, color, ethnicity, national origin, ancestry, religion, age, marital status, medical condition, sexual orientation, physical or mental disability or any other protected group in accordance with the requirements of all applicable Federal or STATE law.

20.0 TOBACCO USE POLICY. In the interest of public health, SUPERINTENDENT provides a tobacco-free environment. Smoking or the use of any tobacco products are prohibited in buildings and vehicles, and on any property owned, leased or contracted for by the SUPERINTENDENT pursuant to SUPERINTENDENT' Policy 400.15. Failure to abide with conditions of this policy could result in the termination of this AGREEMENT.

21.0 TERMINATION. SUPERINTENDENT or DISTRICT may, at any time, with or without cause, terminate this AGREEMENT with the giving of thirty (30) days prior written notice to the other party. However, once SUPERINTENDENT has submitted a RMTS Roster Report to the Department of Health Care Services (DHCS), according to the School-Based Medi-Cal Administrative Activities (SMAA) Manual, DISTRICT may not terminate until the next quarter survey period.

22.0 NOTICE. All notices or demands to be given under this AGREEMENT by either party to the other shall be in writing and given either by:

(a) personal service or (b) by U.S. Mail, mailed either by registered or certified mail, return receipt requested, with postage prepaid. Service shall be considered given when received if personally served or if mailed on the third day after deposit in any U.S. Post Office. The address to which notices or demands may be given by either party may be changed by written notice given in accordance with the notice provisions of this section. As of the date of this AGREEMENT, the addresses of the parties are as follows:

DISTRICT: San Ysidro School District
4350 Otay Mesa Road
San Ysidro, California 92173
Attn: _____

SUPERINTENDENT: Orange County Superintendent of Schools
200 Kalmus Drive
Costa Mesa, California 92626
Attn: Patricia McCaughey

23.0 NON WAIVER. The failure of SUPERINTENDENT or DISTRICT to seek redress for violation of, or to insist upon, the strict performance of any term or condition of this AGREEMENT shall not be deemed a waiver by that party of such term or condition, or prevent a subsequent similar act from again constituting a violation of such term or condition.

24.0 SEVERABILITY. If any term, condition or provision of this AGREEMENT is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.

25.0 GOVERNING LAW. The terms and conditions of this AGREEMENT shall be governed by the laws of the State of California with venue in Orange County, California.

26.0 ENTIRE AGREEMENT/AMENDMENT. This AGREEMENT and any exhibits attached hereto constitute the entire agreement among the Parties to it and supersedes any prior or contemporaneous understanding or agreement with respect to the services contemplated, and may be amended only by a written amendment executed by both Parties to the AGREEMENT.

IN WITNESS WHEREOF, the Parties hereto set their hands.

DISTRICT: SAN YSIDRO SCHOOL DISTRICT	ORANGE COUNTY SUPERINTENDENT OF SCHOOLS
BY: _____ Authorized Signature	BY: _____ Authorized Signature
PRINTED NAME: _____	PRINTED NAME: Patricia McCaughey
TITLE: _____	TITLE: Administrator
DATE: _____	DATE: April 13, 2021

SY SD-SMAA(51488) 2021-2022
ZIP 6

LEC SMAA Local Educational Consortium School-Based Medi-Cal Administrative Activities
Region 9 • Imperial, Orange, and San Diego Counties
Administered by the Orange County Superintendent of Schools

SCHOOL-BASED MEDI-CAL ADMINISTRATIVE ACTIVITIES (SMAA)
DISTRICT INFORMATION
2021-2022

1 DISTRICT/SCHOOL

San Ysidro School District — *District/School Name*
San Diego — *County*

Claiming Unit: _____
If different than name above.

2 DISTRICT SMAA COORDINATOR

Romeo S. Diacosta — *Name*
Special Education Technician — *District Job Title*
4350 Otay Mesa Road — *Street Address*
San Ysidro, CA 92173 — *City, State, Zip*
_____ — *Mailing Address (if different than street address)*
_____ — *City, State, Zip*
(619) 428-4476 x 3089 — *Phone (please include extension)*
(619) 428-6473 — *Fax*
romeo.diacosta@sysdschools.org — *Email*

Check the box for this person to:
- [✔] **have access to the RMTS systen**
- [✔] **receive RMTS late notifications**

3 SUPERVISOR OF DISTRICT SMAA COORDINATOR

Oscar C. Madera — *Name*
Director of Special Education — *District Job Title*
(619) 428-4476 x 3091 — *Phone (please include extension)*
(619) 428-6473 — *Fax*
oscar.madera@sysdschools.org — *Email*

Check the box for this person to:
- [✔] **be included in all program communications**
- [ ] **have access to the RMTS system**
- [✔] **receive RMTS late notifications**

4. ALTERNATE DISTRICT CONTACT – SMAA COORDINATOR DESIGNEE/ASSISTANT (1)

_____ — *Name*
_____ — *District Job Title*
_____ — *Phone (please include extension)*
_____ — *Fax*
_____ — *Email*

Check the box for this person to:
- [ ] **be included in all program communications**
- [ ] **have access to the RMTS system**
- [ ] **receive RMTS late notifications**

SCHOOL-BASED MEDI-CAL ADMINISTRATIVE ACTIVITIES (SMAA)
DISTRICT INFORMATION
2021-2022

ALTERNATE DISTRICT CONTACT – SMAA COORDINATOR DESIGNEE/ASSISTANT (2)

Name | *District Job Title*

Phone (please include extension) | *Fax* | *Email*

Check the box for this person to:
- ☐ **be included in all program communications**
- ☐ **have access to the RMTS system**
- ☐ **receive RMTS late notifications**

5. ALTERNATE DISTRICT CONTACT – FISCAL DESIGNEE

Marily Adrianzen | Chief Business Official

Name | *District Job Title*

(619) 428-4476 x 3004 | (619) 48-6473 | marilyn.adrianzen@sysdschools.org

Phone (please include extension) | *Fax* | *Email*

Check the box for this person to:
- ☐ **be included in all program communications**
- ☐ **have access to the RMTS system**

6. SMAA INVOICE SUBCONTRACTOR/THIRD-PARTY VENDOR

Paradigm Healthcare Services

Company Name

Constance Laflame | CEO/Owner

Contact | *Contact Job Title*

(415) 616-0920

Phone | *Email*

7. LEA BILLING OPTION PROGRAM SUBCONTRACTOR/THIRD-PARTY VENDOR

Paradigm Healthcare Services

Company Name

Constance Laflame | CEO/Owner

Contact | *Contact Job Title*

(415) 616-0920

Phone | *Email*

Romeo S. Diacosta | Special Education Technician

PRINTED NAME OF PERSON FILLING OUT FORM | **JOB CLASSIFICATION TITLE**

April 16, 2021

DATE

SCHOOL-BASED MEDI-CAL ADMINISTRATIVE ACTIVITIES (SMAA)
RMTS FEE INFORMATION
2021-2022

RMTS Software Platform Fee

DISTRICT will be responsible for DISTRICT'S share of the RMTS Software Platform Fee, which is based on the DISTRICT'S actual cost of utilizing the RMTS Software Platform through a third party administrator selected by the Region 9 LEC for the Random Moment Time Study. SUPERINTENDENT will bill DISTRICT for DISTRICT'S share of the software platform fees. The DISTRICT'S share of the software platform fees may be included in the DISTRICT's claim for reimbursement based on actual costs paid.

Current third party administrator under contract with SUPERINTENDENT is Public Consulting Group Inc. (PCG). RMTS Software Platform Fees are structured on a quarterly Time Survey Participant (TSP) rate based on the actual count of TSPs by district in the PCG RMTS system at the time of sample generation prior to the start of each fiscal quarter. Since the California Department of Health Care Services (DHCS) does not require a time study for FY quarter 1, the July-September quarter, these charges will be half the rate of the quarterly fee and based on the district's prior quarter participant count.

FY Quarter	Quarterly Participant Rate
FY Q1: July - September	$0.67/participant/quarter
FY Q2: October – December	$1.34/ participant/quarter
FY Q3: January – March	$1.34/ participant/quarter
FY Q4: April – June	$1.34/ participant/quarter

SCHOOL-BASED MEDI-CAL ADMINISTRATIVE ACTIVITIES (SMAA)
LEC FEE INFORMATION
2021-2022

SUPERINTENDENT'S LEC Fee for Administrative Support

After SUPERINTENDENT has received reimbursement from the STATE for DISTRICT'S quarterly SMAA claim(s), SUPERINTENDENT will transfer to DISTRICT an amount equal to the Federal share of cost received as reimbursement for DISTRICT'S SMAA claim submitted by DISTRICT, less four and one-half percent (4.5%) fee per quarterly claim which will be used to support SUPERINTENDENT'S SMAA administration. The four and one-half percent (4.5%) LEC fee may be amended as necessary to support compliance with all Federal, STATE and SUPERINTENDENT'S program requirements.

Included in the LEC fee is the DISTRICT'S share of the STATE Participation Fee assessed to each LEC region, based on the STATE'S cost for administering the SMAA claiming process. In addition, if needed, the SUPERINTENDENT will assist the DISTRICT with the calculation or transmission of student data files to the DHCS for calculation of the Medi-Cal Eligibility Rate or "Data Match percentage."

SUPERINTENDENT'S OPTIONAL SERVICES FEE

The following optional service is being offered to support and provide an additional option for participating districts regarding the preparation of the SMAA program's invoice claims. If the DISTRICT selects the optional service, an additional two percent (2.0%) will be in addition to the LEC Fee percentage but billed separately by the SUPERINTENDENT so that the DISTRICT may submit the optional service costs for claim reimbursement based on actual costs paid.

SUPERINTENDENT will request from DISTRICT the fiscal information required to complete the SMAA invoice claim. Time Study Participant pool lists will be provided with the request to assist with collection of information. SUPERINTENDENT will prepare SMAA invoice claims in accordance with program guidelines approved by DHCS, based on information supplied by the DISTRICT for each fiscal quarter during the Term of the Agreement. SUPERINTENDENT will establish and maintain a secure file transfer protocol (SFTP) site for the transmission of all fiscal related documentation. Once notified that claims have been prepared and are ready for district's review, the DISTRICT will print, sign and submit final invoice claim to SUPERINTENDENT for final review, audit and submission to DHCS for processing.

SUPERINTENDENT will provide annual training to the DISTRICT SMAA Coordinator and relevant finance/business office staff.

Please indicate below, the DISTRICT's response to the optional service being offered and return with the fully executed AGREEMENT.

Optional Service		Effective Date
☐ YES	■ NO	July 1, 2021 – June 30, 2022

District Name

Name (Type/Print)

Date

Signature

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency of the United States Government, a Member of Congress in connection with the making, awarding or entering into this Federal contract, Federal grant, or cooperative agreement, and the extension, continuation, renewal, amendment, or modification of this Federal contract, grant, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency of the United States Government, a Member of Congress, an officer or employee of Congress, or an employee of a Member Congress in connection with this Federal contract, grant, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL., 'Disclosure of Lobbying Activities' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contractors, sub-grants, and contracts under grants and cooperative agreements) of $100,000 or more, and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

DISTRICT: _____

BY: _____
Authorized Signature

PRINTED NAME: _____

TITLE: _____

DATE: _____

SCHOOL-BASED MEDI-CAL ADMINISTRATIVE ACTIVITIES (SMAA) AGREEMENT FOR DISCLOSURE AND USE OF MEDI-CAL DATA 2021-2022

DISTRICT and SUPERINTENDENT agree to secure data and documents that reside in the California Department of Health Care Services (DHCS) Medi-Cal systems of records, or with its agents, to ensure the integrity, security, and confidentiality of such data and documents, and to permit only appropriate disclosure and use as may be permitted by law.

DISTRICT and SUPERINTENDENT mutually agree that the following named individual is designated as "Custodian of the Files" on behalf of the DISTRICT and shall be responsible for the observance of all conditions of use and for establishment and maintenance of security to prevent unauthorized acquisition, access, use or disclosure. The DISTRICT agrees to notify SUPERINTENDENT of any change to the custodianship information. DISTRICT and SUPERINTENDENT mutually agree, that these related data file(s) will be used solely for the following purpose: to allow the LEC to verify the Medi-Cal eligibility of beneficiaries in order to establish the Medi-Cal Eligibility Ratio (MER) to submit claims for the School-Based Medi-Cal Administrative Activities (SMAA) program. Local Educational Agencies (LEAs) within the LEC region must first determine their MER.

DISTRICT and SUPERINTENDENT mutually agree that the creation, receipt, maintenance, transmittal and disclosure of data from DHCS containing PHI or PI shall be subject to the provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (HITECH Act) and their implementing privacy and security regulations, which include the final Omnibus Rule, at 45 Code of Federal Regulations parts 160 and 164 (HIPAA regulations), the provisions of the California Information Practices Act (IPA) at Civil Code section 1798 et. seq., Confidentiality of Substance Use Disorder Patient Records at 42 Code of Federal Regulations part 2, and the provisions of other applicable federal and state laws. DISTRICT agrees they will not use such data for any purpose other than that stated in the above paragraph of this Agreement. DISTRICT agrees that access to the data covered by this Agreement shall be limited to the minimum number of individuals necessary to achieve the purpose stated above.

DISTRICT agrees to establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality of the data and to prevent unauthorized use or access to it. The safeguards shall provide a level and scope of security that is not less than the level and scope of security established in

HIPAA, the HITECH Act, and the HIPPA Regulations, Final Omnibus Rule as set forth in 45 CFR, parts 160, 162 and 164 of the HIPAA Privacy and Security Regulations. DISTRICT also agrees to ensure that any agents, including a subcontractor to whom they provide DHCS data, agrees to the same requirements for privacy and security safeguards for confidential data that apply to the DISTRICT.

DISTRICT acknowledges that penalties under 45 Code of Federal Regulations, parts 160, 162and 164 of the HIPAA regulations, and Welfare and Institutions Code section 14100.2, including possible fines and imprisonment, may apply with respect to any disclosure of information in the file(s) that is inconsistent with the terms of this Agreement. DISTRICT further acknowledges that criminal penalties under the Confidentiality of Medical Information Act (Civ. Code § 56) may apply if it is determined that DISTRICT, or any individual employed or affiliated therewith, knowingly and willfully obtained any data under false pretenses.

On behalf of DISTRICT, the undersigned individual hereby attests that he or she is authorized to enter into this Agreement and agrees to all of the terms specified herein.

Name and Title of Custodian of Files

District Name

District Address

Custodian's Phone Number / Email Address

Custodian's Signature

Date

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board **BOARD MEETING DATE:** May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Educational Leadership, Pupil Services & Safety
David Farkas, Ed.D., Asst. Superintendent

☐ Informational
☒ Action

AGENDA ITEM: MEMORANDUM OF UNDERSTANDING WITH OUR LADY OF MT. CARMEL SCHOOL FOR ESSER AND GEER FUNDING AND SERVICES

BACKGROUND INFORMATION:
As part of the Elementary and Secondary Education Act (ESEA) Memorandum of Understanding between the San Ysidro School District and Our Lady of Mt. Carmel School and the Private School Provisions as amended by the Every Student Succeeds ESSER and GEER: Districts receiving Federal financial assistance are required to provide services to eligible private school children, teachers and other personnel consistent with the number of eligible children enrolled in private elementary and secondary schools in the District or in the geographic area serviced by the entity receiving Federal financial assistance. These services and other benefits must be comparable to the services and other benefits provided to public school children and teachers participating in the program.

Our Lady of Mount Carmel has requested to participate in the use of ESSER and GEER funds for any allowable expenditure incurred on or after March 13, 2020, the date the President declared the national emergency due to COVID-19. Federal cash management rules will apply to this funding. Our Lady of Mt. Carmel School is requesting reimbursement for the purchase of desk shields for personal protection and the cost of a yoga teacher to support with the social-emotional needs of students. Amounts not to exceed: ESSER: $3,572.25 & GEER: $909.50 = $4,482.00.

RECOMMENDATION:
Approve/Ratify the Memorandum of Understanding with Our Lady of Mount Carmel School for ESSER and GEER funds for any allowable expenditure incurred on or after March 13, 2020 due to the COVID-19 at the total cost of $4,482.00.

LCAP GOAL AND ACTION/SERVICE:
Goal 2: Safety, Climate and Student Engagement – All students will be educated in positive academic environments that are welcoming, safe, and drug-free.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☒ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	

Total Allocation:	
$4,482.00	ESSER & GEER Funds
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

Memorandum of Understanding ESSER/GEER

Provision of
Programs and Services to Private Schools

2020-2021

Section 1: General

The San Ysidro School District has been notified by the Our Lady of Mount Carmel, a private school located within the geographic jurisdiction of this school district, of a request to participate in the use of funds for ESSER and GEER for any allowable expenditure incurred on or after March 13, 2020, the date the President declared the national emergency due to COVID-19. Federal cash management rules will apply to this funding.

ESSER- Allowable expenses
LEAs can use ESSER funds for any activities authorized by the Elementary and Secondary Education Act of 1965 (ESEA) as amended by the Every Student Succeeds Act of 2000 (ESSA), Individuals with Disabilities Education Act (IDEA), the Adult Education and Family Literacy Act, the Perkins Career and Technical Education (CTE) Act, or the McKinney-Vento Homeless Assistance Act. Additional information about the allowable uses of funds can be found on the ESSER Fund Allowable Uses webpage.

In addition to these, LEAs can use funds for the following activities:

- Coordination of preparedness and response efforts of LEAs with State, local, Tribal, and territorial public health departments, and other relevant agencies
- Providing principals and others school leaders with the resources necessary to address the needs of their individual schools
- Activities to address the unique needs of low-income children or students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth, including how outreach and service delivery will meet the needs of each population
- Developing and implementing procedures and systems to improve the preparedness and response efforts of LEAs
- Planning for and coordinating on long-term closures (including on meeting IDEA requirements, how to provide online learning, and how to provide meals to students)
- Staff training and professional development on sanitation and minimizing the spread of infectious disease
- Purchasing supplies to sanitize and clean the facilities of LEA, including buildings operated by the LEA
- Purchasing educational technology (hardware, software, and connectivity) for students, that aids in the regular and substantive educational interaction between students and their classroom instructors, including low-income students and students with disabilities, which may include assistive or adaptive technology
- Mental health services and supports

- Summer learning and supplemental after-school programs, including providing classroom instruction or online learning during the summer months and addressing the needs of low-income students, students with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care
- Discretionary funds for school principals to address the needs of their individual schools
- Other activities that are necessary to maintain the operation and continuity of services in LEAs and to continuing the employment of their existing staff

Use of Funds

The focus for the use of the funds and distribution formula are outlined in the 2020–21 budget package. The funds are to be used for activities that directly support pupil academic achievement and mitigate learning loss related to COVID-19 school closures. Funds may be used to support individuals served by LEAs, including, but not limited to, those enrolled in a childcare program, California state preschool program, kindergarten, any of grades 1 to 12, inclusive, and adult education programs. Specifically, funds are to be used for:

- Addressing learning loss or accelerating progress to close learning gaps through the implementation, expansion, or enhancement of learning supports that begin before the start of the school year and the continuation of intensive instruction and support into the school year.
- Extending the instructional school year by making adjustments to the academic calendar, increasing the number of instructional minutes provided during each week or school day, or taking any other action that increases the amount of instructional time or services provided to pupils based on their learning needs.
- Providing additional academic services for pupils, such as diagnostic assessments of pupil learning needs, intensive instruction for addressing gaps in core academic skills, additional instructional materials or supports, or devices or connectivity for the provision of in-classroom and distance learning.
- Providing integrated pupil supports to address other barriers to learning, such as the provision of health, counseling, or mental health services, professional development opportunities to help teachers and parents support pupils in distance-learning contexts, access to school breakfast and lunch programs, or programs to address pupil trauma and social-emotional learning.
- Addressing health and safety concerns, including, but not limited to, purchasing public health testing, personal protective equipment, supplies to sanitize and clean the facilities and school buses of a local educational agency, and for other related needs.

This Memorandum of Understanding (MOU) contains a sample description of the nature and scope of services and products to be provided by the San Ysidro School District to the Our Lady of Mount Carmel School in order to serve its

Section 2: How will the students' needs be identified?

Based on the most recent of surveys and data collected by OLMC. Due to COVID-19 other needs have risen from the pandemic. These are to assist students' needs and safety.

Section 3: What services and products will be provided?

The following materials and programs are requested:
Our Lady of Mount Carmel School is requesting allotted ESSER funds to be used for reimbursement of purchased desk shields due to COVID-19. Desk shields are essential for personal protection and safety. Our Lady of Mount Carmel School is requesting allotted GEER fund money for the funding of a yoga teacher to help with the social-emotional needs of students.

The San Ysidro School District will provide the following:
Allott ESSER funds to be used for reimbursement of purchased desk shields due to COVID -19 . Desk shields are essential for personal protection and safety. Our Lady of Mount Carmel School is requesting allotted GEER fund money for the funding of a yoga teacher to help with the social-emotional needs of students.

Amount not to exceed GEER = 909.50 & ESSER $3,572.25 = $4,482.00

Section 4: How, when, where, and by whom will the services be provided?

(a) Reimbursement for plexiglass spenditure for desk shields = 80 x $45.00 = $3,600.00 plus tax = $3924.00
(b) Use funding to pay for mental health wellness services teacher = 909.00

Section 5: How will the services be assessed to improve the program?

Representatives of the San Ysidro School District and the Our Lady of Mount Carmel School shall meet during the month of May of the year in which services have been offered to discuss the delivery and effectiveness of services provided to students. The representatives shall determine if any changes are needed in the program during the current or next school year.

Section 6: Other provisions

Both parties of this MOU shall fulfill the conditions listed herein.

Section 7: Signatures of authorized representatives

For Our Lady of Mount Carmel School:

Name: Sister Eva Lujano

Phone No: (619) 428-2091

Signature: Eva Lujano ASJ Date: 01/29/21

Title: Principal

For San Ysidro School District :

Name: David Farkas, Ed.D. Phone No: (619) 428-4476

Signature: Date: 1-29-21

Title: Assistant Superintendent

SYSD Authorized Representative:

_____

Marilyn Adrianzen, CBO

Board approved:

Our Lady of Mt. Carmel School
4141 BEYER BOULEVARD, SAN YSIDRO, CA 92173 (619) 428-2091

Blessed Be God!

Date submitted:
March 21, 2021

Needs Assessment ESSER:
Our Lady of Mount Carmel School is requesting allotted ESSER funds to be used for reimbursement of purchased desk shields. Desk shields are essential for personal protection and safety.

Item: ($3572.00)

Product Name:	Desk Shields
Amount:	**80 x $45.00 = $3,600.00 plus tax = $3924.00**
Link:	Copy of invoice provided

Needs Assessment GEER:

Our Lady of Mount Carmel School is requesting allotted GEER fund money for the funding of a yoga teacher to help with the social-emotional needs of students.

Item: ($909.00)

Product Name:	Yoga Teacher
Amount:	**$909.00**
Link:	On campus

Our Lady of Mt. Carmel School
4141 BEYER BOULEVARD, SAN YSIDRO, CA 92173 (619) 428-2091

Blessed Be God!

Blessings,

Sister Eva Lujano, Principal
Our Lady of Mount Carmel School

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Educational Leadership, Pupil Services & Safety
David Farkas, Ed.D., Asst. Superintendent

☐ Informational
☒ Action

AGENDA ITEM: MEMORANDUM OF UNDERSTANDING WITH OUR LADY OF MT. CARMEL SCHOOL FOR TITLE I FUNDING AND SERVICES

BACKGROUND INFORMATION:
As part of the Elementary and Secondary Education Act (ESEA) Memorandum of Understanding between the San Ysidro School District and Our Lady of Mt. Carmel School and the Private School Provisions as amended by the Every Student Succeeds Act, Title I, Part A: Districts receiving Federal financial assistance are required to provide services to eligible private school children, teachers and other personnel consistent with the number of eligible children enrolled in private elementary and secondary schools in the District or in the geographic area serviced by the entity receiving Federal financial assistance. These services and other benefits must be comparable to the services and other benefits provided to public school children and teachers participating in the program.

Our Lady of Mt. Carmel requested funding for the purchase of technology equipment to support student learning. The total amount of Title I allocations for school year 2020-2021 shall not exceed $4,286.90.

RECOMMENDATION:
Approve the Memorandum of Understanding with Our Lady of Mount Carmel School for Title I funds and services for the 2020-2021 school year at a cost not to exceed $4,286.90.

LCAP GOAL AND ACTION/SERVICE:
Goal 1: Student Achievement – Action 1.19: Continue to provide supplemental programs and resources (i.e., Reading Renaissance, math manipulatives, etc.) to support student achievement in core content areas.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications? ☒ Yes ☐ No

Are funds for this item available in the 2020-2021 Budget? ☒ Yes ☐ No

Requisition #

Total Allocation:	
$4,286.90	Title I Fund
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

Memorandum of Understanding ESEA Title I

Provision of
Programs and Services to Private Schools

2020-2021

Section 1: General

The San Ysidro School District has been notified by the Our Lady of Mt. Carmel, a private school located within the geographic jurisdiction of this school district, made a request to participate in the Title I Program funded under the Elementary and Secondary Education Act, as amended by Every Student Succeeds Act, Title I, Part A for the 2020-2021 School Year.

This Memorandum of Understanding (MOU) contains a sample description of the nature and scope of services and products to be provided by the San Ysidro School District to the Our Lady of Mount Carmel School in order to serve its Title I students.

Section 2: How will the students' needs be identified?

Students' academic needs are based on data analysis, grades, and teacher observations. For the 2020-2021 school year, Our Lady of Mt. Carmel identified intervention services, specifically the Learning Support Program, as an area of need for its students.

Section 3: What services and products will be provided?

After meeting, Our Lady of Mt. Carmel requested funding for the purchase of the following:

1) Ten (10) Chrome books cost $229.99 each x 10 = $2,299.90 plus tax = $2,478.14
2) Epson - PowerLite 2250U-3LCD projector cost of $1325.00 plus tax = $1,427.69

The total amount of Title I funding for school year 2020-2021 shall not exceed $4,286.90

Section 4: How, when, where, and by whom will the services be provided?

(a) The purchases will be made by SYSD immediately following the approval of this MOU by the SYSD Governing Board. The items in section 3 will be provided for the use of Title I SYSD students enrolled at Our Lady of Mt. Carmel.

Section 5: How will the services be assessed to improve the program?

Representatives of theSan Ysidro School District and the Our Lady of Mount Carmel School shall meet during the month of May of the year in which services have been offered to discuss the delivery and effectiveness of resources and services provided. The representatives shall determine if any changes are needed in the program during the current or next school year.

Section 6: Other provisions

This MOU is the entire understanding of District and Consultant as to those matters contained herein and supersedes and cancels any prior oral or written understanding, promises or representations with respect to those matters covered hereunder. To the extent that any provisions or clause contained in an attachment to this MOU conflicts with a provision or clause in the MOU, the provision or clause in this MOU shall control. This MOU may not be modified or altered except in writing signed by both parties hereto.

Section 7: Signatures of authorized representatives

For Our Lady of Mount Carmel School:

Name: Sr. Eva Lujano

Phone No: (619) 428-2091

Signature: Sr. Eva Lujano, SJC Date: 01/29/21

Title: Principal

For San Ysidro School District :

Name: David Farkas, Ed.D. Phone No: (619) 428-4476

Signature: Date: 1-29-21

Title: Assistant Superintendent

SYSD Authorized Representative:

_____

Marilyn Adrianzen, CBO

Board approved:

Our Lady of Mt. Carmel School
4141 BEYER BOULEVARD, SAN YSIDRO, CA 92173 (619) 428-2091

Blessed Be God!

Date submitted:
March 24, 2021

Needs Assessment Title I :

Our Lady of Mount Carmel School is requesting allotted Title I fund money to be used towards purchasing 10 Chromebooks to be used by qualifying students at home and at school. Through the use of these chromebooks, students will be able to access a wide variety of applications and programs that our school already utilizes to reinforce skills recently learned in school. Time spent on these chromebooks not only promote the use of higher level thinking skills, but also allow students time to discover knowledge through trial and error. Additionally, these chromebooks can increase students' responsibility, independence, and a sense of accomplishment.

With the remainder of Title I funds, Our Lady of Mount Carmel School is requesting a LCD projector for the Title I student's teacher, to show step by step math instruction according to relevant coursework in a clear and precise way. The new technology will allow the teacher to demonstrate different mathematical procedures in an interactive method.

Items: ($4163.00 - 10 students)

Product Name:	Samsung Chromebook - 11.6"
Amount:	**$229.99 each x 10 = $2,299.90 plus tax = $2,478.14**
Link:	Samsung Chromebook 4 XE310XBA 11.6 Chromebook Intel Celeron N4020 4 GB RAM 16 GB Flash Memory Satin Gray Chrome OS Intel UHD Graphics 600

Product Name:	Epson - PowerLite 2250U-3LCD projector
Amount:	**$1325.00** plus tax = $1,427.69
Link:	https://www.walmart.com/ip/PowerLite-2250U-Full-HD-WUXGA-3LCD-Projector/923553861

Our Lady of Mt. Carmel School
4141 BEYER BOULEVARD, SAN YSIDRO, CA 92173 (619) 428-2091

Blessed Be God!

Blessings,

Sister Eva Lujano, Principal
Our Lady of Mount Carmel School

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board **BOARD MEETING DATE:** May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Educational Leadership, Pupil Services & Safety
David Farkas, Ed.D., Asst. Superintendent

☐ Informational
☒ Action

AGENDA ITEM: MEMORANDUM OF UNDERSTANDING WITH OUR LADY OF MOUNT CARMEL SCHOOL FOR TITLE II FUNDING

BACKGROUND INFORMATION:
As part of the Elementary and Secondary Education Act (ESEA) Memorandum of Understanding between the San Ysidro School District, Our Lady of Mt. Carmel School and the Private School Provisions as amended by the Every Student Succeeds Act: Funds are intended to increase the capacity of local education agenda (LEAs) and schools to meet the goals of the ESEA by 1) providing all students with the access to a well-rounded education, 2) improving school conditions for student learning, and 3) improving the use of technology in order to improve the academic achievement and digital literacy of all students.

Our Lady of Mt. Carmel School has requested to participate in Title II, Part A, Student Support and Academic Enrichment Program for the 2020-2021 school year. The total allocation for Title II, Part A funds for Our Lady of Mt. Carmel School should not exceed $14,854.15. Our Lady of Mt. Carmel is requesting items and technology to improve academic achievement and digital literacy to use technology effectively.

RECOMMENDATION:
Approve/Ratify the Memorandum of Understanding with Our Lady of Mount Carmel School for an Academic Enrichment Program Spending Plan for Title II, Part A funds and services for the 2020-2021 school year at a total of $14,854.15.

LCAP GOAL AND ACTION/SERVICE (please indicate):
Goal 1: Student Achievement - All students, including English Learners, will improve annually in all content areas. – Action 1.21: Continue to provide supplemental programs and resources to support student achievement in core content areas and to support language acquisition.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☒ **Ratify** ☐ **Other**

Financial Implications? ☒ Yes ☐ No

Are funds for this item available in the 2020-2021 Budget? ☒ Yes ☐ No

Requisition #

$14,854.15
(Amount)

Title II, Part A Funds
(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

Memorandum of Understanding Title II

Provision of
Programs and Services to Private Schools

2020-2021

Section 1: General

The San Ysidro School District has been notified by the Our Lady of Mt. Carmel, a private school located within the geographic jurisdiction of this school district, made a request to participate in the Title II Program funded under the Elementary and Secondary Education Act, as amended by Every Student Succeeds Act, Title II, Part A for the 2020-2021 School Year.

This Memorandum of Understanding (MOU) contains a sample description of the nature and scope of services and products to be provided by the San Ysidro School District to the Our Lady of Mount Carmel School in order to serve its students.

Section 2: How will the students' needs be identified?

Students' academic needs are based on data analysis, grades, and teacher observations. For the 2020-2021 school year, Our Lady of Mt. Carmel identified intervention services, specifically the Learning Support Program, as an area of need for its students.

Section 3: What services and products will be provided?

After meeting, Our Lady of Mt. Carmel requested funding for the purchase of the following:

1) 9 (nine) MacBook Air laptops for teachers to support students learning due to hybrid teaching $1049.99 x 9 = $9449.91 plus tax = $10,182.28

2) Professional Development Diocese of San Diego Universal Design Learning $1,725.00

3) Standards Referencing Grading to support teachers with teaching and assessing students. $2,600.00
4) Professional Development

Amounts not to exceed = $6819.15
Title II carryover amount from 2019-2020 not to exceed = $8035.00

Total = $14,854.15 (Revised amount)

Section 4: How, when, where, and by whom will the services be provided?

The purchases will be made by SYSD immediately following the approval of this MOU by the SYSD Governing Board. The items in section 3 will be provided for the use of Title II to serve the needs of SYSD students enrolled at Our Lady of Mt. Carmel.

Section 5: How will the services be assessed to improve the program?.

Representatives of the San Ysidro School District and Our Lady of Mount Carmel School shall meet during the month of May of the year in which services have been offered to discuss the delivery and effectiveness of services provided to students. The representatives shall determine if any changes are needed in the program during the current or next school year.

Section 6: Other provisions

This MOU is the entire understanding of District and Consultant as to those matters contained herein and supersedes and cancels any prior oral or written understanding, promises or representations with respect to those matters covered hereunder. To the extent that any provisions or clause contained in an attachment to this MOU conflicts with a provision or clause in the MOU, the provision or clause in this MOU shall control. This MOU may not be modified or altered except in writing signed by both parties hereto.

Section 7: Signatures of authorized representatives

For Our Lady of Mount Carmel School:

Name: Sr. Eva Lujano

Phone No: (619) 428-2091

Signature: Eva Lujano Date: 01/29/21

Title: Principal

For San Ysidro School District :

Name: David Farkas, Ed.D. Phone No: (619) 428-4476

Signature: Date: 1-29-21

Title: Assistant Superintendent

SYSD Authorized Representative:
Board approved:

Marilyn Adrianzen, CBO

Our Lady of Mt. Carmel School
4141 BEYER BOULEVARD, SAN YSIDRO, CA 92173 (619) 428-2091

Blessed Be God!

Date submitted:
March 26, 2021

Needs Assessment Title II:

Our Lady of Mount Carmel School is requesting that the allotted Title II fund money be used towards purchasing 9 MacBook Air laptops for teacher use to support students. Professional Development Diocese of San Diego Universal Design Learning and Standards Referencing Grading to support teachers with teaching and assessing students.

Items:

Product Name:	Apple MacBook Air 13" - Intel Core i5 - 8GB Memory - 256GB SSD - Space Gray
Amount:	**$1049.99 x 9 = $9449.91 plus tax = $10,182.28**
Link:	Apple MacBook Air 13" - Intel Core i5 - 8GB Memory - 256GB SSD - Space Gray

1) Professional Development Diocese of San Diego Universal Design Learning $1,725.00

2) Standards Referencing Grading to support teachers with teaching and assessing students. $2,600.00

Our Lady of Mt. Carmel School
4141 BEYER BOULEVARD, SAN YSIDRO, CA 92173 (619) 428-2091

Blessed Be God!

Blessings,

Sister Eva Lujano, Principal
Our Lady of Mount Carmel School

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Educational Leadership, Pupil Services & Safety
David Farkas, Ed.D., Asst. Superintendent

☐ Informational
☒ Action

AGENDA ITEM: MEMORANDUM OF UNDERSTANDING WITH OUR LADY OF MT. CARMEL SCHOOL FOR TITLE III FUNDING AND SERVICES

BACKGROUND INFORMATION:
As part of the Elementary and Secondary Education Act (ESEA) Memorandum of Understanding between the San Ysidro School District, Our Lady of Mt. Carmel School and the Private School Provisions as amended by the Every Student Succeeds Act: Districts receiving Federal financial assistance are required to provide services to eligible private school children, teachers and other personnel consistent with the number of eligible children enrolled in private elementary and secondary schools in the District or in the geographic area serviced by the entity receiving Federal financial assistance. These services and other benefits must be comparable to the services and other benefits provided to public school children and teachers participating in the program.

Our Lady of Mt. Carmel School participated in the Limited English Proficient (LEP) Student Program funded under the ESEA, Title III, Part A for the 2020-2021 school year. According to the most recent English Learner (EL) student identification procedures, 20 ELs were identified in January 2021. Total allocations for the Title III funds based on the number of EL students should not exceed $12,048.40.

Our Lady of Mt. Carmel is requesting the purchase of Epson-PowerLite LCD projectors for teachers to support student academics and reimbursement for the implementation of Renaissance Applications program and for the purchase of Vocabulary Workshop Digital Resource Program, which students use to master the language and expend their vocabulary.

RECOMMENDATION:
Approve/Ratify the Memorandum of Understanding with Our Lady of Mount Carmel School for Title III funds and services for the 2020-2021 school year at a cost not to exceed $12,048.40.

LCAP GOAL AND ACTION/SERVICE:
Goal 1: Student Achievement - All students, including English Learners, will improve annually in all content areas. – Action 1.17: Implement new English Learner programs (i.e., Traditional Bilingual Education, Maintenance, Structured English Instruction) based on site-based needs. Review, revise, and evaluate the EL Master plan for effectiveness and student and site needs.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☒ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	

Total Allocation:	
$12,048.40	Title III Fund
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

Memorandum of Understanding ESEA Title III

Provision of English Learner Student Programs and Services to Private Schools

2020-2021

Section 1: General

The San Ysidro School District has been notified by the Our Lady of Mount Carmel, a private school located within the geographic jurisdiction of this school district, of a request to participate in the English Learner (EL) Student Program funded under the Elementary and Secondary Education Act, as amended by Every Student Succeeds Act, Title III, Part A for the 2020-2021 School Year.

This Memorandum of Understanding (MOU) contains a sample description of the nature and scope of services and products to be provided by the San Ysidro School District to the Our Lady of Mount Carmel School in order to serve its EL students.

Section 2: How will the students' needs be identified?

EL students were identified in January 2021.

The EL student identification process consisted of the administration of a Home Language Survey (HLS) followed by the administration of an English proficiency assessment for those students for whom a language other than English was entered on the HLS. The assessment is selected and approved by the San Ysidro School District after consultation with the Our Lady of Mount Carmel School. The Our Lady of Mount Carmel School shall determine when EL students become fluent English-proficient. Based on the most recent EL identification procedure.

Section 3: What services and products will be provided?

After meeting, Our Lady of Mount Carmel requested funding for the purchases of the following:

Total amount not to exceed $12,048.40

1.) Epson - PowerLite 2250U-3LCD projector $1325.00 x 4 = $5300.00 plus tax = $5710.75
2.) Reimbursement of Renaissance Applications (104 students) = $4326.40 plus tax = $4,661.70
3.) Reimbursement of Vocabulary Workshop (104 students) = $12.99 x 104 = 1350.96 plus tax = 1,455.66

Section 4: How, when, where, and by whom will the services be provided?
The purchases will be made by SYSD immediately following the approval of this MOU by the SYSD Governing Board. The items in section 3 will be provided for the use of Title II to serve the needs of SYSD students enrolled at Our Lady of Mt. Carmel.

Section 5: How will the services be assessed to improve the program?

Representatives of the San Ysidro School District and the Our Lady of Mount Carmel School shall meet during the month of April of the year in which services have been offered to discuss the delivery and effectiveness of services provided to EL students. The representatives shall determine if any changes are needed in the program during the current or next school year.

Section 6: Other provisions

Both parties of this MOU shall fulfill the conditions listed herein.

Section 7: Signatures of authorized representatives

For Our Lady of Mount Carmel School:

Name: Sr. Eva Lujano

Phone No: (619) 428-2091

Signature: Eva Lujano Date: 01/29/21

Title: Principal

For San Ysidro School District :

Name: David Farkas, Ed.D. Phone No: (619) 428-4476

Signature: Date: 1-29-21

Title: Assistant Superintendent

SYSD Authorized Representative:

_____

Marilyn Adrianzen, CBO

Board approved:

Our Lady of Mt. Carmel School
4141 BEYER BOULEVARD, SAN YSIDRO, CA 92173 (619) 428-2091

Blessed Be God!

Date submitted:
March 24, 2021

Needs Assessment: Title III

Our Lady of Mount Carmel School proposes the allotted Title III funds be used towards purchasing four Epson - PowerLite 2250U-3LCD projectors for teachers to use to demonstrate the construction of a complete sentence (spelling, compound sentence, vocabulary, sounds etc.) at different grade levels. The projectors will also help in math instruction by displaying step by step instructions.

Our Lady of Mount Carmel School also requests reimbursement for Renaissance Applications. Implementation of the Renaissance Program has allowed teachers to review individual reading/math testing results to determine which students are lacking significant growth in the areas of language arts and/or math. Fluency testing is also done on a quarterly basis to identify students that would benefit from in-depth reading skill development.

With the remainder of the allotted Title III funds, Our Lady of Mount Carmel requests reimbursement for the purchase of Vocabulary Workshop Digital Resource Program. As English learners learn to master the language this resource allows students to acquire a rich and expanded vocabulary.

Item: ($12,049.00 - 104 students)

Product Name:	Epson - PowerLite 2250U-3LCD projector
Amount:	**$1325.00 x 4 = $5300.00 plus tax = $5710.75**
Link:	https://www.walmart.com/ip/PowerLite-2250U-Full-HD-WUXGA-3LCD-Projector/923553861

Product Name:	Reimbursement of Renaissance Applications (104 students)
Amount:	**$4326.40 plus tax = $4,661.70**

Our Lady of Mt. Carmel School
4141 BEYER BOULEVARD, SAN YSIDRO, CA 92173 (619) 428-2091

Blessed Be God!

Blessings,

Sister Eva Lujano, Principal
Our Lady of Mount Carmel School

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Educational Leadership, Pupil Services & Safety
David Farkas, Ed.D., Asst. Superintendent

☐ Informational
☒ Action

AGENDA ITEM: MEMORANDUM OF UNDERSTANDING WITH OUR LADY OF MT. CARMEL SCHOOL FOR TITLE IV FUNDING AND SERVICES

BACKGROUND INFORMATION:
As part of the Elementary and Secondary Education Act (ESEA) Memorandum of Understanding between the San Ysidro School District, Our Lady of Mt. Carmel School, and the Private School Provisions as amended by the Every Student Succeeds Act: Funds are intended to increase the capacity of local education agenda (LEAs) and schools to meet the goals of the ESEA by 1) providing all students with the access to a well-rounded education, 2) improving school conditions for student learning, and 3) improving the use of technology in order to improve the academic achievement and digital literacy of all students.

Our Lady of Mt. Carmel School has requested to participate in Title IV, Part A, Student Support and Academic Enrichment program for the 2020-2021 school year. The total allocation for Title IV, Part A funds for Our Lady of Mt. Carmel School should not exceed $3,718.00. Our Lady of Mt. Carmel is requesting technology equipment to improve academic achievement and digital literacy to use technology effectively.

RECOMMENDATION:
Approve the Memorandum of Understanding with Our Lady of Mount Carmel School for the 2020-2021 Academic Enrichment Program Spending Plan for Title IV-A funds and services at a total cost of $3,718.00.

LCAP GOAL AND ACTION/SERVICE:
Goal 1: Student Achievement - All students, including English Learners, will improve annually in all content areas. – Action 1.21: Continue to provide supplemental programs and resources to support student achievement in core content areas and to support language acquisition.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications? ☒ Yes ☐ No

Are funds for this item available in the 2020-2021 Budget? ☒ Yes ☐ No

Requisition #

Total Allocation:	
$3,718.00	Title IV, Part A Funds
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

Memorandum of Understanding Title IV

Provision of
Programs and Services to Private Schools

2020-2021

Section 1: General

The San Ysidro School District has been notified by Our Lady of Mount Carmel, a private school located within the geographic jurisdiction of this school district, of a request to participate in the The Student Support and Academic Enrichment program for the 2020-2021 school year. Under Title IV, Part A of the Elementary and Secondary Education Act as amended by the Every Student Succeeds Act (ESSA) is a federal categorical program contained in the Consolidated Application. These funds are intended to increase the capacity of local education agencies (LEAs) to meet the goals of the ESSA by providing all students with access to a well-rounded education, improving school conditions for student learning, and improving use of technology in order to improve the academic achievement and digital literacy of all students.

This Memorandum of Understanding (MOU) contains a sample description of the nature and scope of services and products to be provided by the San Ysidro School District to the Our Lady of Mount Carmel School in order to serve its students.

Section 2: How will the students' needs be identified?

Based on the most recent data. Teacher observations and needs of students was determined.
Each LEA, or consortium of such agencies, that receives a Title IV, Part A allocation pursuant to ESSA Section 4109 shall use a portion of such funds to improve the use of technology to improve the academic achievement, academic growth, and digital literacy of all students, including by meeting the needs of such agency or consortium that are identified in the needs assessment conducted (if applicable), which may include—

1. providing educators, school leaders, and administrators with the professional learning tools, devices, content, and resources to—
    1. personalize learning to improve student academic achievement;
    2. discover, adapt, and share relevant high-quality educational resources;
    3. use technology effectively in the classroom, including by administering computer-based assessments and blended learning strategies; and
    4. implement and support school and district-wide approaches for using technology to inform instruction, support teacher collaboration, and personalize learning;
2. building technological capacity and infrastructure, which may include—
    1. procuring content and ensuring content quality; and
    2. purchasing devices, equipment, and software applications in order to address readiness shortfalls;

3. developing or using effective or innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of technology, including digital learning technologies and assistive technology;
4. carrying out blended learning projects, which shall include—
    1. planning activities, which may include development of new instructional models (including blended learning technology software and platforms), the purchase of digital instructional resources, initial professional development activities, and one-time information technology purchases, except that such expenditures may not include expenditures related to significant construction or renovation of facilities; or
    2. ongoing professional development for teachers, principals, other school leaders, or other personnel involved in the project that is designed to support the implementation and academic success of the project;
5. providing professional development in the use of technology (which may be provided through partnerships with outside organizations) to enable teachers and instructional leaders to increase student achievement in the areas of science, technology, engineering, and mathematics, including computer science; and
6. providing students in rural, remote, and underserved areas with the resources to take advantage of high-quality digital learning experiences, digital resources, and access to online courses taught by effective educators.

Section 3: What services and products will be provided?

1.) Samsung Chromebook - 11.6" = $229.99 each x 15 = 3449.85 plus tax =$3,717.21

Amount not to exceed = $3,718.00

Section 4: How, when, where, and by whom will the services be provided?

The purchases will be made by SYSD immediately following the approval of this MOU by the SYSD Governing Board. The items in section 3 will be provided for the use of Title II to serve the needs of SYSD students enrolled at Our Lady of Mt. Carmel.

Section 5: How will the services be assessed to improve the program?

Representatives of theSan Ysidro School District and the Our Lady of Mount Carmel School shall meet during the month of April of the year in which services have been offered to discuss the delivery and effectiveness of services provided to students. The representatives shall determine if any changes are needed in the program during the current or next school year.

Section 6: Other provisions

Both parties of this MOU shall fulfill the conditions listed herein.

Section 7: Signatures of authorized representatives

***For* Our Lady of Mount Carmel School:**

Name: Sr. Eva Lujano

Phone No: (619) 428-2091

Signature: Eva Lujano **Date:** 01/29/21

Title: Principal

***For* San Ysidro School District :**

Name: David Farkas, Ed.D. Phone No: (619) 428-4476

Signature: **Date:** 1-29-21

Title: Assistant Superintendent

SYSD Authorized Representative:

_____

Marilyn Adrianzen, CBO

Board approved:

Our Lady of Mt. Carmel School
4141 BEYER BOULEVARD, SAN YSIDRO, CA 92173 (619) 428-2091

Blessed Be God!

Date submitted:
March 24, 2021

Needs Assessment Title IV:

Our Lady of Mount Carmel School is requesting allotted Title IV fund money to be used towards purchasing 13 Chromebooks to be used by qualifying students at home and at school. Through the use of these chromebooks, students will be able to access a wide variety of applications and programs that our school already utilizes to reinforce skills recently learned in school. Time spent on these chromebooks not only promote the use of higher level thinking skills, but also allow students time to discover knowledge through trial and error. Additionally, these chromebooks can increase students' responsibility, independence, and a sense of accomplishment.

Item: (169 students - $3830.00)

Product Name:	Samsung Chromebook - 11.6"
Amount:	**$229.99 each x 15 = 3449.85 plus tax = $3,717.21**
Link:	Samsung Chromebook 4 XE310XBA 11.6 Chromebook Intel Celeron N4020 4 GB RAM 16 GB Flash Memory Satin Gray Chrome OS Intel UHD Graphics 600

Blessings,

Sister Eva Lujano, Principal
Our Lady of Mount Carmel School

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business Services
Marilyn Adrianzen, Chief Business Official

☐ Informational
☒ Action

AGENDA ITEM: AGREEMENT WITH GERBER LIFE INSURANCE COMPANY

BACKGROUND INFORMATION:
Board Policy 5143- Student Insurance, indicates that the Superintendent or designee shall provide information to students and their parents/guardians about available insurance against injuries occurring during school-related activities. Parents/guardians are not required to enroll their children in insurance programs offered by the District.

In order to be in compliance with Board Policy 5143, the District will be renewing the Gerber Life Insurance Company Blanket Accident Insurance policy through their regional licensed agency Student Insurance, which offers optional school-time accident coverage for students.

RECOMMENDATION:
Approve the agreement with Gerber Life Insurance Company, to offer optional student insurance for covered school-related activities during school year 2021-22 and to be in compliance with Board Policy 5143.

LCAP GOAL AND ACTION/SERVICE (please indicate):

☐ **Renewal** ☒ **New** ☐ **Amendment** ☒ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2021-2022 Budget?	Requisition #
☐ Yes ☒ No	☐ Yes ☐ No	
N/A (Amount)	N/A (Name of funding source and/or location)	

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

GERBER LIFE INSURANCE COMPANY

1311 Mamaroneck Avenue, White Plains, New York 10605

Blanket Accident Insurance Application

Name of Policyholder San Ysidro School District (as it should appear on the Policy) Policy Number _____

Mailing Address 4350 Otay Mesa Road San Ysidro (City) CA (State) 92173 (Zip Code)

Insurance Contact Name Marilyn Adrianzen Title Chief Business Official

Phone 619-428-4476 x 3003 Fax _____ Email Address Marilyn.adrianzen@sysdschools.org

Policy Effective Date* 07/01/2021 Policy Expiration Date 1st Day of the Following School Year
(*This will be the effective date if enrollment form and premium are received)

Date of First School Year Activity 07-01-21 Date of Last Day of School 06-30-22

Date of First Day of Football NA Date of Last Day of Football NA

Date of the 1st Day of the Following School Year 07-01-21

Coverage under the Optional School-Time Accident Coverage, the Optional 24-Hour Accident Coverage and the Optional 24-Hour Dental Coverage starts on the date of premium receipt but not before the start of the school year. Optional School-Time Accident Coverage ends at the close of the regular nine-month school term, except while the student is attending academic classroom sessions exclusively sponsored and solely supervised by the School during the summer. Optional 24-Hour Accident and Dental Coverage ends when school reopens for the following school year. Optional Football Coverage begins on the date of premium receipt and ends on the last day of practice or competition.

Covered Activities and Rates

Optional Coverages – Plan "Low", Plan "Medium" or Plan "High" Only

(Paid for by the Student or Parent per year. A link will be provided for on-line enrollment)

☑ School Time w/Sports No FTB ☑ School Time No Sports ☑ 24Hour w/Sports No FTB ☑ 24Hour No Sports ☑ 24Hour Extension
☐ Football ☐ Dental

Number of Students: PreK-8 4,500 9-12 N/A

We hereby enroll with Gerber Life Insurance Company for the plan(s) of insurance selected. We understand that insurance will be in force if this application is accepted by the Company, and the required premium is received by the Company when due. We represent that the information contained in this application is true and correct and forms the basis of the requested insurance.

Marilyn Adrianzen

Signature of Official Authorized to Contract for the Policyholder | Printed Name | Date Signed

Board approved: _____

Local/Regional Licensed Agency

Agency Name: Student Insurance Representative Name: _____

Address: 6320 Canoga Ave., 12th Floor City, State, Zip: Woodland Hills, CA 91367

Phone Number: 310-826-5688 Email Address: _____

Signature: _____ Date: _____
(Licensed Agent)

Fraud Statement

For residents of Arkansas, Louisiana and West Virginia: Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

For residents of Colorado: It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado division of insurance within the department of regulatory agencies.

For residents of the District of Columbia: *WARNING:* It is a crime to provide false or misleading information to an insurer for the purpose of defrauding the insurer or any other person. Penalties include imprisonment and/or fines. In addition, an insurer may deny insurance benefits if false information materially related to a claim was provided by the applicant.

For residents of Florida: Any person who knowingly and with intent to injure, defraud, or deceive any insurer files a statement of claim or an application containing any false, incomplete, or misleading information is guilty of a felony of the third degree.

For residents of Kentucky: Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance containing any materially false information or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime.

For residents of Maine, Tennessee, Virginia and Washington: It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits.

For residents of Maryland: Any person who knowingly and willfully presents a false or fraudulent claim for payment of a loss or benefit or who knowingly and willfully presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

For residents of New Jersey: Any person who includes any false or misleading information on an application for an insurance policy is subject to criminal and civil penalties.

For residents of New Mexico: ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO CIVIL FINES AND CRIMINAL PENALTIES.

For residents of New York: Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.

For residents of Ohio: Any person who, with intent to defraud or knowing that he is facilitating a fraud against an insurer, submits an application or files a claim containing a false or deceptive statement is guilty of insurance fraud.

For residents of Oklahoma: WARNING: Any person who knowingly, and with intent to injure, defraud or deceive any insurer, makes any claim for the proceeds of an insurance policy containing any false, incomplete or misleading information is guilty of a felony.

For residents of Pennsylvania: Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

Names of schools and grades to be covered.

School Name	Grades	# of Students	# of Athletes
Smythe Elementary School	K-6		
La Mirada Elementary School	K-6		
Ocean View Hills Elementary School	PreK-6		
Sunset Elementary School	PreK-6		
Willow Elementary	K-6		
San Ysidro Middle School	7-8		
Vista Del Mar Middle School	7-8		
Preschool & Child Development	PreK		

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Child Nutrition Services
Evelyn Zarzosa, Director

☐ Informational
☒ Action

AGENDA ITEM: ACCEPTANCE OF NO KID HUNGRY SCHOOL NUTRITION GRANT AWARD

BACKGROUND INFORMATION:
No Kid Hungry and the San Diego Hunger Coalition teamed up to support a small group of San Diego County Nutrition Services Departments to expand their meal services and increase overall meal participation.

The No Kid Hungry School Nutrition Grant will provide funding to school districts to maximize the child nutrition programs and other emergency food programs to ensure children and families have access to healthy meals at school and at home during the school year and/or summer months. No Kid Hungry knows that school districts play an essential role in ensuring students receive nutritious meals to learn, grow and thrive to reach their full potential. This grant will allow school districts to respond to the growing needs and emerging opportunities to provide meals and resources to kids and families.

The San Ysidro School District is one of the seven districts selected by the San Diego Hunger Coalition to receive a grant in the amount of $15,000.00, as well as technical support as needed to launch new meals/snacks, offer multiple meals, provide bulk meal kits, and/or offer alternative meal pick up times.

RECOMMENDATION:
Accept the No Kid Hungry School Nutrition grant award in the amount of $15,000.00 for Child Nutrition Services to expand meal services and increase overall meal participation during 2021-22 school year.

LCAP GOAL AND ACTION/SERVICE (please indicate):

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?
☐ Yes ☒ No

Are funds for this item available in the 2020-2021 Budget?
☐ Yes ☐ No

Requisition #

GRANT AWARD	San Diego Hunger Coalition
$15,000.00	No Kid Hungry Grant
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

Fwd: San Ysidro has been selected for No Kid Hungry Grant! + Next steps!

1 message

Tue, Apr 20, 2021 at 1:11 PM

Evelyn,

Great news! San Ysidro School District is one of the seven districts selected by the Hunger Coalition to receive grants of $15,000 each from No Kid Hungry, as well as technical support as needed from the Hunger Coalition to launch new meals/snacks, offer multiple meals, provide bulk meal kits, and/or offer alternative meal pick up times.

We would like to formally invite San Ysidro School District Nutrition Services Department to complete the information required by No Kid Hungry through their grant portal here ◊ https://nokidhungrygrants.force.com

Full details for the grant process are in the attached document "CA Spring School Nutrition RFP_Daisy.pdf." Timing: Ideally we hope that applications will be completed by the end of April – while acknowledging that the sooner applications are in, the sooner the funds can be sent.

The Hunger Coalition is here to help you along the way and have attached the following documents that may assist the application process:

- LOI, Integrity Plan
- San Ysidro's Return to School Plan (there are some application questions that may pull from this)
- Nutrition Application Draft (we've tried to help with as many of the portal questions as possible)

As previously stated, this invitation is being extended to districts that are in areas experiencing high levels of food insecurity, with a particular focus on school districts that are serving a high percentage of BILPOC students. The purpose these grants is to reduce the meal gap, equitably reach more kids with healthy food, and support the viability of nutrition services by implementing or expanding best practices that have emerged during COVID. These grants will support the

costs of starting the CACFP supper program, offering multiple days of meals at once, providing meals in a bulk meal-kit format, and/or making meals more easily accessible to working families by offering meals at alternate times.

Consider us a partner in this effort, and call upon us to help at any time during the application process.
Kindly,
Amanda M

Amanda Mascia (she/her/hers)

Hunger Free Kids Manager

San Diego Hunger Coalition

Email: amascia@sdhunger.org

SCHOOL NUTRITION GRANT OPPORTUNITY
REQUEST FOR PROPOSALS
CALIFORNIA

The No Kid Hungry School Nutrition Grant Opportunity will provide funding to school districts to maximize the child nutrition programs and other emergency food programs to ensure children and families have access to healthy meals at school and at home during the school year and/or summer months.

No Kid Hungry knows that school districts play an essential role in ensuring students receive nutritious meals to learn, grow and thrive to reach their full potential. These flexible grants will allow school districts across California to respond to the growing needs and emerging opportunities to provide meals and resources to kids and families.

ELIGIBILITY PRIORITIES

Equity Priority:
The coronavirus pandemic has exacerbated long-standing systemic health, social and economic inequities, disproportionately impacting communities of color. To ensure we are supporting individuals and communities most impacted, we will prioritize grant funds to school districts serving communities where at least 51% of the individuals identify as Black, Latino, Native American, or Asian, including immigrant populations. We will also prioritize funds to rural communities where schools face unique challenges in addressing hunger.

APPLICATION DUE DATE

Applications will be reviewed on a rolling basis; Applicants will be notified no more than four weeks after submission date

GRANT MINIMUM

$5,000

Economic and COVID-19 Impact:
Grant funds will also be provided to communities experiencing economic hardship and having existing or increasingly high COVID-19 infection rates. In determining economic impact, No Kid Hungry will review data points to include: free and reduced eligible students, unemployment rates, child food insecurity rates, and the social vulnerability index score[1].

Ability to Serve Kids Today and in the Future:
Taking into consideration equity, economic hardship and COVID-19 impact factors, funds will be prioritized to support school districts with a strong and sustainable plan for maximizing participation in the child nutrition programs and/or leveraging other programs to combat food insecurity such as emergency food programs and student and family outreach and enrollment. Applications should address both the immediate need for supporting students and alleviating hunger as well address long-term sustainability of programming.

[1] https://svi.cdc.gov/

USE OF FUNDS

As school districts face significant challenges maintaining and expanding meal programs in this uncertain environment, funds are intended to support school districts in having the adaptability to meet the changing needs of students and families. Grant funding is available for school districts to leverage a variety of strategies to increase meals served and support kids and families in this new operating environment, including:

- Ensuring maximum student participation and improving meal quality in federal nutrition programs like School Breakfast, School Lunch, Afterschool Meals and Snacks, and the Fresh Fruit and Vegetable Program as well as the Summer Food Service Program or Seamless Summer Option
- Offering universal breakfast and lunch (served at no cost to all students), including Community Eligibility Provision implementation
- Promoting awareness of meal availability to students and families, especially for free and reduced-price eligible students
- Providing meals during weekends and out-of-school time through backpack programs and school pantries
- Promoting SNAP, WIC and Pandemic-EBT programs and supporting enrollment

Examples of how funding may be used include:

- Meal service supplies and equipment needed to serve meals, including: grab and go carts, insulated coolers/warmers, packaging equipment and supplies, refrigerators, and retrofitting existing equipment to meet new needs
- Costs of hiring additional staff positions or increasing hours for existing staff to meet increased demand as a result of COVID-19 or provide additional services like meal delivery
- Transportation costs associated with meal delivery such as refrigerated trucks or fuel
- New costs associated with COVID-19 preparedness like no-touch point of service machines, hand washing stations, PPE equipment and cleaning supplies
- Non-reimbursable food costs for school food pantries, backpack programs or adult meals
- Program outreach, enrollment assistance and marketing costs
- Additional expenses as needed

APPLICATION REQUIREMENTS

Applicants will be required to provide the following information:

- District Food Service Director and Superintendent contact information
- Historic district-wide enrollment and school meals participation for breakfast, lunch, and afterschool meals and snacks from October 2020
- Information about your current and planned food and nutrition programs for SY20-21 and summer 2021
- Detailed description of grant funding program objectives
- Detailed budget of anticipated use of funding

TO NOTE

Grants may be funded through corporate partners working with Share Our Strength. You will be notified upon receipt of the grant award if a corporate partner is sponsoring the grant award.

Additionally, we understand that meal service plans in SY20-21 and summer 2021 may vary and change throughout the school year. Please submit your application with your current thinking for how your school district plans to operate meal service throughout the year and any potential emergency service plans. If you are awarded funds, you will be required to submit quarterly progress reports that accurately describe your school meals implementation and other meal programs, as well as changes in participation and meal service delivery as programming adjusts to the evolving operating environment.

APPLICATION INSTRUCTIONS

1. Log into or create an account for the No Kid Hungry Grants Portal at https://nokidhungrygrants.force.com/. Please do not use Internet Explorer or Microsoft Edge when registering or working within the portal.
2. To create a new account, click "New User".
3. To begin your application after you have logged into the No Kid Hungry Grants Portal, click "Start a New Application" on your Grantee Dashboard located on the top left corner of your home page, below the No Kid Hungry logo.
4. Input the following access code to gain access to the application: **SchoolNutrition2021**. Click "Start Application" to begin.
5. Be sure to input all required answers and save frequently as you are inputting information. Complete the application when all information is entered by clicking on "Review Your Answers" and then "Submit Your Answer."

QUESTIONS?

Program related: Daisy Munguia, No Kid Hungry CA Senior Program Manager, dmunguia@strength.org
Technical or portal-related: GrantsHelpDesk@strength.org

Warning: If you keep this page open without saving, the Grants Portal will time-out and automatically log you out.
You may lose information you entered if you leave this page open and do not click Save before moving on to the next page.
Do not leave this page idle. Be sure to Save frequently and confirm that all your answers have saved successfully before leaving this p

Review/Submit

San Ysidro School District - School Nutrition 2021

Please review your answers below before submitting. If you do not see a section of the application listed below, please click "Back to Record" then click the which you would like to review.

Introduction

Get Started

In order to move to the next page, please read the instructions, indicate below that you have read them, and click 'Save & Next'.	Yes
I have read and understand the instructions:	

Applicant Details

Food Service Director

	Yes
Are you the Food Service Director of your School District?	
Food Service Director First Name	
Food Service Director Last Name	
Food Service Director Phone	
Food Service Director Email	

Superintendent

	No
Are you the Superintendent of your School District?	
Superintendent First Name	Gina
Superintendent Last Name	Potter
Superintendent Email	gina.potter@sysdschools.org
Superintendent Phone	(619) 428-4476

Person Authorized to Sign a Grant Agreement Letter for this Grant:

	Marilyn
First Name:	
Last Name:	Adrianzen
Title:	Chief Business Official
Phone Number:	(619) 428-4476 ext 3003
Email Address:	marilyn.adrianzen@sysdschools.org
	Yes
Are you the person who will be responsible for reporting grant progress on behalf of the organization?	

If another person will be reporting grant progress on behalf of the school, please share their name, phone number and email address:

First Name:

Last Name:

Title:

Phone Number:

Email Address:

Use Of Grant Funds

Please provide the projected timeline of the grant-funded project?	School Year AND Summer
Please provide the anticipated start date and end date of the project you are proposing with the use of grant funds. Please note that most No Kid Hungry grant periods are 12-months unless otherwise specified, such as funding being used for summer only.	7/1/2021
Start Date:	
End Date:	7/1/2022
Provide a concise description of the project for which you will be using grant funds. (2 - 3 sentences maximum)	We will use fund for equipment to support our existing meal programs and expand SSFO . Re- implement pilot supper program and start second chance breakfast at our two middle schools
Which of the following programs will No Kid Hungry funding be used to support?	School Breakfast; NSLP School Lunch; CACFP afterschool meals/snacks; NSLP Summer Meals (Seamless Summer Option); Other
If you selected "Other" above, please describe the other program.	CACAFP Supper program
Please provide 1-2 primary objectives for this program area, and how your grant funds will help support these objectives. Well written objectives will be specific, measurable, achievable, relevant and time-specific.	We need additional equipment to help (1) support expansion and (2) start up of new proposed meal programs. Adding additional resources SYSD we will position itself to increase student access to nutritiou meals. This is measurable by extracted data from POS system.
Objective 1:	
Objective 2:	Increase access to breakfast meals at our two middle schools. Increase access to supper meals at two sc (pilot) with the goal to have supper offered at all seven school sites in 2022-2023. Adding additional resources SYSD we will be in a better place to increase student access to nutritious meals. This is measurable by extracted data from POS system.
Please list all schools in the district that will be impacted by these grant funds.	San Ysidro Middle school, Vista Del Mar Middle school, La Mirada elementary, Willow elementary, Sunset Elementary, Smythe Elementary, Ocean View Hills
Challenge 1:	Need to engage parents/caregivers
If you chose 'Other', please explain.	SYSD has low breakfast participation at all seven school sites. Kids arrive late. Kids are dependent on themselves to get to school.
How challenge will be addressed:	PTA meeting to address issue- PTA leaders at each school site Open house - CNS will participate in school site event Two middle school - CNS will work with site administers/ represented staff/ superintendent/ community t add second chance breakfast
POC in charge (Title):	Evelyn Zarzosa - CNS Director
Challenge 2:	Increased costs

If you chose 'Other', please explain.	
How challenge will be addressed:	SYSD will continue to participate in bid process to insure best pricing. SYSD will expand vendors availabil list to include other vendors not previously used. SYSD will look for piggy back contract
POC in charge (Title):	Evelyn Zarzosa- CNS Director
Challenge 3:	Difficulties with logistics such as extra trash and food waste
If you chose 'Other', please explain.	
How challenge will be addressed:	
POC in charge (Title):	School site cafetteria leads/ Evelyn Zarzosa - CNS Director
What organizations, people or resources have you used in developing your plan and strategies for the program described in your application?	USDA's CACFP tools and resources; Other afterschool meals sponsors; Other summer meals sponsors; Ot schools that have implemented breakfast after the bell
If you chose 'Other' above, please describe the other organization, people or resources used in developing your plan and strategies for the program.	Other neighboring LEA's

Application Team

Please add any individuals who also need access to the online application or report forms.

Contact	Role
Evelyn Zarzosa	FNS Director; Reporting Contact; Point of Contact; Applicant

Pending Invited Team Members

First Name	Last Name	Email	Status	Role
Marilyn	Adrianzen	marily.adrianzen@sysdschools.org	Pending	Reviewer

Understanding Grant Requirements

UNDERSTANDING GRANT REQUIREMENTS

If awarded funding, I understand I will be required to:

- ◆ Expend the grant award for the purpose(s) approved in grant award letter by the deadline stated in the grant letter.
- ◆ Submit a final report at the end of the grant cycle; specific reporting requirements will be communicated at the time of grant award notification.
- ◆ Permit a representative from No Kid Hungry to visit my program at a convenient date(s) to see my program in action.
- ◆ Cooperate, if asked, with a representative from No Kid Hungry to publicize the grant award and how it has contributed to the success of my program.
- ◆ Understand that grants may be funded through corporate partners working with Share Our Strength and the No Kid Hungry Campaign. You will be notified immediately if corporate partners are sponsoring this opportunity.

I agree

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Administration
Gina A. Potter, Superintendent

☐ Informational
☒ Action

AGENDA ITEM: AGREEMENT WITH DANNIS WOLIVER KELLEY FOR PROFESSIONAL SERVICES 2021-2022

BACKGROUND INFORMATION:
The District desires to retain Dannis Woliver Kelley (DWK), a professional corporation to represent, advise, and counsel the District from July 1, 2021, through June 30, 2022, and continuing thereafter as approved. Attorney agrees to prepare periodic reviews of relevant court decisions, legislation and other legal issues. Attorney agrees to keep current and in force at all times a policy covering incidents of legal malpractice.

The cost implications are based on the hourly rates indicated below:

- Shareholders & of Counsel $265 - $360/hour
- Special Counsel $245 - $295/hour
- Associates $195 - $260/hour
- Paralegals & Law Clerks $130 - $180/hour
- Gregory J. Dannis - $425/hour
- Other fees and expenses may apply. (Refer to agreement for rates)

RECOMMENDATION:
Approve the agreement with Dannis Woliver Kelley for Professional Services for the 2021-2022 fiscal year.

LCAP GOAL AND ACTION/SERVICE (please indicate):

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2021-2022 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	

Per Rates on the Agreement	General Fund
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

DWK
DANNIS WOLIVER KELLEY
Attorneys at Law

AMY E. ROGERS
Attorney at Law
arogers@DWKesq.com

San Diego

SAN FRANCISCO
268 Bush Street, #3234
San Francisco, CA 94104
TEL 415.543.4111
FAX 415.543.4384

LONG BEACH
444 W. Ocean Blvd.
Suite 1070
Long Beach, CA 90802
TEL 562.366.8500
FAX 562.366.8505

SAN DIEGO
750 B Street
Suite 2600
San Diego, CA 92101
TEL 619.595.0202
FAX 619.702.6202

CHICO
2485 Notre Dame Blvd.
Suite 370-A
Chico, CA 95928
TEL 530.343.3334
FAX 530.924.4784

SACRAMENTO
555 Capitol Mall
Suite 645
Sacramento, CA 95814
TEL 916.978.4040
FAX 916.978.4039

SAN LUIS OBISPO
1065 Higuera Street
Suite 301
San Luis Obispo, CA 93401
TEL 805.980.7900
FAX 916.978.4039

BERKELEY
2087 Addison Street
2nd Floor
Berkeley, CA 94704
TEL 510.345.6000
FAX 510.345.6100

April 23, 2021

VIA EMAIL

Gina A. Potter Ed.D.
Superintendent
San Ysidro School District
4350 Otay Mesa Road
San Ysidro, CA 92173

Re: 2021-22 Agreement for Professional Services

Dear Dr. Potter:

In the more than four decades we have been providing legal advice and counseling services to California school and community college districts, we have never felt more honored to be a partner to public education than over this past year, when each district faced extraordinary challenges. We will continue to be steadfast allies and will continue to offer our full range of experience and expertise to adapt, pivot and adjust to whatever the impending "new normal" may be in the year to come.

Attached is our Agreement for Professional Services for 2021-2022. In light of the economic uncertainty confronting us all, no changes have been made to the billing ranges. Individual attorney hourly rates, however, may be adjusted within the existing ranges.

We will continue to offer the San Ysidro School District the highest quality legal advice and counsel you have come to expect in the most efficient and prompt manner possible.

We look forward to serving the District in the coming school year. Please sign the attached Agreement, insert the date of Board approval, and **return to jkarr@DWKesq.com** via email. Thank you.

Sincerely,

DANNIS WOLIVER KELLEY

Amy E. Rogers

AER:jk

DWK SF 976031v1

AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is made and entered into on April 23, 2021, by and between the San Ysidro School District, hereinafter referred to as District, and Dannis Woliver Kelley, a professional corporation, hereinafter referred to as Attorney.

In consideration of the promises and the mutual agreements hereinafter contained, District and Attorney agree as follows:

SCOPE OF SERVICES. District appoints Attorney to represent, advise, and counsel it from July 1, 2021, through and including June 30, 2022, and continuing thereafter as approved. Any services performed during the period between the above commencement date and the date of Board action approving this Agreement are hereby ratified by said Board approval. Attorney agrees to prepare periodic reviews of relevant court decisions, legislation, and other legal issues. Attorney agrees to keep current and in force at all times a policy covering incidents of legal malpractice.

CLIENT DUTIES. District shall be truthful with Attorney, cooperate with Attorney, keep Attorney informed of developments, ensure access for Attorney to communicate with the District's governing board as appropriate, perform the obligations it has agreed to perform under this Agreement and pay Attorney bills in a timely manner.

FEES AND BILLING PRACTICES. Except as hereinafter provided, District agrees to pay Attorney two hundred sixty-five dollars ($265) to three hundred sixty dollars ($360) per hour for Shareholders and Of Counsel; two hundred forty-five dollars ($245) to two hundred ninety-five dollars ($295) for Special Counsel; one hundred ninety-five dollars ($195) to two hundred sixty dollars ($260) per hour for Associates; and one hundred thirty dollars ($130) to one hundred eighty dollars ($180) per hour for Paralegals and Law Clerks. The rate for Gregory J. Dannis will be four hundred twenty-five dollars ($425) per hour. Rates for individual attorneys may vary within the above ranges depending on the level of experience and qualifications and the nature of the legal services provided. Agreements for legal fees at other than the hourly rate set forth above may be made by mutual agreement for special projects, particular scopes of work, or for attorneys with specialized skills. The rates specified in this Agreement are subject to change at any time by Attorney by written notice to Client and shall apply to all services rendered after such notice is given. Substantive communications advice (telephone, voice-mail, e-mail) is billed in a minimum increment of one-tenth (.1) of an hour, except for the first such advice in any business day, which is charged in a minimum of three-tenths (.3) of an hour. Actual travel time is charged at the rates above. In the course of travel it may be necessary for Attorney to work for and bill other clients while in transit. If, during the course of representation of District, an insurance or other entity assumes responsibility for payment of all or partial fees of Attorney on a particular case or matter, District shall remain responsible for the difference between fees paid by the other entity and Attorney's hourly rates as specified in this Agreement unless otherwise agreed by the parties.

OTHER CHARGES. District further agrees to reimburse Attorney for actual and necessary expenses and costs with respect to providing the above services, including support services such as copying charges (charged at $0.10 per page), postage (only charged if in excess of $1.00), and computerized legal research (i.e. Westlaw). Any discount received on computerized legal research is passed along to Client by Attorney. District agrees that such actual and necessary expenses may vary according to special circumstances necessitated by request of District or emergency conditions which occasionally arise. Such expenses shall be provided at cost unless otherwise specified.

District further agrees to pay third parties, directly or indirectly through Attorney, for major costs and expenses including, but not limited to, costs of serving pleadings, filing fees and other charges assessed by courts and other public agencies, arbitrators' fees, court reporters' fees, jury fees, witness fees, investigation expenses, consultants' fees, and expert witness fees. Upon mutual consent of District and Attorney, District may either advance or reimburse Attorney for such costs and expenses.

Occasionally Attorney may provide District officials and/or employees with food or meals at Attorney-sponsored trainings or when working with District officials and/or employees. Attorney may provide such food or meals without additional charge in exchange for the consideration provided by the District under this Agreement.

BILLING STATEMENT. Attorney shall send District a statement for fees and costs incurred every calendar month. Attorney's statements shall clearly state the basis thereof, including the amount, rate and basis for calculations or other methods of determination of Attorney's fees. Upon District office's request for additional statement information, Attorney shall provide a bill to District no later than ten (10) days following the request. District is entitled to make subsequent requests for bills at intervals of no less than thirty (30) days following the initial request. District shall pay Attorney's statements within thirty (30) days after each statement's date.

INDEPENDENT CONTRACTOR. It is expressly understood and agreed to by both parties that Attorney, while carrying out and complying with any of the terms and conditions of this Agreement, is an independent contractor and is not an employee of the District.

CONFLICT OF INTEREST. In some situations, where Attorney has relationships with other entities, the Rules of Professional Conduct may require Attorney to provide disclosure or to obtain informed written consent before it can provide legal services for a client. Attorney represents many school and community college districts, county offices of education, joint powers authorities, SELPAs and other entities throughout California. The statutory and regulatory structure of the provision of education services results in many ways in which these entities interact which could result in a conflict between the interests of more than one of Attorney's clients. If Attorney becomes aware of a specific conflict of interest involving District, Attorney will comply with the legal and ethical requirements to fulfill its duties of loyalty and confidentiality to District. If District has any question about whether Attorney has a conflict of interest in its representation of District in any matter, it may contact Attorney or other legal counsel for clarification.

TERMINATION OF CONTRACT. District or Attorney may terminate this Agreement by giving reasonable written notice of termination to the other party.

COUNTERPARTS. This Agreement may be executed in duplicate originals, including facsimiles, each of which shall fully bind each party as if all had signed the same copy. Electronic copies of signatures shall be treated as originals for all purposes.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement for Professional Services.

SAN YSIDRO SCHOOL DISTRICT

_____ _____

Gina A. Potter Ed.D. Date
Superintendent

DANNIS WOLIVER KELLEY



April 23, 2021

Amy E. Rogers Date
Attorney at Law

At its public meeting of_____, 2021, the Board approved this Agreement and authorized the Board President, Superintendent or Designee to execute this Agreement.

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business Services
Marilyn Adrianzen, Chief Business Official

☐ Informational
☒ Action

AGENDA ITEM: AGREEMENT WITH STRADLING YOCCA CARLSON & RAUTH, P.C., ATTORNEYS AT LAW

BACKGROUND INFORMATION:
The District retained the Stradling Yocca Carlson & Rauth, P.C as Special Counsel in connection with the execution and delivery of the certificates of participation for the purpose of refunding the District's 2012 Certificates of Participation (School Facilities Project) and providing additional funds for capital projects of the District through the purchase of special tax bonds issued by Community Facilities District No. 3 of the San Ysidro School District.

RECOMMENDATION:
Approve/Ratify the Special Counsel Agreement with Stradling Yocca Carlson & Rauth, P.C for services related to the Certificates of Participation (School Facilities Project).

LCAP GOAL AND ACTION/SERVICE (please indicate):

☐ **Renewal** ☒ **New** ☐ **Amendment** ☒ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	

REFER TO CONTRACT FOR DETAILS	Certificate Proceeds & Other Available Funds
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

SPECIAL COUNSEL AGREEMENT

SAN YSIDRO SCHOOL DISTRICT

THIS AGREEMENT, made as of this 11th day of March, 2021, by and between the SAN YSIDRO SCHOOL DISTRICT, a school district organized and existing under the laws of the State of California (herein "District") and STRADLING YOCCA CARLSON & RAUTH, a Professional Corporation (herein "Special Counsel"):

RECITALS:

A. The District desires to retain Special Counsel in connection with the execution and delivery of certificates of participation (the "Certificates") for the purpose of refunding the District's 2012 Certificates of Participation (School Facilities Project) (the "2012 Certificates") and providing additional funds for capital projects of the District through the purchase of special tax bonds issued by Community Facilities District No. 3 of the San Ysidro School District; and

B. The District desires to retain Special Counsel to do the necessary legal work hereinafter outlined, upon the terms and conditions hereinafter set forth, related to the Certificates; and

C. Special Counsel represents that it is ready, willing and able to perform said legal work;

NOW, THEREFORE, in consideration of the premises, and the mutual covenants, terms and conditions herein contained, the parties agree as follows:

1. SCOPE OF SERVICES

A. Execution and Delivery of Certificates. The District retains Special Counsel to provide, and Special Counsel agrees to provide, legal services in connection with the execution and delivery of the Certificates. Such services shall include, but not be limited to, the rendering of legal opinions (hereinafter called the "opinions") pertaining to the execution and delivery of the Certificates to the effect that:

(1) The Certificates have been properly authorized, executed and delivered and are valid and binding obligations; and

(2) The essential sources of security for the Certificates have been legally provided; and

(3) Interest due with respect to the Certificates is exempt from California personal income taxation and is excluded from gross income for purposes of federal income taxes.

Special Counsel's services will also include compiling a sufficient record justifying the opinion by:

(i) Researching applicable laws and ordinances relating to the Certificates;

(ii) Attending conferences and consulting with District staff and District legal counsel regarding such laws, and the need for amendments thereto, or additional legislation;

(iii) Participating in meetings, conferences or discussions with any financial advisors, underwriters or other experts retained by the District in structuring the execution and delivery of the Certificates;

(iv) Supervising and preparing documentation of the steps to be taken through the execution and delivery of the Certificates, including:

(a) Drafting all resolutions, notices, rules and regulations, and other legal documents required for the execution and delivery of the Certificates, and all other documents relating to the security of the Certificates, in consultation with the District, its counsel, financial advisor, underwriter and other experts;

(b) Preparing the record of proceedings for the authorization, sale and execution and delivery of the Certificates;

(c) Assisting the District in preparing the official statement or placement memorandum (the "Official Statement") relating to the sale of the Certificates;

(d) Reviewing the purchase contracts or the bidding documents relating to the sale of the Certificates and participating in the related negotiations;

(e) Participating in meetings and other conferences scheduled by the District, the District's financial advisor or the underwriter;

(f) Consulting with prospective purchasers, their legal counsel and rating agencies;

(g) Consulting with counsel to the District concerning any legislation or litigation which may effect the Certificates, the security for the Certificates, or any other matter related to the execution and delivery of the Certificates;

(h) Consulting with any trustee and paying agent for the Certificates and their counsel;

(i) Preparing the form of the Certificates, and supervising their production, authentication and delivery;

(j) Rendering the final approving opinion as to the validity of the Certificates for use and distribution upon their execution and delivery;

(k) Rendering a legal opinion to the underwriter or purchaser of the Certificates as to the applicability of the registration requirements of federal securities laws;

(l) Delivering a letter to the underwriter or purchaser of the Certificates to the effect that the Official Statement, excluding certain financial, statistical and other information, does not contain any untrue statement of a material fact or omit any material fact; and

(m) Preparing any and all documentation required to effect the issuance of special tax bonds by Community Facilities District No. 3 of the San Ysidro School District, and to effect the pledge of special taxes thereto; and

(n) Preparing all documents for the prepayment of the 2012 Certificates.

B. Special Services

"Special Services" are defined for purposes of this Agreement as services in addition to the services outlined in Section A above. Special Services will include, but not be limited to, any work after the closing for the Certificates related to the amendment of the financing documents or agreements; and other studies or legal analyses requested by the District. Special Services must be authorized in writing by the Superintendent, or his or her designee.

2. COMPENSATION

The District agrees to pay Special Counsel the following amounts as compensation for services rendered by Special Counsel under this Agreement; provided that all payments to Special Counsel shall be contingent on the successful sale of Certificates and shall be payable only from proceeds of the Certificates:

A. For the services to be rendered under Section 1 of this Agreement relating to the execution and delivery of the Certificates other than the work for assisting in the preparation of the Official Statement, it is agreed that Special Counsel will be paid a fee of $70,000. In addition, for assisting in the preparation of the Official Statement for the Certificates, it is agreed that Special Counsel will be paid a fee of $26,500. The foregoing fees will be billed upon the

execution and delivery of the Certificates and will be payable from Certificate proceeds.

B. In the event Special Counsel is requested to perform Special Services as set forth in Section 1B above, Special Counsel will be paid fees at the hourly rates set forth in Exhibit A or in such other manner as is mutually acceptable to the District and Special Counsel. Such fees will be billed monthly and shall be payable within thirty (30) days following the receipt of each invoice.

C. In addition to the fees set forth in paragraphs A and B above, Special Counsel shall be reimbursed for the actual cost of any out-of-pocket expenses reasonably incurred by Special Counsel in the course of its employment, such as document reproduction, telecommunications charges, printing costs, filing fees, long-distance telephone calls, messenger services, overnight delivery services, travel and similar items of expense. Special Counsel agrees not to charge the District for more than $1,000 of expenses related to the Certificates without the prior approval of the Superintendent or his or her designee.

3. PERSONNEL AND CONTRACT ADMINISTRATION

District agrees to accept and Special Counsel agrees to provide the aforementioned services primarily through Robert J. Whalen, Reed T.C. Glyer, Carol L. Lew and associates working under the direction of Mr. Whalen or Mr. Glyer. If any of the above attorneys is unable to provide such services due to death, disability or similar event, Special Counsel reserves the right to substitute another of its attorneys, upon approval by the Superintendent or his or her designee, to provide such services; and such substitution shall not alter or affect in any way Special Counsel's or the District's other obligations under this Agreement.

This Agreement will be administered by the Superintendent, or her designee.

4. CONFLICTS OF INTEREST

Special Counsel represents Stifel, Nicolaus & Company, Incorporated, in other transactions, and the District hereby provides its informed written consent to Special Counsel's representation of such underwriter on matters not involving the Certificates or the District.

5. TERMINATION

A. This Agreement may be terminated, without cause, by the District or Special Counsel upon thirty (30) days' advance written notice to the other party. Such notification shall state the effective date of the termination of this Agreement.

B. Special Counsel reserves the absolute right to withdraw from representing the District if, among other things, the District fails to honor the terms of this Agreement, the District fails to cooperate fully or follow our advice on a material matter, or any fact or circumstance occurs that would, in Special Counsel's view, render our continuing representation unlawful or unethical.

If Special Counsel elects to withdraw, the District will take all steps necessary to free Special Counsel of any obligation to perform further services, including the execution of any documents necessary to complete such withdrawal, and Special Counsel will be entitled to be paid at the time of withdrawal for all services rendered and costs and expenses paid or incurred on the District's behalf in accordance with the payment terms set forth in Paragraph 2 above. If necessary in connection with litigation, Special Counsel would request leave of court to withdraw.

C. Special Counsel's representation of the District under this Agreement will be considered terminated at the earlier of (i) the District's termination of our representation, (ii) Special Counsel's withdrawal from our representation of the District, or (iii) the substantial completion by Special Counsel of its substantive work for the District. Unless Special Counsel has been specifically engaged to perform Special Services related to the Certificates after their execution and delivery, Special Counsel's representation of District with respect to the Certificates shall terminate on the date of execution and delivery.

6. ARBITRATION

IN THE EVENT OF A DISPUTE REGARDING FEES, COSTS, OR ANY OTHER MATTER ARISING OUT OF OR RELATED IN ANY WAY WHATSOEVER TO SPECIAL COUNSEL'S RELATIONSHIP WITH THE DISTRICT, OR SPECIAL COUNSEL'S OR THE DISTRICT'S PERFORMANCE OF THIS AGREEMENT, INCLUDING THE QUALITY OF THE SERVICES WHICH SPECIAL COUNSEL RENDERS, THE DISPUTE SHALL BE DETERMINED, SETTLED AND RESOLVED BY CONFIDENTIAL ARBITRATION IN THE COUNTY OF SAN DIEGO, CALIFORNIA. ANY AWARD SHALL BE FINAL, BINDING AND CONCLUSIVE UPON THE PARTIES, AND A JUDGMENT RENDERED THEREON MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF.

Arbitration may be demanded by the sending of written notice to the other party. If arbitration is demanded, within 20 days of the demand the District shall present a list of five qualified individuals who would be willing to serve that the District would find acceptable to act as arbitrator. To serve as arbitrator, the individual must be a retired judge having served on any federal court or the California Superior Court or higher court in the State of California. Within 20 days of receiving the District's list, Special Counsel may at its sole discretion (i) select any individual from that list and that individual shall serve as the arbitrator, or (ii) propose its own list of five individuals for arbitrator. If Special Counsel chooses to present a separate list, the District may within 20 days select any individual from that list and that person shall serve as arbitrator. If no arbitrator can be agreed upon at the end of this process, the District and Special Counsel each shall select one individual from its own list and those two persons shall jointly select the arbitrator. The arbitration shall be conducted pursuant to the procedures set forth in the California Code of Civil Procedure §§ 1280 et seq., and in that connection you and we agree that § 1283.05 thereof is applicable to any such arbitration. Nothing herein shall limit the right of the parties to stipulate and agree to conduct the arbitration pursuant to the then-current rules of the American Arbitration Association, the Judicial Arbitration & Mediation Services, or any other agreed-upon arbitration services provider.

7. MISCELLANEOUS

A. Special Counsel and the employees of Special Counsel, in performance of the Agreement, shall act in an independent capacity and not as officers or agents of the District.

B. Without the written consent of the District, this Agreement is not assignable by Special Counsel in whole or in part.

C. No alteration or variation of the terms of this Agreement shall be valid unless in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

D. Special Counsel does not and cannot guarantee any outcome in a matter.

E. In the event of any dispute that relates to our entitlement to any payment hereunder, all undisputed amounts shall be paid by the District.

F In accordance with the requirements of California Business and Professions Code § 6148, Special Counsel advises you that the firm maintains professional errors and omissions insurance coverage applicable to the services to be rendered to the District.

SAN YSIDRO SCHOOL DISTRICT, a school district organized and existing under the laws of the State of California

By: _____
Chief Business Official

STRADLING YOCCA CARLSON & RAUTH
a Professional Corporation

By: _____
Robert J. Whalen

EXHIBIT A

Shareholders	$500
Associates	$350
Paralegals	$130

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Educational Services
Cynthia Gonzalez, Executive Director

☐ Informational
☒ Action

AGENDA ITEM: SERVICE AGREEMENT WITH SAN DIEGO COUNTY SUPERINTENDENT OF SCHOOLS FOR NEXT GENERATION SCIENCE STANDARDS PROFESSIONAL LEARNING

BACKGROUND INFORMATION:

This service agreement is made and entered into by our District and the San Diego Superintendent of Schools, on behalf of its Learning and Leadership Division, hereinafter referred to as SDCOE.

Purpose Scope & Intended Outcome:
The purpose of this agreement is to clearly identify the roles and responsibilities of each party as they relate to:

- Deepening teacher understanding of grade level NGSS (Science) standards
- Completing Sections 1-3 of the CA NGSS TIME process; Develop District Lens, Prescreen, and Paper Screen in order to identify instructional materials to pilot in the 2021-2022 school year
- Providing ongoing support throughout pilot process

SDCOE will plan and facilitate five (5) days of professional learning, and two (2) follow-up sessions for the District's pilot teachers following the above referenced purpose scope and intended outcomes on mutually agreed upon dates and times throughout the pilot process.

The term of this services agreement is from May 24, 2021 though June 14, 2022.

RECOMMENDATION:

Approve the Service Agreement with San Diego County Superintendent of Schools for professional learning sessions related to Next Generation Science Standards (NGSS) at the cost of $6,750.00 from the Title I fund.

LCAP GOAL AND ACTION/SERVICE:

Goal 1: Student Achievement – Action Provide professional development opportunities to improve teaching and learning in the areas of English Language Arts (ELA), English Language Development (ELD), Mathematics, Science, and Social Studies. Professional development includes training specifically designed to address the achievement gap for students with disabilities.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2021-2022 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	

$6,750.00	Title I Fund
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

SERVICES AGREEMENT

BETWEEN

SAN YSIDRO SCHOOL DISTRICT

AND

SAN DIEGO COUNTY SUPERINTENDENT OF SCHOOLS

This agreement is made and entered into by the SAN YSIDRO SCHOOL DISTRICT and the San Diego Superintendent of Schools, on behalf of its Learning and Leadership Division, hereinafter referred to as **SDCOE**.

I. PURPOSE SCOPE & INTENDED OUTCOME

The purpose of this Agreement is to clearly identify the roles and responsibilities of each party as they relate to:

- Deepening teacher understanding of grade level NGSS (science) standards
- Completing Sections 1-3 of the CA NGSS TIME process; Develop District Lens, Prescreen, and Paper Screen in order to identify instructional materials to pilot in the 2021-2022 school year
- Providing ongoing support throughout pilot process

SCOPE OF WORK:

SDCOE will plan and facilitate five (5) days of professional learning, to include sections 1-3 of the CA NGSS TIME process for SAN YSIDRO SCHOOL DISTRICT science adoption committee and pilot teachers for the above referenced Purpose Scope & Intended Outcomes on mutually agreed upon dates and times. SDCOE will also facilitate two (2) follow-up sessions for SAN YSIDRO SCHOOL DISTRICT pilot teachers on mutually agreed upon dates and times throughout the pilot process. The dates for these events are subject to change by mutual agreement by SAN YSIDRO SCHOOL DISTRICT and SDCOE.

II. SAN YSIDRO SCHOOL DISTRICT RESPONSIBILITIES

SAN YSIDRO SCHOOL DISTRICT shall undertake the following activities:

- If professional learning is occurring in a face-to-face setting, provide the meeting space facility equipped with internet access, an LCD projector, and screen.
- Arrange for identified teachers to attend professional learning/planning and follow-up sessions, virtually and/or in-person
- Ensure teachers have access to grade level standards and instructional materials to review during professional learning
- Gather data to support the Development of District Lens and science vision
- Communicate to teachers the purpose of the professional learning
- Provide copies of sign in sheets for each day of professional learning
- Support teachers in gathering materials for effective pilot of instructional materials

III. SDCOE RESPONSIBILITIES

SDCOE agrees to undertake the following activities:

- If professional learning is occurring virtually, set-up and communicate link to Zoom or other online setting.
- Plan and deliver professional learning experiences equivalent to seven (7) days, including initial professional learning, CA NGSS TIME process, and follow-up sessions
- Provide email/phone support to teachers and administrators as needed
- Provide electronic handouts and digital copies of resources used in professional learning (if in-person professional learning occurs hard copies will be provided when necessary)

IV. OWNERSHIP OF MATERIALS

All materials and documents, including without limitation memoranda, reports, specifications, designs, plans, maps and other documents prepared for, or obtained related to the scope of, this Agreement shall be property of SDCOE from the moment of their creation.

V. CONTRACT TERM

This contract shall be in force from May 24, 2021 through June 14, 2022.

VI. PAYMENT

SAN YSIDRO SCHOOL DISTRICT agrees to pay SDCOE for services provided, within 30 days of receipt of invoice.

The total Contract shall not be more than $6,750 (7 days of facilitation + 2 days of planning = 9 days X $750). Fees contracted shall include:

- Planning of professional learning
- Facilitation of professional learning
- Consultation and support

VII. GOVERNING LAW/VENUE SAN DIEGO

In the event of litigation, the Agreement and related matters shall be governed by and construed in accordance with the laws of the State of California. Venue shall be with the appropriate State of Federal court located in San Diego County.

VIII. COMPLIANCES WITH LAW

The parties shall be subject, to and shall comply with, all Federal State, and local laws and regulations applicable with respect to its performance under this Agreement including, but not limited to: licensing, employment, purchasing practices, wages, hours, and conditions of employment, including nondiscrimination.

IX. ENTIRE AGREEMENT

This agreement represents the entire Agreement and understandings of the parties hereto and no prior writings, conversations or representations of any nature shall be deemed to vary the provisions hereof. This Agreement may not be amended in any way except by a writing duly executed by both parties hereto.

X. HOLD HARMLESS

Each party agrees to hold harmless, defend, and to indemnify the other, its officers, agents, and employees against any and all losses, injuries, claims, actions,

judgments, and liens arising from or alleged to have arisen from the indemnifying party's performance or lack thereof under this agreement.

XI. CANCELLATION OF AGREEMENT

This Agreement may be cancelled upon prior mutual written agreement of the parties. In the event of cancellation, payment of fees for services provided prior to cancellation will be immediately due and payable to SDCOE.

XII. CONTACT INFORMATION

For SDCOE:

Chelsea Cochrane
C & I Coordinator, Science
Learning and Leadership Services
6401 Linda Vista Road, 321 South
San Diego, CA 92111
858-295-8865
chelsea.cochrane@sdcoe.net

For SAN YSIDRO:

Cynthia Gonzalez
Executive Director of Educational Services
San Ysidro School District
4350 Otay Mesa Road
San Ysidro, CA 92173
619-428-4476 Ext.: 3070
cynthia.gonzalez@sysdschools.org

XIII. FINAL APPROVAL

This Agreement is of no force or effect until approval by signature by the County Superintendent of Schools or his designee, the Assistant Superintendent of Business services.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executive on their behalf by their fully authorized representatives.

SAN DIEGO COUNTY SUPERINTENDENT OF SCHOOLS	**CONTRACTOR**
_____	_____
By (Authorized Signature)	By (Authorized Signature)
Michael Simonson	Marilyn Adrianzen
Name (Type or Print)	Name (Type or Print)
Deputy Superintendent, Chief Business Officer	Chief Business Official
Title	Title
_____	_____
Date	Date

Board approved: _____

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business Services
Marilyn Adrianzen, Chief Business Official

☐ Informational
☒ Action

AGENDA ITEM: AMENDMENT NO. 1 TO THE MEMORANDUM OF UNDERSTANDING WITH REGENTS OF THE UNIVERSITY OF CALIFORNIA SAN DIEGO

BACKGROUND INFORMATION:
The County of San Diego provided funding to UCSD to conduct the Safer at School Early Alert (SASEA) Pilot Program to determine the effectiveness of promising new methodologies and technologies for detecting the presence of COVID-19 infection in a school or childcare facility early, prior to the symptoms showing up, to prevent large-scare outbreaks that would necessitate the shutting down of school/childcare and endanger the health of staff and children and their families.

As part of this Pilot, UCSD personnel will test wastewater and surgaces for viral particles, which new research has shown can be detected up to one week before any sysmtoms occur for an individual infected with COVID-19. The District enrolled two of its school sites, Smythe and Sunset Elementary Schools to participate in the SASEA Pilot at this time.

Amendment No. 1 - The term of this Pilot was extended to end on June 30, 2021.

RECOMMENDATION:
Approve/Ratify Amendment No. 1 to the Memorandum of Understanding with Regents of the University of California San Diego to extend the term of the Safer at School Early Alert (SASEA) Pilot Program at Smythe and Sunset Elementary Schools at no cost to the District.

LCAP GOAL AND ACTION/SERVICE (please indicate):

☐ **Renewal** ☒ **New** ☐ **Amendment** ☒ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?	Requisition #
☐ Yes ☒ No	☐ Yes ☐ No	
N/A (Amount)	N/A (Name of funding source and/or location)	

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

FIRST AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING BETWEEN THE SAN YSIDRO SCHOOL DISTRICT AND THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, SAN DIEGO FOR THE SAFER AT SCHOOL EARLY ALERT ("SASEA") PILOT

THIS FIRST AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING ("MOU") amends that certain MOU between the San Ysidro School District ("District") and The Regents of the University of California, San Diego and its Herbert Wertheim School of Public Health ("UCSD"), for the purpose of the Safer At School Early Alert ("SASEA") Pilot, executed on October 22, 2020.

The parties agree to amend the MOU as follows:

Section A. Term. The term of the MOU is extended through June 30, 2021.

Except as specifically herein amended, the Memorandum of Understanding will remain in full force and effect.

The parties have executed this First Amendment as set forth below.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA,
on behalf of the University of California, San Diego, Herbert Wertheim School of Public Health

By: _____ 1/26/2021
Gene Hasegawa — Date
Chief Operating Officer
UC San Diego Health Sciences

SAN YSIDRO SCHOOL DISTRICT

By: _____ _____
Date

Name: Marilyn Adrianzen

Title: Chief Business Official

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Educational Leadership, Pupil Services & Safety
David Farkas, Ed.D., Asst. Superintendent

☐ Informational
☒ Action

AGENDA ITEM: AGREEMENT WITH SAN DIEGO STATE UNIVERSITY RESEARCH FOUNDATION FOR THE NATIONAL CENTER FOR URBAN SCHOOL TRANSFORMATION (NCUST) PROGRAM

BACKGROUND INFORMATION:
The National Center for Urban School Transformation (NCUST) identifies, awards, and studies urban schools around the nation in which all racial/ethnic groups of students perform (on multiple indicators) at levels higher than the overall State average. The schools NCUST awards and studies have remarkably high attendance rates and impressively low suspension rates for all the demographic groups they serve.

NCUST will provide consulting assistance to the leadership of La Mirada Elementary. The consulting services shall support the school administrator's efforts to improve learning outcomes for students. Specifically, services will be tailored to help the schools reduce chronic absenteeism and reduce the number of suspensions that occur at the schools.

RECOMMENDATION:
Approve the agreement with San Diego State University Research Foundation for the National Center for Urban School Transformation (NCUST) Program to support instructional leadership for fiscal year 2021-22 at a cost of $21,622.00 from the Title II fund.

LCAP GOAL AND ACTION/SERVICE (please indicate):
Goal #1: Student Achievement – All students, including English Learners will improve annually in all content areas.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2021-2022 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	
$21,622.00 (Amount)	Title II Fund (Name of funding source and/or location)	

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

AGREEMENT FOR PROFESSIONAL SERVICES

San Diego State University Research Foundation (Contractor)
5250 Campanile Drive
San Diego, CA 92182

on behalf of
NATIONAL CENTER FOR URBAN SCHOOL TRANSFORMATION
5500 Campanile Drive, EBA-332
San Diego, CA 92182

Attention:
Sandra M. Nordahl, CRA
Director, Sponsored Research Contracting and Compliance
Email: sdsurfawards@sdsu.edu

With copy to:
Karen Jones, NCUST Director of Operations (619-594-7905)

and

San Ysidro School District (District)
4350 Otay Mesa Road
San Ysidro, CA 92173

Attention: Dr. Gina Potter, Superintendent

NOW, THEREFORE, the Parties agree as follows:

1. PERIOD OF AGREEMENT. The term of this Amended Agreement shall be from July 1, 2021 through June 30, 2022.

2. DUTIES OF THE CONTRACTOR. Contractor shall provide services in accordance with EXHIBIT A, Section 1, which is attached hereto and made a part hereof.

3. STAFFING. Contractor shall be solely responsible for staff providing services under this Agreement. Contractor certifies that staff and/or trainees providing the services are adequately trained and prepared according to prevailing professional standards for providing such services. Contractor assumes full responsibility for workers' compensation insurance and for payment of all Federal, State and local taxes or contributions, including but not limited to unemployment insurance, social security, Medicare and income taxes with respect to Contractor's staff providing services under this Agreement.

4. INDEPENDENT CONTRACTOR. While engaged in performance of this Agreement the Contractor is an independent contractor and is not an officer, agent, or employee of the District.

5. CONTRACT VALUE. The District shall pay the Contractor a fixed price, not to exceed $21,622 for implementing and providing the services described in EXHIBIT A, Section 1. Payment shall be made by District to the Contractor in accordance with the schedule specified in EXHIBIT A, Section 2 which is attached hereto and made a part hereof.

6. RIGHTS TO REPORTS. The rights to any report or evaluation developed by the Contractor in connection with this Agreement shall belong to the Contractor. District shall have the right to use material developed under this contract for non-commercial education and research purposes.

7. ENTIRE AGREEMENT/AMENDMENT. This Agreement and any exhibits attached hereto constitute the entire Agreement between the parties to the Agreement and supersede any prior or contemporaneous written or oral understanding or agreement, and may be amended only by written amendment executed by both Parties to this Agreement.

8. SEVERABILITY. If any section, provision or portion of this Agreement is held to be invalid, illegal or void by a court of proper jurisdiction, the remainder of this Agreement shall nevertheless subsist and continue in full force and effect.

9. AUTHORITY. Contractor has full power and authority to enter into this Agreement and to perform hereunder, and such entry and performance do not and will not violate any rights of any third party.

10. INDEMNIFICATION. Contractor shall defend, indemnify and hold harmless District, its officers, employees, and agents from and against any and all liability, loss, expense, attorney's fees, or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorney's fees or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of Contractor, its officers, agents or employees.

    District shall defend, indemnify and hold harmless Contractor, San Diego State University, Trustees of the CSU, the State of California, its officers, employees and agents from and against any and all liability, loss, expense, attorney's fees, or claims for injury or damages arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorney's fees or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of District, its officers, agents or employees.

11. TERMINATION. Either Party may, by thirty (30) days written notice stating the extent and effective date, terminate this Agreement for convenience in whole or in part, at any time. Contractor shall be entitled to payment of allowable and any uncancellable costs up to and including date of termination or such reasonable part of the fee as shall apply to services properly performed prior to the date of postponement, suspension or termination.

12. ORDER OF PRECEDENCE. The use of any purchase orders to facilitate issuance of payments under this Agreement shall be in accordance with the terms of the Agreement, and any terms or conditions contained within such purchase order that directly contradict or conflict with the Agreement or subsequent amendments shall be deemed "RESERVED" or self-deleting.

IN WITNESS HEREOF, THE PARTIES HAVE CAUSED THIS AGREEMENT TO BE DULY EXECUTED.

- DISTRICT-	**-CONTRACTOR-**
San Ysidro School District	**SAN DIEGO STATE UNIVERSITY RESEARCH FOUNDATION on behalf of NATIONAL CENTER FOR URBAN SCHOOL TRANSFORMATION**
BY _____	BY _____
_Marilyn Adrianzen_____ (PRINT NAME)	_____ Sandra M. Nordahl, CRA
TITLE: _Chief Business Official_____	TITLE: Director, SR Contracting and Compliance Fed. I.D. #: 95-6042721
Dated _____	Dated: _____
Board Approved: _____	and BY _____ Joseph F. Johnson, Jr. Ph.D.
	TITLE: Exec. Director, National Center for Urban School Transformation
	Dated: _____

Exhibit A

1. **SERVICES TO BE PROVIDED BY CONTRACTOR.** NCUST shall provide consulting assistance to the leadership of La Mirada Elementary. The consulting services shall support the school administrator's efforts to improve learning outcomes for students. Specifically, services will be tailored to help the schools A) reduce chronic absenteeism and B) reduce the number of suspensions that occur at the schools.

   A. Focus
   NCUST identifies, awards, and studies urban schools around the nation in which all racial/ethnic groups of students perform (on multiple indicators) at levels higher than the overall state average. The schools NCUST awards and studies have remarkably high attendance rates and impressively low suspension rates for all the demographic groups they serve. NCUST has learned how leaders in these schools build a positive transformational culture in which students feel valued and capable. As well, these schools provide rich, engaging, effective instruction focused upon challenging academic curricula. These cultural, curricular, and instructional factors combine to minimize behavior problems and maximize students' desire to attend school each day. NCUST will support the La Mirada principal's efforts to build systems, structures, and strategies that will enrich the culture, curricula, and instruction of their schools.

   B. Site Visits
   One NCUST executive coach shall support the principal of La Miranda with weekly two-hour visits throughout the 2021-2022 academic year. All of these visits will be designed to help principal plan, implement, and refine systems, structures, and strategies for working with students, parents, and school personnel in ways that result in improved student attendance and decreased student suspensions.

2. **PAYMENT SCHEDULE.** In accordance with the contract, District shall pay Contractor the following amount by the date listed:

   A. By July 1, 2021, District shall pay Contractor $10,811.

   B. By Jan 1, 2022, District shall pay Contractor $10,811.

   C. District shall pay invoice upon receipt.

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Special Education Department
Oscar Madera, Director

☐ Informational
☒ Action

AGENDA ITEM: AMENDMENT TO THE AGREEMENT WITH BRAIN LEARNING PSYCHOLOGICAL CORPORATION

BACKGROUND INFORMATION:
Federal law section 34 C.F.R. 300.503 defines an Independent Educational Evaluation (IEE) as "an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question.". Student's parents select the IEE who will conduct the evaluation.

On April 15, 2021, the Governing Board approved the agreement with Brain Learning Psychological Corporation. The agreement was amended to include certain insurance coverage limits.

RECOMMENDATION:
Approve the amended agreement with Brain Learning Psychological Corporation to provide independent educational evaluations to a student with special needs at a total amount up to $3,710.00 from the Special Education fund.

LCAP GOAL AND ACTION/SERVICE:

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	

$3,710.00	Special Education
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

SAN YSIDRO SCHOOL DISTRICT

4350 Otay Mesa Road, San Ysidro, CA 92173

PROFESSIONAL SERVICES AGREEMENT

This agreement is made and entered into this 15th day of April 2021, by and between the San Ysidro School District, hereinafter called the "District", and

Brain Learning Psychological Corporation	619 324-9764
Company/Consultant	Telephone Number
5550 Baltimore Dr. STE 150 , La Mesa, CA 91942	office@brainlearning.com
Address	Website

hereinafter referred to as "Consultant."

1 SCOPE AND TERMS

1.1 SCOPE OF SERVICES

Scope of Services. In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services specified in the Consultant Services Documentation ("attached documents") attached hereto as ***Exhibit "A"*** and incorporated herein by this reference, which services may be referred to herein as the "services" or "work" hereunder. As a material inducement to the District entering into this Agreement, Consultant represents and warrants that Consultant is a provider of first class work and services and Consultant is experienced in performing the work and services contemplated herein and, in light of such status and experience, Consultant covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials shall be of good quality, fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

Compliance with Law. All services rendered hereunder shall be provided in accordance with any and all applicable ordinances, resolutions, statutes, rules, and regulations of the District, City and any Federal, State or local governmental agency having jurisdiction in effect at the time service is rendered. Each and every provision required by law to be included in this Agreement shall be deemed to be included by this reference, and this Agreement shall be read and enforced as though they were included.

Licenses, Permits, Fees and Assessments. Consultant shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant's performance of the services required by this Agreement, and shall indemnify, defend and hold harmless District against any such fees, assessments, taxes penalties or interest levied, assessed or imposed against District hereunder.

1.2 TERM

From: April 16, 2021 To: June 30, 2021

The Term of this Agreement as noted, unless earlier terminated as provided herein. The Parties may mutually agree to extend this term only by written amendment. Should the Parties agree to extend the term of this Agreement; the Agreement can only be extended on a year-to-year basis with written approval unless otherwise indicated in writing and in accordance with the law.

2 FEES AND PAYMENTS

2.1 FEES
District shall pay Consultant for the specified services as reflected on ***Exhibit A*** during this contract term.

2.2 PAYMENTS
Consultant shall submit to District an itemized invoice which indicates work completed by Consultant. District shall review each invoice and/or receipts submitted to determine that the work performed and expenses incurred are in compliance with the provisions of this Agreement. District shall pay Consultant within a reasonable time and in accordance with this Agreement.

3. ADDITIONAL SERVICES.

District shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work as described herein. No such extra work may be undertaken unless a written order is first given by the District Contract Officer to the Consultant, incorporating therein any adjustment in (i) the Contract Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval or ratification of the Contract Officer. However, any increase in compensation beyond the Contract Sum, for services beyond what is contemplated in the Contract, must be approved or ratified by the Board of Education in a signed writing prior to any payment. Additionally, any other increases, extensions or renewals must be approved in writing by the Board of Education. It is expressly understood by Consultant that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services or reasonably contemplated therein. Consultant hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefore unless specifically authorized pursuant to the terms of this section.

4 RESPONSIBLIITIES OF CONSULTANT

4.1 ORGANIZATION
Consultant shall assign a Company Contact as Project Manager. The Project manager shall not be removed from the Project or reassigned without the prior written consent of District, which consent shall not be unreasonably withheld. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff assigned to perform the services required under this Agreement.

4.2 COORDINATION OF SERVICES
Consultant agrees to work closely with the District staff in the performance of Services and shall be available to the District staff, consultants and other staff at all reasonable times.

4.3 STANDARD OF CARE:
Consultant shall perform all Services under this Agreement in a skillful, competent and timely manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all of Consultant's employees and subconsultants shall have sufficient skill and experience to perform the Services assigned to them. Consultant further represents that it, its employees and subconsultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Any of Consultant's employees who are determined by District to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any of Consultant's employees who fail or refuse to perform the Services in a manner acceptable to District, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

4.4 INDEPENDENT CONSULTANT & ADDITIONAL PERSONNEL
Consultant is retained as an independent consultant and is not an agent or employee of the District. No employee or agent of Consultant shall by this Agreement become an agent or employee of the District. The work to be performed shall be in accordance with the work described herein, subject to such direction and amendments from District as herein provided. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind District to any obligation whatsoever, except as specifically provided in writing by District. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall

at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law.

4.5 LAWS AND REGULATIONS
Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Service. Consultant shall be liable for all violations of such laws and regulations in connection with Services.

4.6 MAINTENANCE OF ACCOUNTING RECORDS
Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of the District during normal business hours with reasonable notice to examine, audit and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of five (5) years from the date of final payment under this Agreement.

4.7 INSURANCE – Consultant shall comply with the following insurance provisions, unless one or more paragraphs are specifically waived by the District in writing.

(1) Time for Compliance. Consultant shall not commence Services under this Agreement until it has provided evidence satisfactory to District that it has secured all insurance required under this Section. In addition, Consultant shall not allow any subconsultant or employee to commence work until it has provided evidence satisfactory to the District.

(2) Minimum Requirements and Limits. Consultant shall, at its expense, procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the consultant, its agents, representatives, and employees. Such insurance shall survive after this agreement as permitted by law.

MINIMUM SCOPE OF INSURANCE - Coverage shall be at least as broad as:

1. **Commercial General Liability** (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury, sexual misconduct and personal & advertising injury with limits no less than **$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be **$2,000,000** the required occurrence limit. **District waives _____**
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Consultant has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **$1,000,000** per accident for bodily injury and property damage. **District waives _____**
3. **Workers' Compensation (Employer's Insurance):** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than $1,000,000 per accident for bodily injury or disease. Coverage shall include waiver of subrogation endorsement in favor of San Ysidro School District. **District waives _____**
4. **Professional Liability (Errors and Omissions):** Insurance appropriates to the Consultant's profession, with limit no less than $1,000,000 per occurrence or claim, $2,000,000 aggregate. *(If applicable – see footnote next page)* **District waives _____**
5. **Improper Sexual Conduct:** $1,000,000 per occurrence with an aggregate of not less than $2,000,000 for damages because of bodily injury by reason of negligent hiring and supervision. May be included under General Liability. **See Exhibit A / Amended**
6. **Cyber Security Liability:** Coverage for both electronic and non-electronic data breach of $2,000,000 per occurrence with an aggregate limit of not less than $5,000,000 and shall cover all of Consultant's employees, officials and agents. Coverage shall apply to any dishonest, fraudulent, malicious or criminal use of Consultants or computer system or to obtain financial benefit for any party; to steal, take or provide unauthorized access of electronic data, including publicizing confidential electronic data or causing confidential electronic data to be accessible to unauthorized persons; transfer and for Third-Party Liability encompassing judgements or settlement and defense costs arising out of litigation due to a data breach and data breach response costs for customer notification and credit monitoring service fees. **District waives YES**

If the Consultant maintains higher limits than the minimums shown above, the District requires and shall be entitled to coverage for the higher limits maintained by the Consultant.

Additional Insured Status - Endorsement
The San Ysidro School District, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Consultant including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an **Additional Insured Endorsement** to the Consultant's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used). If Blanket Endorsement, it must include policy number and insured's name.

Primary Coverage
For any claims related to this contract, the **Consultant's insurance coverage shall be primary** insurance as respects the District, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the District, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

Notice of Cancellation
The Provider shall file, with the District, Certificates of Insurance indicating a thirty-day (30) cancellation notice. If not stated on the Certificates of Insurance, it is understood that a 30-day cancellation notice will be provided and failure to mail such notice shall impose obligation and liability upon the company/insured, its agents or representative.

Waiver of Subrogation
Consultant hereby grants to the San Ysidro School District a waiver of any right to subrogation which any insurer of said Consultant may acquire against the District by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the District has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions
Any deductibles or self-insured retentions must be declared to and approved by the District. The District may require the Consultant to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-:VII, unless otherwise acceptable to the District.

Claims Made Policies (note – should be applicable only to professional liability, see below)
If any of the required policies provide claims-made coverage:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided ***for at least five (5) years after completion of the contract of work.***
3. If coverage is canceled or non-renewed, and not replaced ***with another claims-made policy form with a Retroactive Date prior to*** the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of ***five (5)*** years after completion of work.

Verification of Coverage
Consultant shall furnish the District with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. **All certificates and endorsements are to be received and approved by the District before work/services commences**. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The District reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

5 GENERAL PROVISIONS

5.1 DELAYS IN PERFORMANCE

(1) Neither District nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other disturbances; sabotage or judicial restraint.

(2) Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

5.2 SUSPENSION OF SERVICES

The District may, in its sole discretion, suspend all or any part of Services provided hereunder with cost to date of suspension. Consultant may not suspend its services without District's express written consent.

5.3 TERMINATION OF AGREEMENT

(1) Termination. District may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been adequately rendered to District to date of the notice of termination and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause.

(2) Consultant's Termination for Cause. This Agreement may be terminated by the Consultant upon thirty (30) days written notice to the District only when the District has substantially failed to perform its obligations under this Agreement. The written notice shall include a detailed description of the District's failure to perform, status of the work completed as of the date of termination together with a description and a cost estimate of the effort necessary to complete work in progress. In such event, the Consultant shall be compensated for services completed to the date of termination, together with compensation for such approved Additional Services performed after termination which are authorized by the District to conclude the work performed to the date of termination. Upon the District's request and authorization, Consultant shall perform any and all Additional Services necessary to wind up the work performed to the date of termination.

(3) Effect of Termination. If this Agreement is terminated as provided in this Section, District may require Consultant to provide all finished or unfinished documents, date, programming source code, reports or any other items prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such documents and other information within fifteen (15) days of the request.

(4) Terminated Services. In the event this Agreement is terminated in whole or in part as provided herein, District may procure, upon such terms and in such manner as it may determine appropriate, services similar or identical to those terminated.

5.4 OWNERSHIP OF MATERIALS AND CONFIDENTIALITY

(1) All materials and data, including but not limited to, data on electronic or magnetic media and any materials, documents and data required to be made or kept pursuant to federal, state or local laws, rules or regulations, prepared or collected by Consultant pursuant to this Agreement, shall be the sole property of the District, except that Consultant shall have the right to retain copies of all such documents and data for its records. District shall not be limited in any way in its use of such materials and data at any time, provided that any such use not within the purposes intended by this Agreement shall be at District's sole risk and provided that Consultant shall be indemnified against any damages resulting from such use, including the release of this material to third parties for a use not intended by this Agreement.

(2) All such materials and data shall be provided to the District, or such other agency or District as directed by District or required by law, rule or regulation, as they become due during the term of this Agreement as direct by District.

(3) The District is a California public entity subject to all state and federal laws governing education, including but not limited to California Assembly Bill 1584 (AB 1584), the California Education Code, the Children's Online Privacy and Protection Act (COPPA), the Family Educational Rights and Privacy Act (FERPA), and HIPAA Privacy regulations and any other privacy laws, policies and regulations that may apply such as American Recovery and Reinvestment Act of 2009 ("ARRA") and the Health Information Technology and Economic Clinical Health Act of 2009 ("HITECH").

AB1584 requires, in part, that any agreement entered into, renewed or amended after January 1, 2015 between a local education agency (LEA) and a third-party service provider must include certain terms; and the LEA and the Service Provider desire to have this Agreement and the services provided comply with AB1584. This includes to all forms of protected health information, including paper, oral, and electronic, etc. Furthermore, only the minimum health information necessary to conduct business is to be used or shared.

- Pupil records obtained by the Consultant/Service Provider from LEA/District continue to be the property of and under the control of the District. The Consultant will obtain information regarding disciplinary and/or behavioral events for the purpose of allowing District personnel to improve and provide services to pupils. The Consultant will not be obtaining pupil-generated content.
- In the event of an unauthorized disclosure of a pupil's records, the Consultant shall report to an affected parent, legal guardian, or eligible pupil pursuant to the following procedure; written communication to the District's Superintendent, Deputy Superintendent and/or designee.
- The Consultant shall not use any information in a pupil record for any purpose other than those required or specifically permitted by this Professional Services Agreement.
- Consultant certifies that a pupil's records shall not be retained or available to the Consultant upon completion of the terms of this Professional Services Agreement.
- District agrees to work with Consultant to ensure compliance with FERPA.
- Consultant shall not use personally identifiable information in pupil records to engage in targeted advertising.
- Pupil records include any information directly related to a pupil that is maintained by the District or acquired directly from the pupil through the use of instructional software or applications assigned to the pupil by a teacher or other District employees. Pupil records does not include/not mean de-identified information (information that cannot be used to identify an individual pupil) used by the third party to (1) improve educational products for adaptive learning purposes and for customized pupil learning; De-identified information, including aggregated de-identified information. (2) Demonstrate the effectiveness of the operator's products in the marketing of those products; or for the development and improvement of educational sites, services, or applications.

5.5 SAFETY

Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed.

5.6 PROJECT STAFFING

Consultant shall provide adequate staff and resources to facilitate all Consultant activity. Should Consultant fail to adequately staff a project, the District may, at its sole discretion, retain third party consulting services and back charge Consultant for all third-party fees.

5.7 INDEMNIFICATION

Indemnification: To the fullest extent permitted by law, Consultant shall defend (with counsel of District's choosing), indemnify and hold the District, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's Services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the District, its officials, officers, employees, agents, or volunteers.

Design Professionals Only: If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance as a "design professional" (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

5.8 AMENDMENTS

This Agreement may not be amended except in writing signed by both Parties.

5.9 SEVERABILITY

If any section, subsection, sentence, clause or phrases of this Agreement, or the application thereof to any of the Parties, is for any reason held invalid or unenforceable, the validity of the remainder of the Agreement shall not be affected thereby and may be enforced by the Parties to this Agreement.

5.10 GOVERNING LAW

This Agreement shall be governed by the laws of the State of California. Any action brought to enforce the terms of this Agreement shall be brought in a state or federal court located in the County of San Diego, State of California, but only after dispute resolution as provided herein.

5.11 CONFLICT OF INTEREST

For the term of this Agreement, no member, officer or employee of District, during the term of his or her service with District, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

5.12 SCHOOL SAFETY, FINGERPRINTING AND BACKGROUND INVESTIGATION REQUIREMENTS: Consultant agrees with the provisions of Education Code Section 45125.1 regarding the submission of fingerprints to the California Department of Justice. Consultant shall not be permitted to have any contact with District pupils until such time as Consultant has verified in writing to the District that they have complied with Educational Code Section 45125.1. (**Please complete attached School Safety Certification Form.)**

Per Ed Code 49406 and Assembly Bill 1667, the District requires for Tuberculosis (TB) Clearances to be in place by anyone coming in contact with pupils. Please submit TB Clearance to the Business Services Office. This section may be waived if the District determines that the Consultant and/or its employees will have limited contact with District pupils or if Consultant and/or its employees will be supervised at all times by District staff.

District is waiving this requirement _____ .

5.13 DRUG/ALCOHOL/TOBACCO-FREE FACILITIES:

ALL DISTRICT FACILITIES ARE DRUG AND TOBACCO-FREE FACILITIES. ANY DRUG, ALCOHOL AND/OR TOBACCO USE (SMOKED OR SMOKELESS) IS PROHIBITED AT ALL TIMES ON ALL AREAS OF THE DISTRICT FACILITIES.

5.14 NOTICES / CONTACT INFORMATION

All notices or demands to be given under this Agreement by either party to the other shall be in writing and given either by: (a) personal service, (b) email or (c) by U.S. Mail, mailed certified mail with return receipt requested, addressed to the following entities.

CONSULTANT:	**Brain Learning Psychological Corporation**
Name:	Dr. Rienzi Haytasingh
Title:	Owner
Address:	5550 Baltimore Dr. STE 150
City/State/Zip Code:	La Mesa, CA 91942
Telephone:	619 324-9764
Email:	tiffany@brainlearning.com/ office@brainlearning.com

DISTRICT:	**San Ysidro School District**	
Name:	Marilyn Adrianzen	Oscar Madera
Title:	Chief Business Official	Special Education Director
Address:	4350 Otay Mesa Road	4350 Otay Mesa Road
City/State/Zip code:	San Ysidro, CA 92173	San Ysidro, CA 92173
Telephone:	(619) 428-4476	(619) 428-4476
Email:	marilyn.adrianzen@sysdschools.org	oscar.madera@sysdschools.org

6 ENTIRE AGREEMENT

This Agreement represents the entire understanding of District and Consultant as to those matters contained herein, and supersedes and cancels any prior oral or written understanding, promises or representations with respect to those matters covered hereunder. To the extent that any provision or clause contained in an attachment to this Agreement conflicts with a provision or clause in the Agreement, the provision or clause in this Agreement shall control. This Agreement may not be modified or altered except in writing signed by both parties hereto. This is an integrated Agreement.

7 WARRANTY OF AUTHORITY:

Each of the parties signing this Agreement warrants to the other that he or she has the full authority to enter into agreement on behalf of the Party for which his or her signature is made.//

CONSULTANT

Brain Learning Psychological Corporation
Firm Name

Signature of Authorized Agent

Dr. Rienzi Haytasingh (owner)
Print Name, Title

Date:

Phone Number: 619 324-9764

DISTRICT

San Ysidro School District
Firm Name

Signature

Marilyn Adrianzen, Chief Business Official
Print Name, Title

Date

Board Approved:

Revised 09-13-18

SAN YSIDRO SCHOOL DISTRICT

4350 Otay Mesa Road, San Ysidro, CA 92173

SCHOOL SAFETY CERTIFICATION FORM

CERTIFICATION PURSUANT TO EDUCATION CODE ECTION 45125.1 and
Penal Code section 667.5(c) or a serious felony listed in Penal Code section 1192.7(c)
Fingerprinting and Criminal Background Investigation Requirements

The San Ysidro School District (District) has determined under Education Code Section 45125.1, subdivision (c) that in performing services under this contract, **Contractor/Consultant's employees and/or Subconsultants/Subcontractors may have contact with pupils**.

_____(*Initial*) As required under Education Code Section 45125.1, subdivision (a), Consultant shall require their employees, including the employees of any sub-consultant and/or subcontractor, who will provide services pursuant to this contract to submit their fingerprints in a manner authorized by the Department of Justice in order to conduct a criminal background check to determine whether such employees have been convicted of or have charges pending for a felony as defined under Education Code Section 45122.1.

_____(*Initial*) Consultant shall not permit any employee to perform services that may come in contact with pupils under this contract until the Department of Justice has determined that the employee has not been convicted of a felony or has no criminal charges pending for a felony as defined in Education Code Section 45122.1 and in Penal Code section 667.5(c) or a serious felony listed in Penal Code section 1192.7(c).

_____(*Initial*) Consultant certifies that all of its employees who may come in contact with pupils have not been convicted of or have no criminal charges pending for a felony, as defined in Education Code Section 45122.1 and in Penal Code section 667.5(c) or a serious felony listed in Penal Code section 1192.7(c).

_____(*Initial*) Consultant shall defend, indemnify, protect and hold the District and its agents, officers and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property which arise from or are connected with or are caused or claimed to be caused by Consultant's failure to comply with all of the requirements contained in Education Code Section 45125.1, including, but not limited to, the requirements prohibiting Consultant from using employees who may have contact with pupils who have been convicted or have charges pending for a felony in Education Code Section 45122.1.

_____(*Initial*) Per Ed Code 49406 and Assembly Bill 1667, the District requires for Tuberculosis (TB) Clearances to be in place by anyone coming in contact with pupils.

_____(*Initial*) Consultant's individuals/employees and/or Subconsultants/Subcontractors who may come in contact with pupils in the performance of services in this contract agree to provide fingerprint (DOJ/FBI) and TB Clearances (at their own expense) to be in compliance with the above-mentioned Ed Codes before commencement of any services under this contract. The District will provide LiveScan form if necessary.

- I certify to the District's Governing Board that I have read and understand the above terms and conditions and will report any changes that may affect the performance services of this contract.
- I certify to the District's Governing Board that none of the Consultant's employees/individuals and/or Subconsultants/subcontractors performing services under this agreement have been convicted of a felony as defined in Education Code Section 45122.1 and in Penal Code section 667.5(c) or a serious felony listed in Penal Code section 1192.7(c).
- I certify to the District's Governing Board that all of the Consultant's and Subconsultant's/Subcontractor's employees-individuals performing services under this agreement are clear of tuberculosis (TB) as defined on Education Code Section 49406 and Assembly Bill 1667.

Company Name:_____

Name/title of authorized representative *(Print)* _____

Signature _____Date _____

REVISED 09-13-18

SAN YSIDRO SCHOOL DISTRICT

4350 Otay Mesa Road, San Ysidro, CA 92173

EXHIBIT A

SCOPE OF SERVICES

Brain Learning Psychological corporation will be providing an independent educational full psycho-educational evaluation that includes: a school observation, records review, complete assessment report, travel and participation at the IEP or school meeting; Review of all available records for a student in order to answer the referral concerns; to interview anyone who is knowledgeable of the student as it relates to the evaluation.

The said evaluation will be conducted in an objective and professional manner.

Cost: **$3,710.00**

AMENDMENT NO. 1

Section 4.7 Insurance
This section is being amended as follows:

5. Improper Sexual Misconduct: $25,000 liability coverage for all Claims made against the insured (Brain Learning Education) involving any Sexual Misconduct (including by neglect, hiring and supervision) by the Insured or by any person for whom the Insured may be legally responsible. If any Sexual Misconduct is alleged at any stage during a Claim, all allegations in that Claim which arise out of the same or related professional treatment or relationship will be subject to that $25,000 maximum.

Approved by Authorized Representatives:

Brain Learning Education	San Ysidro School District
Dr. Rienzi Haytasingh, Owner	Marilyn Adrianzen, CBO

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Maintenance, Operations, Transportation & Facilities
Paulo Azevedo, Director

☐ Informational
☒ Action

AGENDA ITEM: AGREEMENT WITH VILLALVA TRAINING

BACKGROUND INFORMATION:
During the year, bus drivers are required to be State certified to keep up with California Highway Patrol regulations. Villalva Training services will provide classroom instruction, documentation and update driver's records for the District and its drivers to be in compliance.

RECOMMENDATION:
Approve the agreement with Villalva Training / Frank Villalva Jr. to provide bus training and compliance services from May 14, 2021 to June 30, 2022. Services will be provided on an "as needed basis" at a cost not to exceed $10,000.00 from the General fund.

LCAP GOAL AND ACTION/SERVICE (please indicate):

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	

NOT TO EXCEED	
$10,000.00	General Fund
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

SAN YSIDRO SCHOOL DISTRICT

4350 Otay Mesa Road, San Ysidro, CA 92173

PROFESSIONAL SERVICES AGREEMENT

This agreement is made and entered into this 15th day of April 2021, by and between the San Ysidro School District, hereinafter called the "District", and

Villalva Training / Frank Villalva Jr.	619-735-0007
Company/Consultant	Telephone Number
1450 Melrose Avenue #33, Chula Vista, CA 91911	N/A
Address	Website

hereinafter referred to as "Consultant."

1 SCOPE AND TERMS

1.1 SCOPE OF SERVICES

Scope of Services. In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services specified in the Consultant Services Documentation ("attached documents") attached hereto as ***Exhibit "A"*** and incorporated herein by this reference, which services may be referred to herein as the "services" or "work" hereunder. As a material inducement to the District entering into this Agreement, Consultant represents and warrants that Consultant is a provider of first class work and services and Consultant is experienced in performing the work and services contemplated herein and, in light of such status and experience, Consultant covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials shall be of good quality, fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

Compliance with Law. All services rendered hereunder shall be provided in accordance with any and all applicable ordinances, resolutions, statutes, rules, and regulations of the District, City and any Federal, State or local governmental agency having jurisdiction in effect at the time service is rendered. Each and every provision required by law to be included in this Agreement shall be deemed to be included by this reference, and this Agreement shall be read and enforced as though they were included.

Licenses, Permits, Fees and Assessments. Consultant shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant's performance of the services required by this Agreement, and shall indemnify, defend and hold harmless District against any such fees, assessments, taxes penalties or interest levied, assessed or imposed against District hereunder.

1.2 TERM

From: May 1, 2021 To: June 30, 2022 "as needed basis"

The Term of this Agreement as noted, unless earlier terminated as provided herein. The Parties may mutually agree to extend this term only by written amendment. Should the Parties agree to extend the term of this Agreement; the Agreement can only be extended on a year-to-year basis with written approval unless otherwise indicated in writing and in accordance with the law.

2 FEES AND PAYMENTS

2.1 FEES
District shall pay Consultant for the specified services as reflected on ***Exhibit A*** during this contract term.

2.2 PAYMENTS
Consultant shall submit to District an itemized invoice which indicates work completed by Consultant. District shall review each invoice and/or receipts submitted to determine that the work performed, and expenses incurred are in compliance with the provisions of this Agreement. District shall pay Consultant within 30-days of receipt of an acceptable invoice from Consultant.

3. ADDITIONAL SERVICES.

District shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work as described herein. No such extra work may be undertaken unless a written order is first given by the District Contract Officer to the Consultant, incorporating therein any adjustment in (i) the Contract Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval or ratification of the Contract Officer. However, any increase in compensation beyond the Contract Sum, for services beyond what is contemplated in the Contract, must be approved or ratified by the Board of Education in a signed writing prior to any payment. Additionally, any other increases, extensions or renewals must be approved in writing by the Board of Education. It is expressly understood by Consultant that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services or reasonably contemplated therein. Consultant hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefore unless specifically authorized pursuant to the terms of this section.

4 RESPONSIBLIITIES OF CONSULTANT

4.1 ORGANIZATION
Consultant shall assign a Company Contact as Project Manager. The Project manager shall not be removed from the Project or reassigned without the prior written consent of District, which consent shall not be unreasonably withheld. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff assigned to perform the services required under this Agreement.

4.2 COORDINATION OF SERVICES
Consultant agrees to work closely with the District staff in the performance of Services and shall be available to the District staff, consultants and other staff at all reasonable times.

4.3 STANDARD OF CARE:
Consultant shall perform all Services under this Agreement in a skillful, competent and timely manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all of Consultant's employees and subconsultants shall have sufficient skill and experience to perform the Services assigned to them. Consultant further represents that it, its employees and subconsultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Any of Consultant's employees who are determined by District to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any of Consultant's employees who fail or refuse to perform the Services in a manner acceptable to District, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

4.4 INDEPENDENT CONSULTANT & ADDITIONAL PERSONNEL
Consultant is retained as an independent consultant and is not an agent or employee of the District. No employee or agent of Consultant shall by this Agreement become an agent or employee of the District. The work to be performed shall be in accordance with the work described herein, subject to such direction and amendments from District as herein provided. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind District to any obligation whatsoever, except as specifically provided in writing by District. Any additional personnel

performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law.

4.5 LAWS AND REGULATIONS
Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Service. Consultant shall be liable for all violations of such laws and regulations in connection with Services.

4.6 MAINTENANCE OF ACCOUNTING RECORDS
Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of the District during normal business hours with reasonable notice to examine, audit and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of five (5) years from the date of final payment under this Agreement.

4.7 INSURANCE – Consultant and Subcontractor(s) shall comply with the following insurance provisions, unless one or more paragraphs are specifically waived by the District in writing.

(1) Time for Compliance. Consultant and Subcontractor(s) shall not commence Services under this Agreement until it has provided evidence satisfactory to District that it has secured all insurance required under this Section. In addition, Consultant shall not allow any subcontractor or employee to commence work until it has provided evidence satisfactory to the District.

(2) Minimum Requirements and Limits. Consultant and Subcontractor(s) shall, at its own expense, procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the consultant, its agents, subcontractors, representatives, and employees. Such insurance shall survive after this agreement as permitted by law.

MINIMUM SCOPE OF INSURANCE - Coverage shall be at least as broad as:

1. **Commercial General Liability** (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury, sexual misconduct and personal & advertising injury with limits no less than **$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be **$2,000,000** the required occurrence limit.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Consultant has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **$1,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation (Employer's Insurance if applicable):** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than $1,000,000 per accident for bodily injury or disease. Coverage shall include waiver of subrogation endorsement in favor of San Ysidro School District.
4. **Professional Liability (Errors and Omissions):** Insurance appropriates to the Consultant's profession, with limit no less than $1,000,000 per occurrence or claim, $2,000,000 aggregate. *(If applicable – see footnote next page)* **District waives _____**
5. **Improper Sexual Conduct:** $1,000,000 per occurrence with an aggregate of not less than $2,000,000 for damages because of bodily injury by reason of negligent hiring and supervision. May be included under General Liability. **District waives _____**

If the Consultant maintains higher limits than the minimums shown above, the District requires and shall be entitled to coverage for the higher limits maintained by the Consultant.

Additional Insured Status - Endorsement
The San Ysidro School District, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Consultant including materials, parts or equipment furnished in connection with such work or operations. General

liability coverage can be provided in the form of an **Additional Insured Endorsement** to the Consultant's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used). If Blanket Endorsement, it must include policy number and insured's name.

Primary Coverage
For any claims related to this contract, the **Consultant's/SubContractor's insurance coverage shall be primary** insurance as respects the District, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the District, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

Notice of Cancellation
The Provider shall file, with the District, Certificates of Insurance indicating a thirty-day (30) cancellation notice. If not stated on the Certificates of Insurance, it is understood that a 30-day cancellation notice will be provided and failure to mail such notice shall impose obligation and liability upon the company/insured, its agents or representative.

Waiver of Subrogation
Consultant hereby grants to the San Ysidro School District a waiver of any right to subrogation which any insurer of said Consultant may acquire against the District by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the District has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions
Any deductibles or self-insured retentions must be declared to and approved by the District. The District may require the Consultant to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-:VII, unless otherwise acceptable to the District.

Claims Made Policies (note – should be applicable only to professional liability, see below)
If any of the required policies provide claims-made coverage:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided ***for at least five (5) years after completion of the contract of work.***
3. If coverage is canceled or non-renewed, and not replaced ***with another claims-made policy form with a Retroactive Date prior to*** the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of ***five (5)*** years after completion of work.

Verification of Coverage
Consultant shall furnish the District with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. **All certificates and endorsements are to be received and approved by the District before work/services commences**. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The District reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

5 GENERAL PROVISIONS

5.1 DELAYS IN PERFORMANCE

(1) Neither District nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other disturbances; sabotage or judicial restraint.

(2) Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

5.2 SUSPENSION OF SERVICES

The District may, in its sole discretion, suspend all or any part of Services provided hereunder with cost to date of suspension. Consultant may not suspend its services without District's express written consent.

5.3 TERMINATION OF AGREEMENT

(1) Termination. District may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been adequately rendered to District to date of the notice of termination and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause.

(2) Consultant's Termination for Cause. This Agreement may be terminated by the Consultant upon thirty (30) days written notice to the District only when the District has substantially failed to perform its obligations under this Agreement. The written notice shall include a detailed description of the District's failure to perform, status of the work completed as of the date of termination together with a description and a cost estimate of the effort necessary to complete work in progress. In such event, the Consultant shall be compensated for services completed to the date of termination, together with compensation for such approved Additional Services performed after termination which are authorized by the District to conclude the work performed to the date of termination. Upon the District's request and authorization, Consultant shall perform any and all Additional Services necessary to wind up the work performed to the date of termination.

(3) Effect of Termination. If this Agreement is terminated as provided in this Section, District may require Consultant to provide all finished or unfinished documents, date, programming source code, reports or any other items prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such documents and other information within fifteen (15) days of the request.

(4) Terminated Services. In the event this Agreement is terminated in whole or in part as provided herein, District may procure, upon such terms and in such manner as it may determine appropriate, services similar or identical to those terminated.

5.4 OWNERSHIP OF MATERIALS AND CONFIDENTIALITY

(1) All materials and data, including but not limited to, data on electronic or magnetic media and any materials, documents and data required to be made or kept pursuant to federal, state or local laws, rules or regulations, prepared or collected by Consultant pursuant to this Agreement, shall be the sole property of the District, except that Consultant shall have the right to retain copies of all such documents and data for its records. District shall not be limited in any way in its use of such materials and data at any time, provided that any such use not within the purposes intended by this Agreement shall be at District's sole risk and provided that
Consultant shall be indemnified against any damages resulting from such use, including the release of this material to third parties for a use not intended by this Agreement.

(2) All such materials and data shall be provided to the District, or such other agency or District as directed by District or required by law, rule or regulation, as they become due during the term of this Agreement as direct by District.

(3) The District is a California public entity subject to all state and federal laws governing education, including but not limited to California Assembly Bill 1584 (AB 1584), the California Education Code, the Children's Online Privacy and Protection Act (COPPA), the Family Educational Rights and Privacy Act (FERPA), and HIPAA Privacy regulations and any other privacy laws, policies and regulations that may apply such as American Recovery and Reinvestment Act of 2009 ("ARRA") and the Health Information Technology and Economic Clinical Health Act of 2009 ("HITECH").

AB1584 requires, in part, that any agreement entered into, renewed or amended after January 1, 2015 between a local education agency (LEA) and a third-party service provider must include certain terms; and the LEA and the Service Provider desire to have this Agreement and the services provided comply with AB1584. This includes to all forms of protected health information, including paper, oral, and electronic, etc. Furthermore, only the minimum health information necessary to conduct business is to be used or shared.

- Pupil records obtained by the Consultant/Service Provider from LEA/District continue to be the property of and under the control of the District. The Consultant will obtain information regarding disciplinary and/or behavioral events for the purpose of allowing District personnel to improve and provide services to pupils. The Consultant will not be obtaining pupil-generated content.
- In the event of an unauthorized disclosure of a pupil's records, the Consultant shall report to an affected parent, legal guardian, or eligible pupil pursuant to the following procedure; written communication to the District's Superintendent, Deputy Superintendent and/or designee.
- The Consultant shall not use any information in a pupil record for any purpose other than those required or specifically permitted by this Professional Services Agreement.
- Consultant certifies that a pupil's records shall not be retained or available to the Consultant upon completion of the terms of this Professional Services Agreement.
- District agrees to work with Consultant to ensure compliance with FERPA.
- Consultant shall not use personally identifiable information in pupil records to engage in targeted advertising.
- Pupil records include any information directly related to a pupil that is maintained by the District or acquired directly from the pupil through the use of instructional software or applications assigned to the pupil by a teacher or other District employees. Pupil records does not include/not mean de-identified information (information that cannot be used to identify an individual pupil) used by the third party to (1) improve educational products for adaptive learning purposes and for customized pupil learning; De-identified information, including aggregated de-identified information. (2) Demonstrate the effectiveness of the operator's products in the marketing of those products; or for the development and improvement of educational sites, services, or applications.

5.5 SAFETY

Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed.

5.6 PROJECT STAFFING

Consultant shall provide adequate staff and resources to facilitate all Consultant activity. Should Consultant fail to adequately staff a project, the District may, at its sole discretion, retain third party consulting services and back charge Consultant for all third-party fees.

5.7 INDEMNIFICATION

Indemnification: To the fullest extent permitted by law, Consultant shall defend (with counsel of District's choosing), indemnify and hold the District, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's Services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the District, its officials, officers, employees, agents, or volunteers.

5.8 AMENDMENTS

This Agreement may not be amended except in writing signed by both Parties.

5.9 SEVERABILITY

If any section, subsection, sentence, clause or phrases of this Agreement, or the application thereof to any of the Parties, is for any reason held invalid or unenforceable, the validity of the remainder of the Agreement shall not be affected thereby and may be enforced by the Parties to this Agreement.

5.10 GOVERNING LAW

This Agreement shall be governed by the laws of the State of California. Any action brought to enforce the terms of this Agreement shall be brought in a state or federal court located in the County of San Diego, State of California, but only after dispute resolution as provided herein.

5.11 CONFLICT OF INTEREST

For the term of this Agreement, no member, officer or employee of District, during the term of his or her service with District, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

5.12 SCHOOL SAFETY, FINGERPRINTING AND BACKGROUND INVESTIGATION REQUIREMENTS: Consultant agrees with the provisions of Education Code Section 45125.1 regarding the submission of fingerprints to the California Department of Justice. Consultant shall not be permitted to have any contact with District pupils until such time as Consultant has verified in writing to the District that they have complied with Educational Code Section 45125.1. (**Please complete attached School Safety Certification Form.)**

Per Ed Code 49406 and Assembly Bill 1667, the District requires for Tuberculosis (TB) Clearances to be in place by anyone coming in contact with pupils. Please submit TB Clearance to the Business Services Office. This section may be waived if the District determines that the Consultant and/or its employees will have limited contact with District pupils or if Consultant and/or its employees will be supervised at all times by District staff.

District is waiving this requirement _____ .

5.13 DRUG/ALCOHOL/TOBACCO-FREE FACILITIES:

ALL DISTRICT FACILITIES ARE DRUG AND TOBACCO-FREE FACILITIES. ANY DRUG, ALCOHOL AND/OR TOBACCO USE (SMOKED OR SMOKELESS) IS PROHIBITED AT ALL TIMES ON ALL AREAS OF THE DISTRICT FACILITIES.

5.14 NOTICES / CONTACT INFORMATION

All notices or demands to be given under this Agreement by either party to the other shall be in writing and given either by: (a) personal service, (b) email or (c) by U.S. Mail, mailed certified mail with return receipt requested, addressed to the following entities.

CONSULTANT:	**Villalva Training**	
Name:	Frank Villalva Jr.	
Title:	State Certified Instructor	
Address:	1450 Melrose Ave. #33	
City/State/Zip Code:	Chula Vista, CA 91911	
Telephone:	619-735-0007	
Email:	villalvatraining@gmail.com	

DISTRICT:	**San Ysidro School District**	
Name:	Marilyn Adrianzen	Paulo Azevedo
Title:	Chief Business Official	Director, MOTF
Address:	4350 Otay Mesa Road	4350 Otay Mesa Road
City/State/Zip code:	San Ysidro, CA 92173	San Ysidro, CA 92173
Telephone:	(619) 428-4476	(619) 428-4476 ext. 3065
Email:	Marilyn.adrianzen@sysdschools.org	Paulo.azevedo@sysdschools.org

6 ENTIRE AGREEMENT

This Agreement represents the entire understanding of District and Consultant as to those matters contained herein, and supersedes and cancels any prior oral or written understanding, promises or representations with respect to those matters covered hereunder. To the extent that any provision or clause contained in an attachment to this Agreement conflicts with a provision or clause in the Agreement, the provision or clause in this Agreement shall control. This Agreement may not be modified or altered except in writing signed by both parties hereto. This is an integrated Agreement.

7 WARRANTY OF AUTHORITY:

Each of the parties signing this Agreement warrants to the other that he or she has the full authority to enter into agreement on behalf of the Party for which his or her signature is made.//

CONSULTANT	**DISTRICT**
Villalva Training	**San Ysidro School District**
Firm Name	Firm Name
Signature of Authorized Agent	Signature
Frank Villalva, Jr. (Owner)	Marilyn Adrianzen, Chief Business Official
Print Name, Title	Print Name, Title
Date:	Date
	Board Approved:

Revised 09-13-18

SAN YSIDRO SCHOOL DISTRICT

4350 Otay Mesa Road, San Ysidro, CA 92173

SCHOOL SAFETY CERTIFICATION FORM

CERTIFICATION PURSUANT TO EDUCATION CODE ECTION 45125.1 and
Penal Code section 667.5(c) or a serious felony listed in Penal Code section 1192.7(c)
Fingerprinting and Criminal Background Investigation Requirements

The San Ysidro School District (District) has determined under Education Code Section 45125.1, subdivision (c) that in performing services under this contract, **Contractor/Consultant's employees and/or Subconsultants/Subcontractors may have contact with pupils**.

_____(*Initial*) As required under Education Code Section 45125.1, subdivision (a), Consultant shall require their employees, including the employees of any sub-consultant and/or subcontractor, who will provide services pursuant to this contract to submit their fingerprints in a manner authorized by the Department of Justice in order to conduct a criminal background check to determine whether such employees have been convicted of or have charges pending for a felony as defined under Education Code Section 45122.1.

_____(*Initial*) Consultant shall not permit any employee to perform services that may come in contact with pupils under this contract until the Department of Justice has determined that the employee has not been convicted of a felony or has no criminal charges pending for a felony as defined in Education Code Section 45122.1 and in Penal Code section 667.5(c) or a serious felony listed in Penal Code section 1192.7(c).

_____(*Initial*) Consultant certifies that all of its employees who may come in contact with pupils have not been convicted of or have no criminal charges pending for a felony, as defined in Education Code Section 45122.1 and in Penal Code section 667.5(c) or a serious felony listed in Penal Code section 1192.7(c).

_____(*Initial*) Consultant shall defend, indemnify, protect and hold the District and its agents, officers and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property which arise from or are connected with or are caused or claimed to be caused by Consultant's failure to comply with all of the requirements contained in Education Code Section 45125.1, including, but not limited to, the requirements prohibiting Consultant from using employees who may have contact with pupils who have been convicted or have charges pending for a felony in Education Code Section 45122.1.

_____(*Initial*) Per Ed Code 49406 and Assembly Bill 1667, the District requires for Tuberculosis (TB) Clearances to be in place by anyone coming in contact with pupils.

_____(*Initial*) Consultant's individuals/employees and/or Subconsultants/Subcontractors who may come in contact with pupils in the performance of services in this contract agree to provide fingerprint (DOJ/FBI) and TB Clearances (at their own expense) to be in compliance with the above-mentioned Ed Codes before commencement of any services under this contract. The District will provide LiveScan form if necessary.

- I certify to the District's Governing Board that I have read and understand the above terms and conditions and will report any changes that may affect the performance services of this contract.
- I certify to the District's Governing Board that none of the Consultant's employees/individuals and/or Subconsultants/subcontractors performing services under this agreement have been convicted of a felony as defined in Education Code Section 45122.1 and in Penal Code section 667.5(c) or a serious felony listed in Penal Code section 1192.7(c).
- I certify to the District's Governing Board that all of the Consultant's and Subconsultant's/Subcontractor's employees-individuals performing services under this agreement are clear of tuberculosis (TB) as defined on Education Code Section 49406 and Assembly Bill 1667.

Company Name:_____

Name/title of authorized representative *(Print)* _____

Signature _____Date _____

REVISED 09-13-18

Villalva Training

Training Fee Schedule

Consultant is a certified instructor by the State of California. Consultant will provide the following services as directed by the District.

Original Classroom: Certified Instructors are required by the State of California Department of Education (CDE) to cover the entire manual when conducting an original class. This consists of 12 units and basic First Aid information. Class Participants must pass a final exam to complete the course.

Hours: Unit 1-12: 25-36 hours
First Aid: 2 hours

Behind the Wheel Training (BTW): CDE requires a minimum of 20 BTW driving hours for each original trainee. On average it takes 30-40 hours to train an original driver depending on their skill set. In addition, they need pre-trip training which takes 8-10 hours of training. They must pass a final appraisal to complete the course.

Hours: BTW:30-40 hours
Pre-Trip: 8-10 hours
CHP Prep: 2-6 hours

Monthly in-service classes and documentation: We will provide in-service classes throughout the year to maintain compliance and maintain all T-01/T-02 for driver compliance.

Hours: Varies depending on Districts available times and needs

Fee Schedule:

Original Classroom:	**$90 per hour**
Behind the Wheel Training:	**$90 per hour**
In-Service Class:	**$90 per hour**
Travel Time:	**$25 per hour**
Specialized Training:	**$125 per hour**

(EX: Mountain training, Vehicle in-service, Bus stop checks, Accident review/retraining)

T-01 document will not be distributed until proper payments have been received. Invoices will be submitted on a monthly basis for services completed.

Please don't hesitate to contact us for additional information or clarification.

Owner-Frank Villalva: 619-735-0007 State Certified Instructor
Cynthia Zwartjes: 619-750-5004 State Certified Instructor

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Preschool & Child Development Programs
Lorena Varela-Reed, Director

☐ Informational
☒ Action

AGENDA ITEM: MEMORANDUM OF UNDERSTANDING WITH JEWISH FAMILY SERVICE

BACKGROUND INFORMATION:
The Jewish Family Service of San Diego wishes to continue to collaborate with the District to enable students and parents to benefit from the San Diego County Positive Parenting Behavioral Health Contract (SD County Agreement 553898) "Triple P" Positive Parenting Program. This free program is evidence-based and is presented as a three seminar series by certified, experienced, and well trained speakers and educators. The District would like to continue this collaboration with the Jewish Family Service of San Diego for school year 2021-22.

RECOMMENDATION:
Approve the Memorandum of Understanding with the Jewish Family Service to provide the "Triple P" Positive Parenting Program to children and families of the District during school year 2021-22 at no cost to the District.

LCAP GOAL AND ACTION/SERVICE (please indicate):

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications? ☐ Yes ☒ No

Are funds for this item available in the 2021-2022 Budget? ☐ Yes ☐ No

Requisition #

N/A (Amount)

N/A (Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

MEMORANDUM OF UNDERSTANDING

Between **JEWISH FAMILY SERVICE** and **SAN YSIDRO SCHOOL DISTRICT**

Parties: This Memorandum of Understanding is between Jewish Family Service [JFS] and SAN YSIDRO SCHOOL DISTRICT.

Purpose: To establish a collaborative relationship between Jewish Family Service and SAN YSIDRO SCHOOL DISTRICT that will enable students and parents to benefit from the San Diego County Positive Parenting Behavioral Health Contract [SD County Agreement 553898] "Triple P" Positive Parenting Program.

Responsibilities of Parties: In order to achieve the purpose set out above, the parties will perform the following activities:

Jewish Family Service will:

- JFS will partner with SAN YSIDRO SCHOOL DISTRICT to provide services through the Positive Parenting Program to children and families at the school.
- JFS will provide the following services to each school site that chooses to host the program:
    - three parent education seminars using the evidence-based "Triple P" curriculum to interested SAN YSIDRO SCHOOL DISTRICT parents and staff of children from the school.
- JFS will provide incentives and program materials to participants.
- JFS will provide referral services and information to both participants and school administration without breaking the confidentiality of the participants.

SAN YSIDRO SCHOOL DISTRICT will:

- SAN YSIDRO SCHOOL DISTRICT school sites will engage JFS in a partnership to implement the Positive Parenting Program for the parents/caregivers.
- SAN YSIDRO SCHOOL DISTRICT school sites that choose to host the Positive Parenting Program will provide adequate space for the Seminars and distribute information regarding the program to parents and staff.
- SAN YSIDRO SCHOOL DISTRICT will work closely with JFS ensure that the program reaches and serves as many people as possible at the schools that request the Triple P program.

If requested:

- JFS will provide child supervision, with caregivers who have cleared a criminal background check and tested negative for TB.

OR

- JFS will reimburse SAN YSIDRO SCHOOL DISTRICT for qualified employees (with a clear TB test and background check) no more than $15 per hour (not to exceed a total of $250 per person) to provide supervision during child activity groups.
    - SAN YSIDRO SCHOOL DISTRICT will comply with standard California and Federal labor regulations, including worker's compensation and payroll taxes when providing qualified employees for child supervision.
    - SAN YSIDRO SCHOOL DISTRICT will provide an invoice for child supervision to the JFS Positive Parenting Program Manager at the completion of the class, not later than 30 days after completing the service.

General Terms of the Agreement: Both Jewish Family Service Positive Parenting Program and SAN YSIDRO SCHOOL DISTRICT agree to work cooperatively during the term of the agreement to achieve the purposes set out above. Parties will abide by necessary requirements of program confidentiality and agree to indemnify, defend and hold harmless each other against any and all potential penalties incurred in the event that they violate any portion of this agreement. This agreement does not create a legal partnership or contract between the parties. No religious or faith based information will be disseminated or promoted through the programs and services offered under this Agreement.

The term of this agreement is July 1, 2021 to June 30, 2022.

JEWISH FAMILY SERVICE

Signed:_____

Name: Lea Bush, MSW/MPA

Title: Senior Director of Family & Community Services

Date:_____

For further information, please contact:
Autumn Weidman (858) 637-3021
8804 Balboa Avenue
San Diego, CA 92123

SAN YSIDRO SCHOOL DISTRICT

Signed: _____

Name: Marilyn Adrianzen

Title: Chief Business Official

Date:_____

Board approved: _____

District Address:
4350 Otay Mesa Road
San Ysidro, CA 92173
(619) 428-4476

SYSD Contacts:

- Lorena Varela-Reed, Director
  lorena.varela-reed@sysdschools.org
- Claudia Uribe, Facilitator
  claudia.uribe@sysdschools.org

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Educational Services
Cynthia Gonzalez, Executive Director

☐ Informational
☒ Action

AGENDA ITEM: LICENSE AGREEMENT WITH ACHIEVE3000 FOR THE IMPLEMENTATION OF THE SMARTY ANTS PROGRAM

BACKGROUND INFORMATION:
San Ysidro School District would like to enter into license agreement with Achieve3000 for unlimited access to the Smarty Ants program, which will be implemented at our elementary schools.

The Smarty Ants program builds foundational reading skills in an interactive and adaptive learning environment designed to build a love of reading for students in PreK-2. This program is available in English and Spanish and it combines foundational skills instruction, independent practice, and embedded assessment in a single program with robust teacher supports. Students master complex phonics skills as they learn to decode phonemes and words and eventually read stories.

The Smarty Ants package includes:

- Unlimited Student License at 5 sites
- Smarty Ants Español License
- Online Professional Learning Services – 10 90 min. Virtual Classroom Sessions

RECOMMENDATION:
Approve license agreement with Achieve3000 for the Smarty Ants program for our elementary schools at the cost of $19,500.00 to be paid from the ESSER II fund.

LCAP GOAL AND ACTION/SERVICE:
Goal 1: Student Achievement - Action 1.19: Continue to provide supplemental programs and resources (i.e., Reading Renaissance, math manipulatives, etc.) to support student achievement in core content areas.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2021-2022 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	

$19,500.00	ESSER II
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

Achieve3000

Quote ID: Q-59240
Contract Period: 05/01/2021 - 06/30/2022

Quote Date: 01/27/2021
Valid Until: 02/26/2021

Client Information

Account Name	
San Ysidro School District	
Address	**Client**
4350 Otay Mesa Rd San Ysidro, CA 92173-1685 Phone: (619)428-4476	Cynthia Gonzalez Email: cynthia.gonzalez@sysdschools.org Phone: (619)428-4476

Achieve3000 looks forward to partnering with you to accelerate your students' literacy growth throughout the school year. Your custom quote includes the solutions listed below. You can explore all of Achieve3000's research-based solutions by visiting www.achieve3000.com.

Participating Schools	**Total Licenses Purchased**	
	Program	**21-22**
La Mirada Elementary	Smarty Ants	1 Unlimited
Ocean View Hills School	Smarty Ants	1 Unlimited
Smythe Elementary School	Smarty Ants	1 Unlimited
Sunset Elementary School	Smarty Ants	1 Unlimited
Willow Elementary	Smarty Ants	1 Unlimited

Product	Cost	Qty	Total
Smarty Ants: Unlimited Student Licenses at 5 Site *(SA-NP)* Smarty Ants Español License: Included *(SAE-STDT)* Online Professional Learning Services (Smarty Ants): (10) 90- Minute Virtual Classroom Session for up to 25 attendees *(OPDI-SA) – 2 sessions per school*	$19,450.00	1	$19,450.00
Subtotal			$19,450.00
Order Total			**$19,450.00**
Start Date 5/1/2021 – FREE SUMMER ACCESS			
Smarty Ants Community Grant – Access to Smarty Ants for ALL 3,4, and 5 Year old in San Ysidro Community			

See Next Page for Quote Acceptance

Achieve3000

Acceptance for Quote ID Q-59240: $17,505.00

San Ysidro School District	Achieve3000
Account Name	
Signature	*Signature*
Name / Title Marilyn Adrianzen, CBO	*Name / Title*
Board approved: _____	
Date _____	*Date*

The Complete Signed Quote and Purchase Orders can be sent to:

Achieve3000
331 Newman Springs Road
Suite 304
Red Bank, NJ 07701

Fax: (316) 221-0718
Email: orders@achieve3000.com

This quote is governed by and subject to the Achieve3000 terms and conditions at https://achieve3000.com/about/terms-of-service/. By signing this quote, you are agreeing to such terms and conditions.

About Achieve3000®

Achieve3000 delivers a comprehensive suite of digital solutions that significantly accelerate literacy growth and deepen learning across the content areas. Using personalized and differentiated solutions, Achieve3000 provides equity for remote and on-site instruction, enabling educators to help all students achieve accelerated growth. Our suite of solutions includes: Achieve3000 Literacy, a differentiated learning platform for grades 2-12; Actively Learn, a digital curriculum for grades 3-12; Smarty Ants, a foundational literacy platform for grades PreK-2; and Achieve3000 Math, a digital mathematics solution.

Learn more about Achieve3000's learning solutions at www.achieve3000.com.

Terms of Service

Version Effective Date: August 5, 2020

The following Achieve3000, Inc. ("Achieve3000") Terms of Service ("TOS") are incorporated by reference into the contract or order form (each, an "Order Form") under which you, a school district, public or private school or other entity ("You"), have agreed to subscribe for the right to permit a certain number (up to the licensed number) of your students, parents, teachers and school administrators (as applicable, the "Authorized Users") to whom Achieve3000 or its affiliates (Achieve3000 and its affiliates, "Us" or "We") have provided a user ID and password to access and utilize particular educational services (each such service, a "Service"). In the event of a conflict between the Order Form under which You have agreed to make your subscription and these TOS, the conflicting term(s) of the Order Form shall prevail, unless You and We expressly state in a subsequent written document that You and We intend that the conflicting terms of these TOS prevail over the conflicting terms of the Order Form.

1. CONTENT OF YOUR PURCHASE AGREEMENT

This agreement, under which You are subscribing for the right to permit your Authorized Users to access and utilize particular Service(s) (this "Agreement"), consists of (a) the applicable Order Form(s) in which the specific Service(s) to be provided, the school(s) to whom the Services are to be provided, the period during which the Authorized Users shall have the right to access and utilize the identified Service(s), pricing, and other details and terms are specified; and (b) these TOS. Your Order Form and these TOS contain the entire Agreement and understanding regarding our provision of the specified Service(s) to You and your Authorized Users, and supersede all prior oral and written agreements between You and Us regarding the subject of this Agreement, if any. In the event that any of the terms set forth in this Agreement are held invalid, illegal or unenforceable, all of the remaining terms of this Agreement will remain in effect.
We reserve the right to amend, remove or add to these TOS at any time. Please check this page periodically for any modifications. Your continued use of Services provided by Achieve3000 shall signify your acceptance of the then-current TOS.

1. TERM OF THIS AGREEMENT

Except as provided in the following sentence and unless stated otherwise in your Order Form, this Agreement shall commence on August 1 of the year in which You execute your Order Form (the "Subscription Start Date") and shall conclude on June 30 of the following year, for single and multi year orders (the "Subscription End Date," and such period between the Subscription Start Date and Subscription End Date constituting "the Term"). The previous sentence notwithstanding, (a) when You execute your Order Form subsequent to August 1, the Subscription Start Date shall be and the Term shall commence on such date and conclude on June 30 of the following year, and (b) the Term of all multi-year agreements shall be as indicated in your Order Form.

1. DESCRIPTION OF SERVICES

The elements of each Service subscribed for hereunder (each a "Service Element"), and the date on which the appropriate Authorized Users may access and utilize each element are as follows:

Service Element
Date on Which the Appropriate Authorized User May First Access and Utilize This Service Element (the "Service Element Activation Date")
The specified subscription Service(s) to Achieve3000 Literacy®, Boost®, Achieve3000 Math®, Smarty Ants®, LevelSet® and eScience3000® service, including Student, Teacher and Home edition, and standards alignment services.
Thirty (30) days before the Subscription Start Date (or as of the actual order date, if the order date is less than thirty (30) days before the Subscription Start Date)

LevelSet® Placement Test, an online assessment which measures students' reading abilities for accurate placement in the content.
The later of Subscription Start Date or school start date

Interim Test, an online assessment which refines the data about students' reading abilities at some point during the Term after the placement test.

- During December for full-year implementations and for partial year implementations that span the *first* school semester
- During April for partial year implementations that span only the *second* school semester

Post Test, a final assessment of students' reading levels at the culmination of the program.
Sixty (60) days prior to the Subscription End Date

Online Professional Development materials for educators delivering differentiated reading instruction
Subscription Start Date

On-Site Professional Development sessions
As indicated in this Agreement

Online Professional Development sessions
As indicated in this Agreement

1. LICENSE GRANT

Effective as of the Service Element Activation Date applicable to each Service Element, your appropriate Authorized Users are granted a limited, non-transferable, non-sub-licensable, non-exclusive, personal license (revocable in the event of breach) to access and utilize the applicable Service Element that You have subscribed for the right to access and utilize, solely for educational purposes and solely as permitted by this Agreement, during the Term. The term "appropriate" here means that Service Elements intended for use by students may be accessed and utilized by any Authorized User, and that Service Elements intended for use by teachers and school administrators may only be accessed and used by Authorized Users functioning in those roles.
The foregoing notwithstanding, We will not be obligated to provide any Service to any user who has not agreed (i) to our Privacy Policy and (ii) to comply with our end user Terms and Conditions of Use ("Terms of Use"). We reserve the right to change our Privacy Policy and Terms of Use at any time without prior notice.
We will charge You for each Service You subscribe for based on the number of permitted users or "Licensed Seats" You elect for that Service and the applicable license pricing for the Service.
To allow You additional flexibility in your use of the Services for appropriate purposes, We may permit Authorized Users in excess of the then-current number of Licensed Seats You have already subscribed for that Service ("Additional Users").
From time to time during the Term, We will compare the number of Authorized Users You have provided with access to a Service with the number of Licensed Seats You have subscribed for that Service. If the number of Authorized Users exceeds the number of Licensed Seats You have subscribed for the Service, We will notify You in writing and invoice You for the Additional Users We have identified through Our comparison. We will work with You to resolve promptly any question or issue You may have regarding the number of Additional Users We have identified or the associated additional Service fees We have invoiced for those Additional Users.
You are responsible for all activities conducted under your Authorized User logins and for their compliance with these TOS.

1. RESERVATION OF RIGHTS; RESTRICTIONS ON USE; CONTENT DISCLAIMER

Every aspect of each Service, including its underlying concepts, methodologies, processes, formats, specifications, other know-how, site layout, design, images, programs, text, forms and other information (collectively its "Content"), is solely our property and the property of our licensors. You receive no rights to or interest in any Content other than the rights conferred upon You by Section 4 of these TOS. All Content is protected by copyright and other intellectual property laws, and nothing herein grants You any ownership interest in any Content or any right with respect to any Content other than those rights expressly granted in Section 4 of these TOS.

- You and your Authorized Users may not permit any third party whom We have not provided a user ID and password to access or utilize any Service.
- You and your Authorized Users may not copy, modify, translate, decompile, disassemble, reverse engineer, or otherwise attempt to discover the source code of any software used to provide any Service or

permit any other party to do so. Content may not be merged with any other service or software, or be adapted or modified in any way, by anyone.

- You and your Authorized Users may not (a) copy, reproduce, publish, distribute, modify, transfer or in any way commercially exploit any part of the Content, (b) mirror the Content on any other server, (c) create any derivative works, (d) attempt to avoid, circumvent, or disable any security device, procedure, protocol, or mechanism that may be established with respect to the Content or (e) delete, alter, cover, or distort any copyright, trademark, or other proprietary rights notice placed on or in the Content.
- You and your Authorized Users may not use any Service in a manner that includes any service bureau use, outsourcing, renting, reselling, sublicensing, concurrent use of a single Authorized User login, or time-sharing of such Service.
- You and your Authorized Users may not use any Service in a manner that is contrary to applicable law, sanctions, or restrictions on sale, or in violation of any third-party rights of privacy or intellectual property rights.
- You and your Authorized Users may not use unauthorized modified versions of any Service, including (without limitation) for the purpose of building a similar or competitive product or service or for the purpose of obtaining unauthorized access to such Service.
- You and your Authorized Users may not engage in systematic retrieval of Content from the Services to create or compile, directly or indirectly, a collection, compilation, database or directory of any kind without our written permission. You may not use any robots, spiders, crawlers or other automated downloading programs or devices to search any Content, harvest personal information, or cause disruption to the Service.
- You and your Authorized Users may not publish, post, upload or otherwise transmit any Content that contains any viruses, Trojan horses, worms, time bombs, corrupted files or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any systems, data, personal information or property of another.
- You and your Authorized Users may print or download Content for your own personal educational use, provided You keep intact all copyright and other proprietary notices.

Achieve3000 shall have the right, but not the obligation, to remove any Content at any time.

1. COMMENTS

During the Term, You, through your employees and agents, may contribute certain ideas, comments, criticisms, and suggestions for improvements, modifications, and other changes to the Services (including with respect to associated Content) (collectively, “Comments”). You agree that We may use, modify, and incorporate these Comments as and when We see fit and will own all rights to such Comments as incorporated into our Services.

1. PAYMENT TERMS

Unless You and We agree otherwise in your Order Form, We may invoice You for Services and other items subscribed for hereunder in the case of one year agreements, on the day that you execute your Order Form, and in the case of multiple year agreements, on the day that you execute your Order Form and prior to each anniversary of the Subscription Start Date. Payment of the undisputed amounts set forth on each invoice shall be due within thirty (30) days of the date of the invoice. Should You dispute any portion of an invoice, You will communicate to Us in writing the basis of your belief that a portion of the invoice is incorrect no later than the date on which the invoice is to be paid in full, and shall engage with Us in good faith to resolve such dispute as expeditiously as reasonably possible. In the event that timely payment is not received, We shall have the right to deny You and your Authorized Users access to the Services until payment in full is received. Absent a good-faith payment dispute, if You fail to pay on time, We shall be entitled to claim interest on any overdue amount at the rate of 1% per month or the maximum amount allowed by law, whichever is greater and We may suspend the applicable Services, without limitation or waiver of any other right or remedy available under these TOS or at law. If We are required to retain a collection agency or attorney to collect overdue payment of undisputed invoices, all reasonable collection costs, including attorney fees, will be payable by You.

1. TAXES AND TAX RELATED OBLIGATIONS

The rates and charges for Services may not include, and You acknowledge that You are responsible for, any sales, use, excise, gross receipts, personal property, privilege, and value added tax liabilities and any other duties

or other transaction taxes or charges imposed by any governmental entity for products and Services provided under this Agreement, excluding only taxes based solely on our net income. You shall hold Us harmless from all claims and liabilities arising from the failure to pay any such taxes, including penalties, interest, duties, tariffs or charges. You will promptly reimburse Us for any and all taxes, assessment, permits and fees that We may be required to pay in connection with this Agreement or its performance.
You acknowledge that contemporaneous documentation (e.g., exemption certificate, etc.) is critical to ensure that appropriate tax treatment is afforded and You agree to provide Us with the required documentation in a timely manner.

1. AVAILABILITY OF SERVICES

We will refund to You a pro-rated portion of any prepaid and unused fees for any Service provided hereunder corresponding to the period after termination, other than fees received for Professional Development training, waive our right to future payment, and consider this Agreement revoked if, after You have provided Us the data described in Section 10 and have certified that the teacher of each class of students utilizing the Service(s) has completed the preparation described in Section 11, the Service(s) is/are not accessible and usable for extended periods of time by substantially all of your Authorized Users.

1. STUDENT DATA

In order to enable Us to provide the Services to You and your Authorized Users, You shall provide Us the following data in electronic form (in .CSV (comma separated values) or .XLS (Excel) format) regarding each student whom You want to enable to use a Service: name of the student's school and school district, student ID number, student first name, student last name and student grade level (collectively, "Student Data"). Alternatively, You can upload the data yourself. Visit the Achieve3000 Hub at hub.achieve3000.com for secure data upload instructions. Alternative methods for providing Student Data electronically include transferring Student Data through a standards-based API or through on-demand electronic transfer through Authorized User login using standards-based SSO.

At your request We will also accept, include in our reports to teachers and administrators, and treat as Student Data the following additional information: class code or room number, student race/ethnicity, gender, socio-economic or demographic information, familial background, student disabilities, student test scores, test dates, English language status and information related to English language learners, special education status, free lunch status, language spoken at home, and such other information that You may request and that we can feasibly track in the course of delivering applicable Services.

Student Data can be transferred to Us using a secure file sharing service, SFTP, or any other method required by You. All Student Data received from You will be stored on a secure server and accessible only to our personnel on a need-to-know basis. The Student Data received from You will be matched to our usage records using student IDs or student names (provided by You during the rostering process). You agree that Student Data may be shared with external contractor(s) who are under contract with Us to protect the confidentiality of shared information and meet all standards of confidentiality described in these TOS. All Student Data collected by Us will be kept strictly confidential, consistent with the terms of these TOS. Student Data received from You will only be used for the purposes described in these TOS or as otherwise agreed in writing by You and Us. At such time as You require by written notice, Achieve3000 will purge Student Data from all storage media, except Student Data stored as a copy as part of a disaster recovery storage system and that is (a) inaccessible to the public, and (b) unable to be used in the normal course of business by Us. We may collect usage data, query data and other aggregated or de-identified data in connection with your use of our Services. We may use such data for purposes of improving our Services (e.g., improving the efficacy of our Services or corroborating the data in our databases). Provided that none of your Authorized Users or students is individually identifiable and none of your Confidential Information is disclosed, We may also collect, retain, disclose, distribute and otherwise utilize such aggregated or de-identified data.

In our receipt and handling of Student Data, We will act as your contractor and provider of institutional or assessment services, as applicable, and will comply with associated provisions of the Department of Education's regulations under the federal Family Educational Rights and Privacy Act or "FERPA". We will only use Student Data in a manner that complies with Sections 99.33(a) of the Department of Education's FERPA regulations and

is consistent with our Privacy Policy (which is set forth at http://www.achieve3000.com/privacy-policy/). You will treat our staff as authorized school recipients of education records under FERPA.
In addition, we do and will comply with the provisions of the Children's Online Privacy Protection Act ("COPPA") in the operation of the Achieve3000 websites through which your Authorized Users will access and use Services.

Notwithstanding our reservation of the right to revise these TOS and our Privacy Policy, no change to these TOS or our Privacy Policy that materially diminishes protections afforded Student Data will become effective with respect to You or your Authorized Users unless and until we have advised You of such change and received your written consent (email to suffice) to such change.

1. TEACHER AND ADMINISTRATOR PREPARATION

You will require the teacher of each class of students utilizing a Service to be familiar with its use before the teacher permits students, parents, and administrators to access and utilize the Service.
Implementation planning and initial training Professional Development sessions, whether online or on-site, must be completed no later than sixty (60) days after the Subscription Start Date. All subsequent Professional Development sessions subscribed for hereunder, whether online or on-site, must be completed before the end of the period indicated in Your Order Form. Such session(s) shall not "roll over" to a subsequent period and You will not be entitled to a refund for such unused sessions. All Professional Development sessions, whether online or on-site, not scheduled by You within the appropriate time frame as described in this paragraph shall be treated as having been duly provided by Us. Confirmed Professional Development sessions may be postponed and rescheduled without charge only upon seventy-two (72) hours' prior notice. Professional Development sessions canceled or postponed on less than seventy-two (72) hours' prior notice shall be treated as having been duly provided by Us.

We may make additional Professional Development opportunities available from time to time, on a selective basis. The reasonable and verifiable costs of participation in such events, as well as any associated travel costs, are included in the cost of the Services.

1. INVALID LEVELSET ASSESSMENTS

All potentially invalid LevelSet assessments are flagged in a report for Your teachers and it is up to those teachers to have the individual student retake the relevant LevelSet assessment.

1. EMAIL COMMUNICATIONS

You hereby authorize Us to send electronic mail and SMS text messages (if a user has opted-in to receiving SMS messages) to your teachers and school administrators for the following purposes:

1. delivering Professional Development and similar materials to your teachers and administrators; and
2. advising You of changes or additions to our Services or about any of our Services.

If You do not want your teachers and/or school administrators to receive such emails, please notify Us at support@achieve3000.com.

1. SERVICE RELIABILITY

Subject to our need to perform periodic and routine maintenance, we take reasonable measures to make our Services available 24 hours a day, seven days a week and to maintain saved information. However, technical failures, acts of God and routine and unscheduled maintenance may render one or more Services unavailable at times (including during normal business or school hours), and/or may result in the loss of information. We shall not be liable to You or anyone else for any loss of information or for the non-availability of any Service, unless such loss of information or non-availability of a Service has resulted from our gross negligence or willful misconduct.

1. USER CONDUCT

You agree that our Terms of Use set forth at http://www.achieve3000.com/terms-of-use/ are reasonable and appropriate, and shall undertake reasonable measures to assist Us in enforcing such Terms of Use. Derogatory, harmful or unlawful conduct is not permitted on any Services. Your Authorized Users are not permitted to upload, distribute through, or otherwise publish any content which is libelous, defamatory, obscene,

pornographic, threatening, invasive of privacy or publicity rights, abusive, illegal or otherwise objectionable that would constitute or encourage a criminal offense, violate the rights of any party violate any law, or otherwise violate the Code of Conduct or any other provisions of the Terms of Use.

1. TERMINATION

- You or We may terminate this Agreement immediately for default if the other party fails to cure all material defaults in its performance within ten (10) days of its receipt of written notice of its default(s) from the terminating party.
- Immediately upon the termination or expiration of any of Your Order Form You and Your Authorized Users shall immediately cease use of all Service(s) subscribed for under that Order Form. Should any Order Form be terminated prior to its natural expiration, You shall pay Us all amounts owed for Services provided to You and Your Authorized Users under that Order Form up to the effective date of such termination.

1. CHANGES TO SERVICES

We are constantly innovating in order to provide the best possible instructional solutions to our customers' Authorized Users. You acknowledge and agree that the form and nature of the Services may change from time to time without prior notice to You. You further acknowledge that We may stop (permanently or temporarily) providing any features or may add new features within any Service at our sole discretion without prior notice to You.

1. LINKS TO OTHER SITES

Our Services may contain hyperlinks to other sites or resources that are provided solely for the convenience and information of your Authorized Users. We are not responsible for the availability of external sites or resources linked, and do not endorse and are not responsible or liable for any content, advertising, products, or other materials on or available from, or policies employed by, such sites or resources. We make no representations as to the quality, suitability, functionality, or legality of any sites to which links may be provided. Accordingly, You should review the terms and conditions and privacy policies of each linked site, as its policies may differ from ours. If your Authorized Users decide to access linked third-party content and sites, they do so at their own risk.

1. CONFIDENTIALITY

"Confidential Information" shall mean any and all non-public proprietary business, technical, and operational information disclosed by one party to the Agreement to the other party, including by or through its respective employee, agent, contractor, or representative, during the Term of this Agreement or in connection with correspondence or negotiations culminating in this Agreement, provided such information is clearly marked as "proprietary" or "confidential" or is of such nature that a person would reasonably understand the information to be of a confidential or proprietary nature.

Each party agrees to secure and protect the Confidential Information of the other in a manner consistent with the maintenance of the other party's rights therein, using at least as great a degree of care as it uses to maintain the confidentiality of its own confidential information of a similar nature, but in no event less than reasonable efforts. Each party agrees to hold the Confidential Information of the other party in confidence, not to disclose it to others or use it in any way, commercially or otherwise, except as authorized in writing by the disclosing party or in performance of its obligations under this Agreement.

Notwithstanding Achieve3000's Privacy Policy, Confidential Information of a party shall not include information which: (i) is as of the time of its disclosure or thereafter becomes part of the public domain, with the exception of Student Data, through a source other than the receiving party and without claim or challenge by the disclosing party to such public disclosure; (ii) was rightfully known to the receiving party as of the time of its disclosure; (iii) is independently developed by the receiving party without reference to or reliance on Confidential Information of the disclosing party; or (iv) was received by the receiving party from a third party without any confidentiality obligation owed to the disclosing party. Notwithstanding a party's obligations hereunder, it may disclose the other party's Confidential Information if it the party is required to disclose such Confidential Information pursuant to a duly authorized subpoena, court order, or government authority,

whereupon the party subject to same shall provide prompt written notice to the other party prior to such disclosure, so that such other party may seek a protective order or other appropriate remedy.

20. DATA OWNERSHIP AND LOCATION OF SERVICES

You will own data on your Authorized Users' use of our Services ("Program Data") and the Student Data You provide to us. At your request, We will return or destroy in a verifiable manner Student Data in our possession and provide You with copies of associated Program Data We have not previously provided to You. To comply with applicable laws, we reserve the right to destroy or otherwise dispose of Student Data and Program Data You have not directed us to return or destroy following this Agreement's Term. You agree that we may use Student Data and Program Data to provide the Services, and that we may use Program Data for our internal purposes, for example, development and assessment of Services and Content.

The Services and Content are provided from, and Student Data and Program Data are stored on, servers located in the United States. You acknowledge and agree that we may provide the Services and Content, and store Program Data and Student Data, in this manner. You further confirm that, as applicable, your transfer of Student Data from outside the United States and our use and processing of such data in connection with delivery of Services to You and Authorized Users are consistent with laws applicable to your transfer and our processing of such data.

21. WARRANTIES AND DISCLAIMER; LIMITATION OF LIABILITY; INDEMNIFICATION

- We warrant that We have the full authority to grant the rights granted to You herein. EXCEPT FOR THE FOREGOING EXPRESS WARRANTY, AND ANY WARRANTY SET FORTH ON AN ORDER FORM, WE DISCLAIM ANY AND ALL WARRANTIES WITH RESPECT TO ANY SERVICE PROVIDED HEREUNDER, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, ACCURACY OR UTILITY OF CONTENT, EFFECTIVENESS OF ANY SERVICE IN IMPROVING ANY STUDENT SKILL OR CAPABILITY, OR NONINFRINGEMENT, AND ANY WARRANTY THAT ANY SERVICE WILL BE AVAILABLE AT ALL TIMES OR WITHOUT INTERRUPTION. EXCEPT FOR THE FOREGOING EXPRESS WARRANTY, EACH SERVICE IS PROVIDED "AS IS" AND WITH ALL FAULTS, AND YOU UNDERSTAND THAT YOU ARE ASSUMING ALL RISKS OF THE SERVICE'S USE, QUALITY, AND PERFORMANCE.
- IN NO EVENT SHALL EITHER YOU OR WE, INCLUDING EITHER OF OUR DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES OR AGENTS, BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE, RELIANCE, OR COVER DAMAGES, INCLUDING LOSS OF PROFITS, REVENUE, DATA, OR USE, INCURRED BY EITHER YOU OR US OR ANY THIRD PARTY, EVEN IF YOU OR WE, AS THE CASE MAY BE, HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL WE BE RESPONSIBLE OR LIABLE FOR ANY INJURY THAT MAY BE ATTRIBUTED TO THE CONTENT OF COMMUNICATIONS TRANSMITTED BY MEANS OF A SERVICE BY ANY PERSON OTHER THAN OUR EMPLOYEES OR AGENTS. OUR TOTAL LIABILITY ARISING FROM OR RELATED TO THIS AGREEMENT FOR ANY REASON SHALL BE LIMITED TO DIRECT DAMAGES UP TO THE TOTAL AMOUNT OF FEES YOU PAID DURING THE TERM OF YOUR WRITTEN ORDER OR AGREEMENT. THE FOREGOING LIMITATIONS APPLY TO ALL CAUSES OF ACTION IN THE AGGREGATE, INCLUDING BREACH OF CONTRACT, BREACH OF WARRANTY, STRICT LIABILITY, NEGLIGENCE AND OTHER TORTS. IN NO EVENT SHALL WE, INCLUDING OUR DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AGENTS AND OUR LICENSORS BE RESPONSIBLE OR LIABLE, DIRECTLY OR INDIRECTLY FOR ANY DAMAGE OR LOSS CAUSED OR ALLEGED TO BE CAUSED BY OR IN CONNECTION WITH THE USE OF OR RELIANCE ON ANY CONTENT OR ANY SERVICE.
- FURTHER, IN NO EVENT SHALL WE, INCLUDING ANY OF OUR DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AGENTS, OR LICENSORS BE RESPONSIBLE OR LIABLE, DIRECTLY OR INDIRECTLY, FOR ANY DAMAGE OR LOSS CAUSED OR ALLEGED TO BE CAUSED BY OR IN CONNECTION WITH THE USE OF OR RELIANCE ON ANY SERVICE OR CONTENT PROVIDED HEREUNDER TO YOU OR TO ANY AUTHORIZED USER.

- We agree to indemnify and defend You and your employees and agents from and against any action, claim, demand, or liability, including reasonable attorney's fees and costs, arising from or relating to a claim that a Service provided to You hereunder infringes upon the copyright of a third party. If any such Service is held to infringe, or if in our opinion, such a claim is likely to occur, We may, at our sole option and expense, either: (i) procure for You and your Authorized Users the right to continue using the Service in question; or (ii) replace or modify the infringing Service Elements so that they become non-infringing as long as functionality is not materially and adversely affected. If neither alternative (i) nor (ii) is reasonably available, then We may terminate your license to access and utilize the allegedly infringing Service and We shall refund to You a pro-rated portion of any prepaid and unused fees for such Service corresponding to the period after termination. The preceding sentences in this bullet states our entire liability and obligation, and your exclusive remedy, for infringement.

22. GENERAL

Nothing in this Agreement shall cause the relationship between You and Us to be anything other than that of independent contractors. None of your and our actions under this Agreement shall be joint, and You and We have not formed, and shall not form, a joint venture to perform any of our respective obligations hereunder. The failure of either party to require performance of any part of these TOS shall not be deemed a waiver of any present or future right. Modifications of this Agreement shall be binding only if in writing and signed by an authorized representative of both You and Us. The rights and obligations of each party established herein are intended for the sole use and benefit of each of the parties and no one else. Accordingly, these TOS confers no rights upon any third party. Except for payment obligations, neither party shall be responsible for any delay or failure in its performance to the extent such delay or failure is caused by causes beyond a Party's reasonable control. You may not assign this Agreement without our prior written consent, and any attempted assignment of this Agreement without such consent shall be null and void. We may assign this Agreement to any entity that purchases all or substantially all of our assets or that obtains control of Us by purchase, merger or other means. All notices, including notices of address changes, required to be sent hereunder shall be in writing and shall be deemed to have been given when mailed by registered or certified mail, postage prepaid to You at the address set forth in Your Order Form, and to Us at Achieve3000, Inc., 331 Newman Springs Road, Suite 304, Red Bank, NJ 07701, Attn: Chief Executive Officer, or to You or Us at such other address as You or We may designate in writing from time to time. The following Sections shall survive the termination or expiration of this Agreement: 1, 5 – 9, 10, 16, and 19 – 22.

This Agreement shall be governed by and construed in accordance with the substantive laws of the State of New Jersey, USA, without regard to its principles of conflict of laws. You and We each agree that sole and exclusive jurisdiction and venue for any action or litigation relating to this Agreement shall reside with a federal or state court located in the State of New Jersey.

23. OUR CONTACT INFORMATION

Achieve3000, Inc.
331 Newman Springs Road, Suite 304
Red Bank, NJ 07701
732-367-5505
office@achieve3000.com

ADDITIONAL RESOURCES

Achieve3000 Technical and Organizational Measures
Data Processing Addendum to Achieve3000 Terms of Service and Master Subscription Agreement

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
San Ysidro Middle School
Maria Rodriguez, Principal

☐ Informational
☒ Action

AGENDA ITEM: LICENSE AGREEMENT RENEWAL WITH CLASSWORK, CO. FOR THE CLASSKICK WEB PROGRAM AT SAN YSIDRO MIDDLE SCHOOL

BACKGROUND INFORMATION:
Classkick is an app and web-based instructional tool that allows teachers to take their classroom paperless, see students working in real-time and support kids with just-in-time feedback. Teachers can create or upload an existing assignment into Classkick, and it assigns a roster and provides the class code to students. The Classkick Web Program can be used on iPads, computers, laptops, and Chromebooks.

The Principal at San Ysidro Middle School is requesting approval to renew the license agreement with Classwork, Co. to continue with the Classkick program during the 2021-22 school year. This will benefit students and teachers with the Hybrid and Distance Learning programs.

RECOMMENDATION:
Approve the license agreement renewal with Classwork, Co. for the Classkick Web Program for San Ysidro Middle School at the total cost of $1,501.00 from the Title I Fund.

LCAP GOAL AND ACTION/SERVICE:
Goal 1: Student Achievement, Action 1.19: Continue to provide supplemental programs and resources (i.e. Reading Renaissance, math manipulatives, etc.) to support student achievement in core content areas.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications? ☒ Yes ☐ No

Are funds for this item available in the 2020-2021 Budget? ☒ Yes ☐ No

Requisition #

$1,501.00 (Amount)

Title I Fund (Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

classkick

QUOTE

Vendor

Classwork, Co, DBA Classkick
Phone: 312.798.9620; Fax: 415.363.4321
Email: pro@classkick.com

School

San Ysidro Middle School
San Diego, CA, US

Quote #21412

Quote Issued: 02/01/2021
Quote Expires: 04/02/2021

Quote Order Details

Classkick Pro School Memberships are active upon purchase and end June 30th after the school year designated below. A school membership includes unlimited teachers and up to 1,500 students within each school.

In order to take advantage of any promotional discounts, this quote must be paid before the quote expiration date shown above.

Description	# of School Years	Qty	Quote Price
Classkick Pro School	1 school year Start: August 1, 2021 End: June 30, 2022	1	$2,001
Early renewal discount			-$500
Total			**$1,501**

Visit our FAQs for more details

1. Submit a purchase order

https://app.classkick.com/#/order/MOWBUD

2. Then mail check if not paying by credit card

Classwork, Co, DBA Classkick
2545 W. Diversey Ave. Suite 216
Area 21412
Chicago, IL 60647

In the check memo please include the Area number: 21412

Our W-9 below (page 2 of this quote) or you can download it at here: classkick.com/w9

By submitting a payment or purchase order, you are agreeing to the Classkick Terms of Service found at classkick.com/terms, the terms and conditions of which are hereby expressly incorporated herein by reference.

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

▶ Go to *www.irs.gov/FormW9* for instructions and the latest information.

Give Form to the requester. Do not send to the IRS.

Print or type. See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
Classwork Co

2 Business name/disregarded entity name, if different from above
Classkick

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC ☑ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.
2545 W Diversey Ave Ste 216 Area

Requester's name and address (optional)

6 City, state, and ZIP code
Chicago, IL 60647

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number
			-		-				

or

Employer identification number
4	6	-	3	5	5	0	5	4	0

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here Signature of U.S. person ▶ [signature] Date ▶ February 18, 2021

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/FormW9*.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, *later.*

Terms of Service

The following terms and conditions of service ("Terms of Service" or "Terms"), define the relationship between Classwork Co (doing business as Classkick ("Company," "Classkick," "our," "we," or "us")) and you.

Agreeing to our Terms

These terms explain how you are permitted to use any software that Classkick provides to you from a mobile device ("a mobile application"); the website located at the URL http://classkick.com as well as all associated sites linked to http://classkick.com by Classkick; and the services made available on or through these mobile applications and site (collectively, the "Service" or "Services").

When using the Service, you will also be subject to the Classkick Privacy Policy and any posted guidelines, policies or rules applicable to specific features of the Classkick Site or Classkick App, which may be posted from time to time (collectively the "Guidelines"). These Terms of Service, including any other Guidelines and future modifications (collectively, the "Agreement") govern your use of the Service and is a legal contract between you and Classkick. By using the mobile application, site, and the services, you are agreeing to all these terms; if you do not agree with any of these terms, do not access or otherwise use this mobile application, site, or any services available through this mobile application or site. If you are using the Service on behalf of an institution that has a separate written agreement with Classkick, the separate written agreement governs your use of the Service.

If you are under the age of 18, you represent that your legal guardian has reviewed and agreed to the Agreement. If you don't get your parent or guardian to read and agree to the Agreement, you don't have permission to use the Service. If you are entering into this Agreement on behalf of a company or other legal entity, you represent that you have the legal authority to bind such entity to these terms and conditions, in which case the terms "you", "your" or "Member" shall refer to such entity. If you do not have such authority, or if you do not agree with these terms and conditions, you must not accept this Agreement and may not use the Service.

In addition to these terms, your use of certain services, features, and content made available on or through the mobile application or site may be subject to additional or other terms and conditions; in such case, you will be notified and you will have an opportunity to review such additional terms.

Note: These terms contain a dispute resolution and arbitration provision, including class action waiver, that affects your rights under these terms and with respect to disputes you may have with Classkick. You may opt out of the binding individual arbitration and class action waiver as provided below.

Using the Service

As long as you are complying with all of the terms and conditions of this Agreement, Classkick gives you permission to access and use the Service that you select through the applicable registration process. The Service is available for your personal, noncommercial use.

We are constantly changing and improving our Services. We may add or remove functionalities or features, and we may suspend or stop a Service altogether, including, for example, if you do not comply with this Agreement or if we are investigating suspected misconduct. You can stop using our Service at any time. We may also stop providing Service to you, or add or create new limits to our Service or restrict your access to all or a part of the Service at any time without notice or liability. Access to and use of the Service itself is free, but in the future, we may offer new or additional special features which Classkick may charge for. Please also be aware that while we currently provide our mobile services for free, your carrier's normal rates and fees still apply, such as text messaging and data fees.
The right to access and use the Service is revoked in jurisdictions where it may be prohibited, if any.

Your Information and Content

In the course of using the Service, you and other users may provide or post certain content or information which may be used by Classkick in connection with the Service and which may be visible to certain other users ("User Submissions"). Please visit our Privacy Policy for additional information on the types of information different types of users are able to provide. Additionally, some User Submissions may be deemed an Education Record (as defined below).
You retain all ownership rights you have in any User Submissions. Classkick does not claim any ownership rights in the User Submissions.

In order to allow Classkick to provide the Service, you hereby grant to us a limited, non-exclusive, sublicensable (as necessary to perform the Service), worldwide, royalty-free, and transferable (only to a successor) right and license to (i) use, copy, store, distribute, publicly perform and display, modify, and create derivative works (such as changes we make so that your content works better with our Service) such User Submissions as necessary to provide, improve and make the Service available to you and other users, including through any future media in which the Service may be distributed, (ii) use and disclose metrics and analytics regarding the User Submissions in an aggregate or other non-personally identifiable manner (including, for use in improving our service or in marketing and business development purposes), (iii) use any User Submission (including any Education Record) that has been de-identified for any product development, research or other purpose; and (iv) use for other purposes permitted by the Classkick Privacy Policy. Classkick will only share and use your personally identifiable information in accordance with Classkick's current Privacy Policy at http://classkick.com/privacy-policy.

The license in (i) above will terminate when you delete any User Submissions with intellectual property rights (like photos or videos) ("IP content")), you or your Institution (as defined below) deletes an Education Record, you delete any personal information, or you delete your account, unless your content has been shared with others, and they have not deleted it. Note, however, that any User Submissions that may be in or related to messages sent through Classkick may be kept after you delete your account. When you delete IP content, Education Records, or personal information, it is deleted in a manner similar to emptying the recycle or trash bin on a computer. However, you understand that any removed User Submission may persist in backup copies for a reasonable period of time (but will not be available to others). You are responsible for making sure that you have all rights in the User Submissions, including the rights necessary for you to grant us the foregoing licenses to the User Submissions.

All information posted or transmitted through the Service is the responsibility of the person that posted it, and we will not be liable for any errors or omissions in any content. Classkick cannot guarantee the identity of any other users with whom you may interact in the course of using the Service, or the authenticity of any data which users may provide about themselves. You acknowledge that all content accessed by you using the Service is at your own risk and you will be solely responsible for any damage or loss to any party resulting therefrom. We do not guarantee that we will publish any of your User Submissions, and reserve the right to remove User Submissions from the Service at any time for any reason, such as if we receive a notice reports a User Submission infringes someone's intellectual property rights.
We always appreciate your feedback or other suggestions about Classkick, but you understand that we may use your feedback or suggestions without any obligation to compensate you for them.

Additional Terms by User Type
If you are a teacher, school leader, aide, or other similar personnel ("School Personnel") accessing the Service on behalf of a school, school district, or other similar educational institution (the "Institution"), and will use the Classkick Services as a classroom tool, the following terms apply to you:

- You represent, warrant, and covenant that you, as a teacher, educator, or school, have the authority to use the Classkick Services as a classroom tool. You agree that you are acting on behalf of (or have permission from) your Institution to enter into this Agreement and to use the Service as part of your curriculum.
- You further understand and acknowledge that COPPA prohibits online service providers from knowingly collecting personally identifiable information from children under 13 years of age without Consent and you will obtain Consent in the situations where the child is not creating an account, but you as School Personnel allow the child to access certain features of Classkick which may result in the collection of personal information from the child ("School Consent"). Classkick will not provide full access or use of the Service to children under the age of 13 that you invite or allow access to the Service if we learn that School Personnel or the Institution has not obtained School Consent.
- School Consent. You acknowledge and agree that when School Consent must be utilized to allow children under 13 to use the Service, you and/or the Institution will be solely responsible (and hereby agree that Classkick is not responsible) for obtaining School Consent in accordance with COPPA. By using the Classkick Services, you expressly consent to the collection, use, and disclosure of personal information as set forth in our COPPA Privacy Policy, available at http://classkick.com/coppa-privacy-policy, from those of your students under 13 that use Classkick Services as a classroom tool. You also agree to use the Classkick Services and any information you collect from children via the Classkick Services in accordance with our COPPA Privacy Policy, COPPA, and all applicable laws. This includes without limitation, limiting access to the Service to only those student users from whom School Personnel has received valid Consent and complying with all parental requests regarding the collection, use and disclosure of such parent's child's information. School Personnel or the Institution are responsible for disseminating necessary information regarding consent to the parents of potential student users, for confirming receipt of valid consent for each child before granting the student access to the Service, and for retaining any related consent forms on file. If a parent user does not consent or rescinds such School Consent, School Personnel or the Institution shall immediately notify Classkick to discontinue that student's access to the Service and ensure that such student's information is no longer accessible through the Services.

- Once you complete the registration process, the Services may enable you to send invitations to your Students via email, inviting such Students to register to use the Mobile Application, Site and Services. You agree that you will not use Classkick Services with any children under 13 years old, unless you are the teacher or an authorized representative of that child's school with authority to consent to the collection, use, and disclosure of personal information from such child in the context of your classroom or school.
- Only School Personnel who are current employees of the Institution may use the Service on the Institution's behalf. Upon termination of a teacher or other staff member's employment with the Institution, such individual must return and cease using all login details and student access he or she has in his or her possession. If at any time you learn a user of the Service claims to be affiliated with your Institution who is not, in fact, affiliated with your Institution, you will notify Classkick immediately. You will immediately cease using the Mobile Application, Site and Services when you are no longer a Teacher of the Students (unless you re-register for new Students at a different school in accordance with these Terms).
- You will not require any Students to register to use the Services; Students must be free to determine whether they wish to use the Services.
- You are responsible for maintaining the confidentiality of your password used to access the Mobile Application, Site and/or Services, and any Third-Party Site Passwords (collectively, "Passwords"), and you are responsible for all activities that occur using your Passwords. You agree not to share your Passwords, let others access or use your Passwords or do anything else that might jeopardize the security of your Passwords. You agree to notify Classkick if any of your Passwords are lost, stolen, if you are aware of any unauthorized use of your Passwords or if you know of, or suspect, any other breach of security in relation to the Mobile Applications, the Site or the Services.
- We may terminate a Teacher user account at any time and without warning for any failure to comply with these Terms.

If you are a student accessing the Service at the invitation of a teacher or other school official, the following terms apply to you:
Only students who have been invited, or given access to the Service, by their teacher, school, or district may use the Service. You may not access or use the Service unless you are invited or given access to the Service by a teacher, school, or district who is authorized to give you access to the Service.

- We request minimal personal information to be provided from students to access the Service: class code and name. Only students who have been invited, or given access to the Service, by their teacher, school, or district may sign up for an account on the Service. At that time, we request minimal personal information to be provided from students to sign up for an account on the Service: username, first name, last name, and password. If you are a student, please do not provide any personal information about yourself to us, other than what we request from you when you sign up for the Service or as directed by your teacher, school or district.
- The Children's Online Privacy Protection Act ("COPPA") prohibits online service providers from knowingly collecting personally identifiable information from children under 13 years of age without verifiable parental consent or notice as applicable ("Consent"). Consent may be obtained by a student's school if utilizing certain features of the Service without setting up an account, and must be obtained by a student's school if requesting that students sign up for an account on the Service.
- You are only permitted to use the Mobile Application, Site or Services as a student user ("Student") on condition that you are at least 13 years of age, or if you are under 13 years of age, your legal parent or guardian and/or Teacher has consented to your use of the Services.
- In addition to your other obligations specified in these Terms, by using the Mobile Application, Site or Services as a Student, you represent and warrant that: (i) you are a student who wishes to use the Mobile Application, Site or Services for your own personal educational purposes; (ii) you understand and agree that your use of the Mobile Application, Site and Services is governed by these Terms (please ask your Parent to explain these Terms if you do not understand them); and (iii) you will immediately cease using the Mobile Application, Site and Services when you no longer wish to use (or you are no longer permitted to use) the the Mobile Application, Site or Services for any reason.
- You acknowledge and agree that through the Teacher dashboard, and/or other features of the Mobile Application, Site or Services, Classkick and/or your Teacher may be able to review your activities using the Services.
- We may terminate a Student's access to the Mobile Application, Site or Services at any time and without warning for any failure to comply with these Terms.

If you are a parent of a student that has been invited to create an account on the Service or is given access to the Service by School Personnel, then the following terms apply to you:

- If your child is under the age of 13, Consent must be given in order for a student to use certain features of a Classkick student account. This Consent may be obtained from a student's School Personnel if utilizing certain features of the Service without setting up an account. If you are the parent or legal guardian of a child who has created an account with us and you did not receive a notification seeking your Consent, you can email us at support@classkick.com to have that child's account deleted. Please note that if you as a parent provide an email to School Personnel when the school is obtaining School Consent, we may send an email asking you to verify your

child's account, but you will not receive any other emails unless you have opted in to email marketing or have separately created an account on our Service.

- Information collected from students (including personal information and information collected automatically) is never used or disclosed for third-party advertising or any kind of first- or third-party behaviorally-targeted advertising, and personal information is never sold or rented to anyone, including marketers or advertisers. See our Privacy Policy for more details.
- You further agree that we may send you messages, alerts, and other communications through the Service, including via email, web alert, text messages, push notifications and other similar means, in accordance with the preferences you set through the Service, and you agree to accept such messages, and pay any applicable network access, data usage, or similar fees.

Age Restrictions

IYou may only use the Mobile Application, Site and Services (i) if you are at least 13 years of age; or (ii) if you are under 13 years of age, with the consent of your teacher or a legal parent or guardian. By using the Mobile Application, Site and Services, you hereby represent and warrant that you are at least 13 years of age or, if you are under 13 years of age, that you have the consent of your teacher, legal parent, or guardian to use the Mobile Application, Site and Services.

If you register, approve the registration of, or otherwise assume responsibility for any student, you represent and warrant that you are that student's legal parent or guardian; or, if you are a teacher or school, that you have the authority to consent to such student's use of the mobile application, site, and services, and you agree to be bound by these terms on behalf of such student, including without limitation being liable for all use of the mobile application, site, and services by such student.

f a teacher utilizes the Student Helpers feature in Classkick, other students may view the drawings, text, images, audio, or links added by other students in Classkick. Teachers may share their classes, including student work and feedback provided, with other teachers or school leaders in their school. If the teacher chooses to display Classkick through projecting to a whiteboard, for example, students physically present in that classroom may see other students' names, work, and feedback. Teachers can choose not to utilize Classkick in any of these ways.

Verification of Identity

You acknowledge that we may choose, but are not obligated, to make any inquiries, either directly or through third parties, that we deem necessary to validate any user's registration information, including without limitation engaging third parties to provide identity or other verification services. Classkick reserves all rights to take legal action against anyone who misrepresents personal information or is otherwise untruthful about their identity in connection with their use of the Services. Notwithstanding the foregoing, you acknowledge that Classkick cannot guarantee the accuracy of any information submitted by any user, or the identity of any user who chooses to use the services, and we are not obligated to verify the identity of any user.

Privacy

Your privacy is extremely important to us, and we take great care to limit what we collect and how we use it, and to enable you to understand our policies. Please read our Privacy Policy which explains how we treat your personal information and protect your privacy when you use our Service. By using our Service, you agree that Classkick can use such data in accordance with our Privacy Policy.

FERPA

Certain information that may be provided to Classkick by School Personnel that is directly related to a student and maintained by an Institution, may be considered an education record ("Education Record") under the Family Educational Rights and Privacy Act ("FERPA"). Additionally, certain information, provided to Classkick by School Personnel about a student, such as student name and grade level, may be considered directory information under FERPA ("Directory Information") and thus not an Education Record. A school may not generally disclose personally identifiable information from an eligible student's education records to a third party without written consent of the parent and/or eligible student or without meeting one of the exemptions set forth in FERPA ("FERPA Exemption(s)"), including the exemption for Directory Information ("Directory Information Exemption") or disclosure to school officials with a legitimate educational interest ("School Official Exemption").

As School Personnel or an Institution providing Directory Information or any Education Record to Classkick, you represent, warrant and covenant to Classkick, as applicable, that your Institution has:

- complied with the Directory Information Exemption, including, without limitation, informing parents and eligible students what information the Institution deems to be directory information and allowing parents and eligible students a reasonable amount of time to request that schools not disclose directory information about them; and/or
- complied with the School Official Exemption, including, without limitation, informing parents in their annual notification of FERPA rights that the Institution defines "school official" to include service providers and defines "legitimate educational interest" to include services such as the type provided by Classkick; or

- obtained all necessary parental or eligible student written consent to share the Directory Information and Educational Records with Classkick, in each case, solely to enable Classkick's operation of the Service.

Classkick will never share Education Records with third parties except (i) as directed by a Classkick user (i.e., teacher sharing with another teacher or parent); or (ii) to our service providers that are necessary for us to provide the Service, as stated in our Privacy Policy. Education Records are never used or disclosed for third party advertising or any kind of first- or third-party behaviorally-targeted advertising to students or parents. Additionally, information collected directly from a student using Classkick is never used or disclosed for third party advertising, or any kind of first- or third-party behaviorally-targeted advertising to the student, and personal information collected from a student is never sold or rented to anyone.

Classkick may use Education Records that have been de-identified for product development, research or other purposes ("De-Identified Data"). De-Identified Data will have all direct and indirect personal identifiers removed, this includes, but is not limited to, name, date of birth, demographic information, location information and school identity. Classkick agrees not to attempt to re-identify the De-Identified Data and not to transfer the De-Identified Data to a third party unless that party agrees not to attempt re-identification.

Registering to Use the Mobile Application, Site and Services

You do not need to register with Classkick to simply visit and view the Site. However, in order to use the Mobile Application, Services and Materials offered on and through the Mobile Application and site, teachers must register with Classkick to create an account. Students may be asked to register with Classkick to create an account if invited, or given access to the Service, by their teacher, school, or district.

As a condition to using Service, you may be required to register with Classkick and select a password and username or provide additional contact information ("Classkick User ID"). You must provide Classkick with accurate, complete, and updated Classkick User ID information. You may not select or use as a Classkick User ID a name of another person with the intent to impersonate that person. You will not provide any false information or create an account for anyone other than yourself without permission. Classkick reserves the right to refuse registration of or cancel a Classkick User ID in its discretion. You shall be responsible for maintaining the confidentiality of your password and will not share with anyone or let anyone else access your account. You may not transfer your account to anyone without express prior written consent of Company.

You represent, warrant and covenant all registration information you submit is truthful and accurate.

Termination of Accounts

You may close your user account at any time by following the account cancellation procedure on the Site or by contacting us at support@classkick.com, and requesting termination of your account. We may terminate your account any time and for any reason in our sole discretion. To the extent you have paid any fees to Classkick (as further specified below in these Terms) prior to termination of your account, you will not be entitled to any refund of such fees.

Refunds

Where we offer a month-by-month subscription-based service, we will charge your account at the beginning of the term and at the beginning of each renewal term thereafter until you cancel. You must cancel your subscription before it renews to avoid the billing of the next term's fees to your account. You will not receive a refund for any partial-term cancellation.

You may cancel a paid ANNUAL account within 30 days of beginning your subscription for a complete refund. If you purchased an annual membership, and your school later upgraded to a school membership, you may cancel for a prorated refund of up to $50. To do so, please email pro@classkick.com and provide the complete account and school information.

General Use

Classkick provides content through the Mobile Application, Site and Services that is copyrighted and/or trademarked work of Classkick, of Classkick's third-party licensors and suppliers, or of other users of the Services (collectively, the "Materials"). Materials may include without limitation, logos, graphics, video, images, software, and other content. Without limiting the foregoing, all lessons, exercises, games, blog, message board content, and related educational information made available on the Site and/or through the Services and all associated intellectual property and other proprietary rights are owned by Classkick, its third party licensors and suppliers, or other users of the Services, except that you retain ownership of any Submissions that you have provided as described below in these Term.

Subject to the terms and conditions of these Terms, and your compliance with these Terms, Classkick hereby grants you a limited, personal, nonexclusive and nontransferable license to use and to display the Materials and to use the Mobile Application, the Site and the Services solely for your personal educational use, which in the case of Teachers (as defined below) includes use for the benefits of each Teacher's Students (as defined below). Except for the foregoing license and the rights you retain to Submissions that you have provided, you have no other rights in the Site, Services, or any Materials and you may not modify, edit, copy, reproduce, create derivative works of, reverse engineer, alter, enhance, or in any way exploit any of the Site, Services, or Materials, or any part thereof, in any manner.

If you breach any of these Terms, the above license will terminate automatically and you must immediately destroy any downloaded or printed Materials and refrain from any further use of the Site, Services, and Materials.

Classkick Technology

The Service and the Classkick Technology are intended solely for the personal, educational use of our users and may only be used in accordance with this Agreement. "Classkick Technology" means all past, present and future content of the Service, including, all the software, hardware and technology used to provide the Service (including Classkick proprietary code and third-party software), user interfaces, materials displayed or performed on the Service, such as text, graphics, articles, photographs, images, illustrations and the design, structure, sequence and "look and feel" of the Services, and all other intellectual property, including all Classkick Marks. Classkick Technology is protected by copyright and other intellectual property laws. You are not allowed to use, store, copy, reproduce, modify, translate, publish, broadcast, transmit, distribute, perform, upload, create derivative works from, display, license, sell or otherwise exploit the Classkick Technology for any purposes other than as expressly permitted under this Agreement. You will not decompile, reverse engineer, or otherwise attempt to obtain the source code of any Classkick Technology. "Classkick Marks" means the trademarks, service marks, logos, or any other trade name, trademarks, service marks and other distinctive or proprietary brand features of Classkick.

Using our Service does not give you ownership of any intellectual property rights in our Service or the Classkick Technology. You may not use content from our Services, including User Submissions, unless you obtain permission from its owner or are otherwise permitted by law. These terms do not grant you the right to use any Classkick Marks. Don't remove, obscure, or alter any copyright or other legal notices displayed in or along with our Services.

Beta/Pilot Program

If you register for a "Beta," "Pilot," or other pre-release version of the Site, Services, and/or Materials (each, a "pre-release version"), you acknowledge and agree that the pre-release version may contain, in Classkick's sole discretion, more or fewer features, content, or different licensing terms than a subsequent commercial release version of the pre-release version that may be offered through the Site and/or Services. Classkick reserves the right to not release later commercial release versions of any pre-release version. Without limiting any disclaimer of warranty or other limitation stated in these Terms, you agree that any pre-release version is not considered by Classkick to be suitable for production use, and that it may contain errors affecting its proper operation.

By accepting these terms, you acknowledge and agree that a pre-release version may exhibit sporadic disruptions that have the potential to disrupt your use of the Services. Classkick specifically disclaims all damages resulting from your use of a pre-release version.

Fees

Classkick does not currently charge any fee to register to open a free account for the Mobile Application, Site and/or Services. However, in the future, Classkick may require you to submit payment information, and you may be required to pay fees to use certain features or content made available through the Site and Services. Classkick will either deduct payment from your credit or debit card, or invoice you for all chargeable Services. Timely payment must be made for access to the Services, or Services may be promptly suspended by Classkick. Upon notice to you, Classkick reserves the right to change its price list for certain Services and to institute new charges at any time, notice of which may be sent to you by email or posted on the Website. If you continue to use those Services after such notification, such use constitutes your consent to and acceptance of the new or increased charges. This Agreement does not include the provision by Classkick of any upgrades, updates, consulting services, customization or training. Such additional services may be available through separate agreements with Classkick. We reserve the right in our sole discretion to introduce fees for use of all or any portion(s) of the Site and/or Services at any time. We will notify you if we introduce any new fees or change existing fees. Such notification will take place as specified above in these Terms. However, we will never apply any new or higher fees to you retroactively.

Electronic Communications

By using the Mobile Application, Site, and Services, you hereby consent to receive electronic communications from Classkick. These electronic communications may include notices about applicable fees, taxes, other charges, transactional information, and other information concerning or related to the Mobile Application, Site, and Services. These electronic communications are part of your relationship with Classkick. You agree that any notices, agreements, disclosures, or other communications that we send you electronically will satisfy any legal communication requirements, including that such communications be in writing.

Marketing Communications

We may send periodic promotional or informational emails to teacher users. You may opt-out of such communications by following the opt-out instructions contained in the e-mail. Please note that it may take up to 10 business days for us to process opt-out requests. If you opt-out of receiving emails about recommendations or other information we think may interest you, we may still send you e-mails about your account or any Services you have requested or received from us.

Links to Third-Party Sites

The Mobile Application, Site, and/or Services may be linked to other websites that are not Classkick sites, including, without limitation, social networking, blogging, and similar websites through which you may be able to log into Mobile Applications or Sites using your existing account and login credentials for such third party websites, including without limitation, Google and Facebook (any and all of which of the foregoing listed websites may change from time-to-time) and websites that provide educational content and question-and-answer forum functionality (collectively, "Third-Party Sites"). Certain areas and features of the Site may allow you to interact and/or conduct transactions with such Third-Party Sites, and, if applicable, allow you to configure your privacy settings in your Third-Party Site account to permit your activities on the Site and Mobile Applications to be shared with your contacts in your Third-Party Site account and, in certain situations, you may be transferred to a Third-Party Site through a link but it may appear that you are still on the Site and Mobile Applications.

You acknowledge and agree that the Third-Party Sites may have different privacy policies, terms and conditions, and/or user guides and business practices than Classkick, and you further acknowledge and agree that your use of such Third-Party Sites is governed by the respective Third-Party Site privacy policy, terms and conditions, and/or user guides. You hereby agree to comply with any and all terms and conditions, users guides, and privacy policies of any of Third-Party Sites. Classkick is providing links to the Third-Party Sites to you as a convenience, and Classkick does not verify, make any representations about, or take responsibility for such Third-Party Sites, including, without limitation, the truthfulness, accuracy, quality, or completeness of the content, services, links displayed, and/or any other activities conducted on or through such Third-Party Sites.

You agree that neither Classkick nor the other Classkick parties shall, under any circumstances, be responsible or liable, directly or indirectly, to you or any third party, for any goods, services, information, resources, materials, and/or content available on or through any Third-Party Sites and/or Third-Party dealings or communications, or for any harm related thereto, or for any damages or loss caused or alleged to be caused by or in connection with your use or reliance on the products, services, content, or business practices of any Third Party.

Social Media

Classkick may, now or in the future, incorporate certain functions that allow you to interact with the Service through your accounts on certain supported third party services, such as social networks or network storage sites ("Linked Accounts"), such as with "Like" and "Share" buttons, or similar features. If you choose to use such features, you grant Classkick permission to access and use your Linked Account for the purpose of processing your requests. Your use of and privacy associated with such Linked Accounts is subject to the applicable third party terms and privacy policies.

Submissions

You are responsible for the information, opinions, messages, comments, photos, videos, graphics, sounds, lessons, educational materials and other content that you submit, upload, post, send, or otherwise make available on or through the the Mobile Application, Site, and/or Services (each a "Submission"). You may not upload, post, send or otherwise make available on the Mobile Application, Site, and/or Services, any material protected by copyright, trademark or any other intellectual property or other proprietary right without the express permission of the owner of such copyright, trademark, or other intellectual property or other proprietary right, and the burden of determining whether any material is protected by any such right is on you.

You agree to pay for all royalties, fees, damages, and any other monies owing to any person and/or entity by reason of any Submissions posted by you to or through the Mobile Application, the Site, and the Services. Without limiting the foregoing, you shall be solely liable for any and all claims, damage, and loss resulting from any infringement and/or misappropriation of copyrights, trademarks, and/or other proprietary rights, violation of contract, privacy, or publicity rights, or any other harm resulting from any Submission that you make. You have full responsibility for each Submission you make, including its legality, reliability, and appropriateness. Without limiting the foregoing, you are only permitted to make Submissions that are consistent with the educational purposes for which Classkick makes the Mobile Application, Site, and Services available.

Classkick's guiding philosophy is to promote education for children as broadly as possible. Accordingly, to the extent you provide Submissions that consist of lessons or other educational content, we encourage you to place such content in the public domain so that anyone may use it. Unless otherwise explicitly stated herein or in Classkick's Privacy Policy, you agree that any Submission provided by you in connection with these Services is provided on a non-confidential basis. You hereby grant to Classkick a non-exclusive, perpetual, irrevocable, royalty-free, fully paid-up, worldwide license (including the right to sublicense through multiple tiers) to reproduce, process, adapt, publicly perform, publicly display, modify, prepare derivative works of, publish, transmit, distribute, and otherwise use each of your Submissions, or any portion thereof, in any form, medium or distribution method now known or hereafter existing, known or developed, and authorize others to use the Submissions.

We may modify or adapt your Submissions in order to transmit, display, or distribute them over computer networks, in various media, and/or make changes to the Submissions as necessary to conform and adapt them to any requirements or limitations of any networks, devices, services, or media and/or otherwise modify them in any manner in our sole discretion. Classkick does not guarantee any confidentiality with respect to any Submissions.

For the avoidance of doubt and without limiting the foregoing, you acknowledge and agree that you retain ownership of your Submissions; provided however, that Classkick may use such Submissions in accordance with the foregoing license. By way of example only, Classkick may use any assignment (or any modification and/or derivative work thereof) submitted by a user through the Services for Classkick's benefit, without any fee, royalty, other payment, or attribution due to the submitting user; provided, however, that the submitting user may not compel any such use.
When you provide Submissions you agree that those Submissions shall not be in violation of the "Unauthorized Activities" paragraph below. Those prohibitions do not require Classkick to monitor, police, or remove any submissions or other information submitted by you or any other user.

Changes
Classkick may make changes to the content and Services offered on or through the Site and Mobile Application at any time. Classkick may also change, update, add, or remove provisions of these Terms at any time to, for example, reflect changes to the law or changes to our Services. If we change these Terms, we will use commercially reasonable efforts to notify you of such changes; for example, we may send you an email if you have registered with us to use our Services, or we may post a notice on the Site indicating that we changed our Terms. However, it is your responsibility to periodically check on the Site to see if these Terms have changed. Changes will become effective when (a) you use the Service after you know about the change, or (b) thirty days after they are posted (whichever is sooner). However, changes addressing new functions for a Service or changes made for legal reasons will be effective immediately. By using the Site and Mobile Application after Classkick has updated these Terms, you are agreeing to all the updated Terms; if you do not agree with any of the updated Terms, you must stop using the Mobile Application, Site and Services.
Classkick will not change how Education Records are used or shared under these Terms of Service without advance notice and consent from a School Official or Institution.

Your Warranty
You warrant, represent and agree that you will not provide any User Submissions or otherwise use the Service in a manner that:

- infringes, violates or misappropriates another's intellectual property rights, rights of publicity or privacy, or other rights;
- violates any international, federal, state or local law, statute, ordinance or regulation or which would render Company in violation of any applicable laws or regulations, including without limitation COPPA and FERPA;
- is harmful, fraudulent, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous, or otherwise objectionable; or
- jeopardizes the security of your account in any way, such as allowing someone else access to your account or password.

Additionally, you represent, warrant and agree that you:

- possess all rights necessary to provide your User Submissions and grant Classkick the rights above and
- you are solely responsible for compliance with the applicable provisions of COPPA as set forth above when obtaining School Consent.

Restrictions/Unauthorized Activities
We do our best to keep Classkick safe, but we cannot guarantee it. We need your help to keep Classkick safe, which includes the following commitments by you when using our Service:

- You will only use the Service as permitted by law, including applicable export or re-export control laws and regulations.
- You will not use the Service to post any materials that violate the copyright rights, trademark rights, or other intellectual property rights of any person without the express permission from the owner.
- You will not post unauthorized commercial communications (such as spam or advertisements) on or through the Service; or disseminate any unsolicited or unauthorized advertising, promotional materials, 'junk mail', 'spam', 'chain letters', 'pyramid schemes', or any other form of such solicitations.
- You will not use the Service to post anything that exploits children or minors or that depicts cruelty to animals.
- You will not collect users' content or information, or otherwise access the Service, using automated means (such as harvesting bots, robots, spiders, or scrapers) without our prior permission.
- You will not engage in unlawful multi-level marketing, such as a pyramid scheme, on the Service.
- You will not upload viruses or other malicious code, files or programs.
- You will not collect, solicit or otherwise obtain login information or access an account belonging to someone else.
- You will not collect, use or disclose data, including personal information, about other users without their consent or for unlawful purposes or in violation of applicable law or regulations.
- You will not defame, abuse, harass, stalk, threaten, or otherwise violate the legal rights (such as the rights of privacy and publicity) of others.

- You will not post content that: uses racially, ethnically, or otherwise offensive language; is hate speech, discriminating, threatening, or pornographic; uses explicit/obscene language; incites violence; or solicits or contains nudity, graphic or gratuitous violence, or sexually explicit images (actual or simulated).
- You will not use the Service to discuss or incite illegal activity, or do anything unlawful, deceptive, misleading, illegal, unethical, malicious, or discriminatory.
- You will not do anything that could disable, overburden, or impair the proper working or appearance of the Service or prevent other users from using the Service, such as a denial of service attack or interference with page rendering or other Service functionality; or take any action that imposes an unreasonable or disproportionately large load on our or our third-party service providers' infrastructure.
- You will not use the Service in any commercially unreasonable manner or in any manner that would disparage Classkick; or post, send, or otherwise communicate any Submission or other information contrary to our public image, goodwill or reputation, as determined by us in our sole discretion.
- You will not impersonate a Classkick employee, or any other person, or falsely state or otherwise misrepresent your affiliation with any person or entity.
- You will not facilitate or encourage any violations of this Agreement or our policies.

Any violation of the above may be grounds for termination of your right to access or use the Service. This list of prohibitions provides examples and is not complete or exclusive. Classkick reserves the right to: (i) terminate access to your account and your ability to post to the Mobile Application or the Site (or use the Services); and (ii) refuse, modify, delete, or remove any Submissions; with or without cause and with or without notice, for any reason or no reason, or for any action that Classkick determines is inappropriate or disruptive to the Mobile Application, Site, and/or Services or to any other user of the Mobile Application, Site, and/or Services. In addition to violating these Terms, any unauthorized use of any Materials may violate applicable laws, rules, and/or regulations.

Classkick may report to law enforcement authorities, or other Third Parties, any actions that may be illegal and any reports it receives of such conduct. When legally required or at Classkick's discretion, Classkick will cooperate with law enforcement authorities in any investigation of alleged illegal activity in connection with the Site, Services, or on the internet, with or without notice to you.

Indemnification

As permitted by law, you hereby agree to indemnify, defend, and hold harmless, Classkick, its parents, affiliates, subsidiaries, suppliers, licensors, and business partners, and its and their respective officers, directors, employees, and agents (collectively, the "Classkick Parties") from and against any and all costs, damages, liabilities, losses, and expenses (including without limitation attorneys' fees and costs of defense) any Classkick Party suffers in relation to, arising from, or for the purpose of avoiding, any claim or demand from a third party that your use of the Mobile Application, the Site and/or the Services, or the use of the Mobile Application, the Site and/or the Services, by any person using your user name and/or Password (including without limitation, your participation in the Interactive Features and your Submissions) violates any applicable law, rule or regulation, or the copyrights, trademark rights or other rights of any third party, including without limitation, the intellectual property, privacy, and/or publicity rights of any third party. For the avoidance of doubt, Teachers' foregoing indemnification obligations expressly extend to the acts and omissions of their Students for whom they are responsible in accordance with these Terms.

Disclaimer of Warranties

We provide our Service using a commercially reasonable level of skill and care and we hope that you will enjoy using them. But there are certain things that we don't promise about our Services. Your use of the Site and Mobile Applications and/or the Services is entirely at your own risk. The Materials have not been verified or authenticated in whole or in part by Classkick, and they may include inaccuracies or typographical or other errors. Classkick does not warrant the accuracy or timeliness of the Materials contained on the Site and Mobile Applications or otherwise made available through the Services. Classkick has no liability for any errors or omissions in the Materials, whether provided by Classkick, our licensors or suppliers or other users.

YOU ACKNOWLEDGE AND AGREE THAT CLASSKICK DOES NOT REPRESENT, WARRANT, COVENANT OR GUARANTEE THAT USING THE SITE AND/OR SERVICES WILL RESULT IN ANY IMPROVED PERFORMANCE BY ANY STUDENT OR WILL RESULT IN ANY PARTICULAR STUDENT ADVANCEMENT OR ATTAINMENT. THE SERVICE (AND ANY ASSOCIATED CONTENT OR SOFTWARE) ARE PROVIDED ON AN "AS IS," "AS AVAILABLE" AND "WHERE-IS" BASIS WITH NO WARRANTY OR IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS. CLASSKICK EXPRESSLY DISCLAIMS ALL WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, REGARDING THE CLASSKICK TECHNOLOGY, SERVICES, AND CONTENT, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF QUALITY, SUITABILITY, TRUTH, ACCURACY, PERFORMANCE, AVAILABILITY, MERCHANTABILITY, QUIET ENJOYMENT, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT, OR COMPLETENESS OF ANY INFORMATION OR CONTENT CONTAINED OR PRESENTED ON OR THROUGH THE MOBILE APPLICATIONS, THE SITE, AND/OR THE SERVICES, INCLUDING WITHOUT LIMITATION, THE MATERIALS AND SUBMISSIONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, CLASSKICK MAKES NO REPRESENTATION OR WARRANTY THAT THE SERVICES WILL MEET YOUR

REQUIREMENTS, BE ERROR FREE OR UNINTERRUPTED, THAT ALL ERRORS WILL BE CORRECTED OR THAT THE SERVICES ARE FREE FROM VIRUSES, SPYWARE OR MALWARE THAT MAY BE INSTALLED ON YOUR COMPUTER.

Some jurisdictions do not allow certain disclaimers and/or limitations of warranties and similar protections, so the foregoing may not apply to you; in such case, Classkick's warranties shall be limited to the greatest extent permitted under the applicable laws of such jurisdiction.

Limitation of Liability

UNDER NO LEGAL THEORY, INCLUDING, BUT NOT LIMITED TO NEGLIGENCE, SHALL CLASSKICK OR ITS SUCCESSORS, AFFILIATES, CONTRACTORS, EMPLOYEES, LICENSORS, PARTNERS OR AGENTS, BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY INDIRECT, EXTRAORDINARY, EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF BUSINESS, REVENUE, PROFITS, USE, DATA, OR OTHER ECONOMIC ADVANTAGE OR INTANGIBLE LOSSES (EVEN IF CLASSKICK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), ARISING FROM OR RELATING TO (i) THIS AGREEMENT; (ii) YOUR USE OR THE INABILITY TO USE THE SERVICES, CONTENT, OR USER SUBMISSIONS; OR (iii) ANY INTERACTION WITH ANY THIRD PARTY THROUGH OR IN CONNECTION WITH THE SERVICE, INCLUDING OTHER USERS. HOWEVER IT ARISES, WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER TORTIOUS ACTION, ARISING OUT OF OR IN CONNECTION WITH THE USE OF THE SITE, SERVICES AND/OR MATERIALS, INCLUDING WITHOUT LIMITATION, LIABILITY ASSOCIATED WITH ANY VIRUSES WHICH MAY INFECT YOUR COMPUTER EQUIPMENT OR DATA, EVEN IF CLASSKICK KNOWS THERE IS A POSSIBILITY OF SUCH DAMAGE.

IN ADDITION, IN NO EVENT SHALL CLASSKICK'S TOTAL CUMULATIVE LIABILITY ARISING UNDER OR IN CONNECTION WITH THESE TERMS, EXCEED THE GREATER OF: (I) ONE HUNDRED US DOLLARS (US$100); OR (II) THE TOTAL AMOUNT OF ANY FEES YOU HAVE PAID CLASSKICK FOR THE SERVICES DURING THE ONE (1) YEAR PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO CLASSKICK'S LIABILITY.

THIS SERVICE MAY CONTAIN TRANSLATIONS POWERED BY GOOGLE. GOOGLE DISCLAIMS ALL WARRANTIES RELATED TO THE TRANSLATIONS, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF ACCURACY, RELIABILITY, AND ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT.

Some jurisdictions do not allow certain limitations of liability, so the foregoing may not apply to you; in such case, Classkick's liability will be limited to the greatest extent permitted under the applicable laws of such jurisdiction.

Proprietary Rights

"Classkick" and associated logo(s) are trademarks owned by Classkick in the United States of America and in other countries. Other trademarks, names and logos on the Site and Mobile Applications are the property of their respective owners.

Unless otherwise expressly specified in these Terms, all information and screens appearing on the Site and Mobile Applications, including documents, services, site design, text, graphics, logos, images, and icons and all Materials, as well as the arrangement thereof, are the sole property of Classkick, Copyright © 2014. All rights not expressly granted herein are reserved. Except as otherwise required or limited by applicable law, any reproduction, distribution, modification, retransmission, or publication of any copyrighted material is strictly prohibited without the express prior written consent of the copyright owner or license.

The Mobile Application software that is provided to you through the Mobile Application, Site and Services and related documentation are "Commercial Items", as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, if you are a government entity, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users: (i) only as Commercial Items; and (ii) with only those rights as are granted to all other end users pursuant to the terms and conditions herein. Unpublished-rights reserved under the copyright laws of the United States of America.

Certain Materials that are not Submissions may be provided by third party licensors and suppliers to Classkick and your use of such Materials may be governed by separate and additional terms; you will be notified if such additional terms apply.

Intellectual Property Infringement

Classkick respects the intellectual property rights of others, and we ask you to do the same. Classkick may, in appropriate circumstances and at our discretion, terminate service and/or access to the Mobile Application, the Site and the Services for users who infringe or misappropriate the intellectual property rights of others. If you believe that your work is the subject of copyright infringement and/or trademark infringement and appears on our Site or is otherwise made available through the Services, please provide Classkick's designated agent with the following information:

- A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- Identification of the copyrighted and/or trademarked work claimed to have been infringed, or, if multiple works at a single online site are covered by a single notification, a representative list of such works at that site.

- Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled at the Site, and information reasonably sufficient to permit Classkick to locate the material.
- Information reasonably sufficient to permit Classkick to contact you as the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which you may be contacted.
- A statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright and/or trademark owner, its agent, or the law.
- A statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

Classkick's agent for notice of claims of copyright or trademark infringement on the Site and Mobile Applications can be reached at support@classkick.com.
Please also note that for copyright infringements under Section 512(f) of the Copyright Act, any person who knowingly materially misrepresents that material or activity is infringing may be subject to liability.

Submitting a DMCA Counter-Notification
We will notify you that we have removed or disabled access to copyright-protected material that you provided, if such removal is pursuant to a valid DMCA take-down notice that we have received. If you receive such notice from us, you may provide us with a counter-notification in writing to the Classkick designated agent specified above, that includes all of the following information:

1. Your physical or electronic signature;
2. Identification of the material that has been removed or to which access has been disabled, and the location at which the material appeared before it was removed or access to it was disabled;
3. A statement from you under the penalty of perjury, that you have a good faith belief that the material was removed or disabled as a result of a mistake or misidentification of the material to be removed or disabled; and
4. Your name, physical address and telephone number, and a statement that you consent to the jurisdiction of a court for the judicial district in which your physical address is located, or if your physical address is outside of the United States of America, for any judicial district in which Classkick may be located, and that you will accept service of process from the person who provided notification of allegedly infringing material or an agent of such person.

Termination of Repeat Infringers
Classkick reserves the right, in its sole discretion, to terminate the account or access of any user of our Site and/or Services who is the subject or repeated DMCA or other infringement notifications.

Local Laws
Classkick controls and operates the Site and Mobile Applications from its headquarters in the United States of America and the Mobile Application, Site and Services may not be appropriate or available for use in other locations. If you use this Mobile Application, Site or Services outside the United States of America, you are responsible for following applicable local laws, rules and regulations.

Feedback
If you send or transmit any communications, comments, questions, suggestions, or related materials to Classkick, whether by letter, email, telephone, or otherwise (collectively, "Feedback"), suggesting or recommending changes to the Mobile Application, Site or Services, including, without limitation, new features or functionality relating thereto, all such Feedback is, and will be treated as, non-confidential and nonproprietary. You hereby assign all right, title, and interest in, and Classkick is free to use, without any attribution or compensation to you, any ideas, know-how, concepts, techniques, or other intellectual property and proprietary rights contained in the Feedback, whether or not patentable, for any purpose whatsoever, including but not limited to, developing, manufacturing, having manufactured, licensing, marketing, and selling, directly or indirectly, products and services using such Feedback. You understand and agree that Classkick is not obligated to use, display, reproduce, or distribute any such ideas, know-how, concepts, or techniques contained in the Feedback, and you have no right to compel such use, display, reproduction, or distribution. The terms of this paragraph shall not apply to your Submissions which are governed by the terms set forth above under "Submissions".

Dispute Resolution and Arbitration: Class Action Waiver

PLEASE READ THIS CAREFULLY. IT AFFECTS YOUR RIGHTS.
Most customer concerns can be resolved quickly and to a customer's satisfaction by contacting us at support@classkick.com. This arbitration agreement (the "Provision") facilitates the prompt and efficient resolution of any Disputes (as defined below) that may arise between you and Classkick. Arbitration is a form of private dispute resolution in which persons with a dispute waive their rights to file a lawsuit, to proceed in court and to a jury trial, and instead submit their disputes to a neutral third person (or arbitrator) for a binding decision. You have the right to opt-

out of this Provision (as explained below), which means you would retain your right to litigate your disputes in a court, either before a judge or jury.
Please read this Provision carefully. It provides that all Disputes between you and Classkick shall be resolved by binding arbitration. Arbitration replaces the right to go to court. In the absence of this Provision, you may otherwise have a right or opportunity to bring claims in a court, before a judge or jury, and/or to participate in or be represented in a case filed in court by others (including, but not limited to, class actions). Except as otherwise provided, entering into this Provision constitutes a waiver of your right to litigate claims and all opportunity to be heard by a judge or jury. There is no judge or jury in arbitration, and court review of an arbitration award is limited. The arbitrator must follow this Provision and can award the same damages and relief as a court (including attorney's fees).
For the purpose of this Provision, "Classkick" means Classkick and its parents, subsidiaries, and affiliate companies, and each of their respective officers, directors, employees, and agents. The term "Dispute" means any dispute, claim, or controversy between you and Classkick regarding any aspect of your relationship with Classkick, whether based in contract, statute, regulation, ordinance, tort (including, but not limited to, fraud, misrepresentation, fraudulent inducement, or negligence), or any other legal or equitable theory, and includes the validity, enforceability or scope of this Provision (with the exception of the enforceability of the Class Action Waiver clause below). "Dispute" is to be given the broadest possible meaning that will be enforced, and shall include any claims against other parties relating to services or products provided or billed to you (such as Classkick's licensors, suppliers, dealers or third party vendors) whenever you also assert claims against us in the same proceeding.

WE EACH AGREE THAT, EXCEPT AS PROVIDED BELOW, ANY AND ALL DISPUTES, AS DEFINED ABOVE, WHETHER PRESENTLY IN EXISTENCE OR BASED ON ACTS OR OMISSIONS IN THE PAST OR IN THE FUTURE, WILL BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION RATHER THAN IN COURT IN ACCORDANCE WITH THIS PROVISION.

Pre-Arbitration Claim Resolution
For all Disputes, whether pursued in court or arbitration, you must first give Classkick an opportunity to resolve the Dispute. You must commence this process by emailing notification to support@classkick.com. That notification must include: (i) your name; (ii) your address; (iii) a written description of your claim; and (iv) a description of the specific relief you seek. If Classkick does not resolve the Dispute within forty-five (45) days after it receives your notification, you may pursue your Dispute in arbitration. You may pursue your Dispute in a court only under the circumstances described below.

Exclusions from Arbitration/Right to Opt Out
Notwithstanding the above, you or Classkick may choose to pursue a Dispute in court and not by arbitration if: (i) the Dispute qualifies, it may be initiated in small claims court; or (ii) YOU OPT-OUT OF THESE ARBITRATION PROCEDURES WITHIN 30 DAYS FROM THE DATE THAT YOU FIRST CONSENT TO THESE TERMS (the "Opt-Out Deadline"). You may opt out of this Provision by emailing notification to support@classkick.com. Your written notification must include: (a) your name; (b) your address; and (c) a clear statement that you do not wish to resolve disputes with Classkick through arbitration. Your decision to opt-out of this Arbitration Provision will have no adverse effect on your relationship with Classkick. ANY OPT-OUT REQUEST RECEIVED AFTER THE OPT-OUT DEADLINE WILL NOT BE VALID AND YOU MUST PURSUE YOUR DISPUTE IN ARBITRATION OR SMALL CLAIMS COURT.

Arbitration Procedures
If this Provision applies and the Dispute is not resolved as provided above (Pre-Arbitration Claim Resolution) either you or Classkick may initiate arbitration proceedings. The American Arbitration Association ("AAA"), www.adr.org, or JAMS, www.jamsadr.com, will arbitrate all Disputes, and the arbitration will be conducted before a single arbitrator. The arbitration shall be commenced as an individual arbitration, and shall in no event be commenced as a class arbitration. All issues shall be for the arbitrator to decide, including the scope of this Provision.
For arbitration before the AAA, for Disputes of less than $75,000, the AAA's Supplementary Procedures for Consumer-Related Disputes will apply; for Disputes involving $75,000 or more, the AAA's Commercial Arbitration Rules will apply. In either instance, the AAA's Optional Rules For Emergency Measures Of Protection shall apply. The AAA rules are currently available at www.adr.org or by calling 1-800-778-7879. For arbitration before JAMS, the JAMS Comprehensive Arbitration Rules & Procedures and the JAMS Recommended Arbitration Discovery Protocols For Domestic, Commercial Cases will apply. The JAMS rules are currently available at www.jamsadr.com or by calling 1-800-352-5267. This Provision governs in the event it conflicts with the applicable arbitration rules. Under no circumstances will class action procedures or rules apply to the arbitration.
Because the Mobile Application, Site, Services and these Terms concern interstate commerce, the Federal Arbitration Act ("FAA") governs the arbitrability of all Disputes. However, the arbitrator will apply applicable substantive law consistent with the FAA and the applicable statute of limitations or condition precedent to suit.
Arbitration Award. The arbitrator may award on an individual basis any relief that would be available pursuant to applicable law, and will not have the power to award relief to, against or for the benefit of any person who is not a party to the proceeding. The arbitrator will make any award in writing but need not provide a statement of reasons unless

requested by a party. Such award will be final and binding on the parties, except for any right of appeal provided by the FAA, and may be entered in any court having jurisdiction over the parties for purposes of enforcement.
Location of Arbitration: You or Classkick may initiate arbitration in either Cook County, Illinois or the federal judicial district that includes your billing address. In the event that you select the federal judicial district that includes your billing address, Classkick may transfer the arbitration to Cook County, Illinois in the event that it agrees to pay any additional fees or costs you incur as a result of the transfer, as determined by the arbitrator.
Payment of Arbitration Fees and Costs: Classkick will pay all arbitration filing fees and arbitrator's costs and expenses upon your written request given prior to the commencement of the arbitration. You are responsible for all additional fees and costs that you incur in the arbitration, including, but not limited to, your attorneys' and/or expert witnesses' fees and costs. Fees and costs may be awarded as provided pursuant to applicable law. In addition to any rights to recover fees and costs under applicable law, if you provide notice and negotiate in good faith with Classkick as provided in the section above titled "Pre-Arbitration Claim Resolution" and the arbitrator concludes that you are the prevailing party in the arbitration, you will be entitled to recover reasonable attorneys' fees and costs as determined by the arbitrator.

Class Action Waiver: Except as otherwise provided in this Provision, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a class or representative proceeding or claims (such as a class action, consolidated action or private attorney general action) unless both you and Classkick specifically agree to do so following initiation of the arbitration. IF YOU CHOOSE TO PURSUE YOUR DISPUTE IN COURT BY OPTING OUT OF THIS ARBITRATION PROVISION, AS SPECIFIED ABOVE, THIS CLASS ACTION WAIVER WILL NOT APPLY TO YOU. Neither you, nor any other user of the Mobile Application, Site or Services can be a class representative, class member, or otherwise participate in a class, consolidated, or representative proceeding without having complied with the opt-out requirements above.
Jury Waiver: You understand and agree that by entering into this Agreement you and Classkick are each waiving the right to a jury trial or a trial before a judge in a public court. In the absence of this Provision, you and Classkick might otherwise have had a right or opportunity to bring Disputes in a court, before a judge or jury, and/or to participate or be represented in a case filed in court by others (including class actions). Except as otherwise provided below, those rights are waived. Other rights that you would have if you went to court, such as the right to appeal and to certain types of discovery, may be more limited or may also be waived.
Severability: If any clause within this Provision (other than the Class Action Waiver clause above) is found to be illegal or unenforceable, that clause will be severed from this Provision, and the remainder of this Provision will be given full force and effect. If the Class Action Waiver clause is found to be illegal or unenforceable, this entire Provision will be unenforceable and the Dispute will be decided by a court.
Continuation: This Provision shall survive the termination of these Terms with Classkick and your termination of your use of the Mobile Application, Site and Services. Notwithstanding any provision in this Agreement to the contrary, we agree that if Classkick makes any change to this Provision (other than a change to the notice address), you may reject any such change and require Classkick to adhere to the language in this Provision if a dispute between us arises.

General
Classkick prefers to inform you if we feel that you are not complying with these Terms and to recommend any necessary corrective action. However, certain violations of these Terms, as determined by Classkick in our sole discretion, may result in immediate termination of your access to the Mobile Application, Site and Services without prior notice to you. The Federal Arbitration Act, Illinois state law and applicable U.S. federal law, without regard to the choice or conflicts of law provisions thereof, will govern these Terms. Foreign laws do not apply. The United Nations Convention on Contracts for the International Sale of Goods and any laws based on the Uniform Computer Information Transactions Act (UCITA) shall not apply to these Terms. Except for Disputes subject to arbitration as described above, any disputes relating to these Terms or the Mobile Application, Site or Services will be heard in the courts located in Cook County in the State of Illinois. If any of these Terms is found to be inconsistent with applicable law, then such term shall be interpreted to reflect the intentions of the parties, and no other terms will be modified. Classkick's failure to enforce any of these Terms is not a waiver of such term. These Terms are the entire agreement between you and Classkick in respect of the Mobile Application, Site and Services and supersede all prior or contemporaneous negotiations, discussions or agreements between you and Classkick relating thereto. The proprietary rights, disclaimer of warranties, representations made by you, indemnities, limitations of liability and general provisions, and any other terms which by their nature are intended to survive, shall survive any termination of these Terms.
Apple and the Apple logo are trademarks of Apple Inc., registered in the U.S. and other countries. App Store is a service mark of Apple Inc.

Contact Us
If you have any questions about these Terms or otherwise need to contact Classkick for any reason, you can reach us at support@classkick.com.
Effective Date: May 15, 2017

MSSAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
San Ysidro Middle School
Maria Rodriguez, Principal

☐ Informational
☒ Action

AGENDA ITEM: AGREEMENT WITH PEAR DECK, INC. FOR SUBSCRIPTION ACCESS FOR SAN YSIDRO MIDDLE SCHOOL

BACKGROUND INFORMATION:
Pear Deck is an educational technology company offering a web-based application to K-12 schools and teachers. Pear Deck is a platform for engaging every student, every day, it is easy for teachers to connect with students and deliver powerful learning moments with formative assessments and interactive questions that let them see, in real time, how every student in the class is doing.

The Principal at San Ysidro Middle School is requesting approval to enter into this agreement with Pear Deck, Inc. for a Full Premium Subscription Access for teachers and staff.

RECOMMENDATION:
Approve the agreement with Pear Deck, Inc. for the Full Premium Subscription Access at San Ysidro Middle School during the 2021-22 school year at the total cost of $2,107.00 from the Title I fund.

LCAP GOAL AND ACTION/SERVICE:
Goal 1: Student Achievement ~ Action 1.10: Continue to provide supplemental programs and resources (i.e., Reading Renaissance, math manipulatives, etc.) to support student achievement in core content areas.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications? ☒ Yes ☐ No

Are funds for this item available in the 2020-2021 Budget? ☒ Yes ☐ No

Requisition #

$2,107.00 (Amount)

Title I Fund (Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

ORDER FORM

QUOTE # Q-161232
DATE 4/8/2021
EXPIRATION DATE 5/8/2021

Bill To
San Ysidro Middle School
4345 Otay Mesa Rd
San Ysidro, California 92173
United States

Ship To
San Ysidro Middle School
4345 Otay Mesa Rd
San Ysidro, California 92173-1686
United States

PearDeck, Inc.
2030 E. Maple Ave
El Segundo, CA 90245
United States

Founded by educators, Pear Deck is a platform for engaging every student, every day. Our mission and methods are backed by our experience in the classroom and our understanding of how schools and districts use technology. Pear Deck makes it easy for your teachers to connect with students and deliver powerful learning moments with formative assessments and interactive questions that let them see, in real time, how every student in the class is doing.

Description	Line Notes	Start Date	End Date	Discount	Line Total
Pear Deck Subscription	Premium Subscription Access for all staff including immediate access upon signing	7/1/2021	6/30/2022	0%	$2,107.00
Webinar		--	--	100%	$0.00
				TOTAL (USD):	$2,107.00

Additional Notes:
Site license for the 2021-22 school year with Spring 2021 access

Terms and Conditions

Terms By signing below, the undersigned agrees to be bound by the Pear Deck Terms of Service ("Terms of Service") which are incorporated by this reference herein. Current versions of the Terms of Service are located here. The Terms of Service contain certain terms and conditions not set forth in this Order Form. Pear Deck's rights and responsibilities, and your rights and responsibilities, are as set forth in this Order Form and in the Terms of Service.

AUTHORITY

The undersigned represents and warrants that the undersigned has full power and authority to execute this Order Form and to bind the above-referenced school, district, or organization, as the case may be, to the terms of this Order Form and the Terms of Service.

INVOICES

At the election of the undersigned, invoices shall be sent on either a monthly or annual basis. Invoices shall be payable within 30 days of the Invoice date, and are considered late after that date. Late invoices incur a fee of 2% (or the highest rate permitted by law, if less) and Pear Deck services may be disabled after 60 days of non-payment.

SALES TAX EXEMPT

My school, district, or organization is exempt from my state's sales tax.

AUTOMATIC RENEWAL

ORDER FORM

QUOTE # Q-161232
DATE 4/8/2021
EXPIRATION DATE 5/8/2021

Pear Deck

Pear Deck will automatically send me an invoice 1 month before my renewal date with a cap on fee increases of no more than 7% per year. Renewal may be cancelled anytime with (**"60 days notice"**) to Pear Deck.

Name : Marilyn Adrianzen, CBO

Signature : _____

Date : _____

PO (optional) : _____

Board approved: _____

Next Step

Please send the signed quote to Susan Casey at scasey@goguardian.com

FOR FOLLOW-UP QUESTIONS

Please contact our Finance Team at finance@peardeck.com

PRIVACY

Our Policy is HERE. If you have a custom Privacy Rider, please send to Privacy@peardeck.com

W9 Form: https://goo.gl/CcVw9m

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Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

▶ Go to *www.irs.gov/FormW9* for instructions and the latest information.

Give Form to the requester. Do not send to the IRS.

Print or type. See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
Pear Deck, Inc.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC ☑ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.
2030 E. Maple Ave

Requester's name and address (optional)

6 City, state, and ZIP code
El Segundo, CA 90245

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number
[ ][ ][ ] - [ ][ ] - [ ][ ][ ][ ]

or

Employer identification number
4 6 - 4 4 7 6 5 6 8

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here Signature of U.S. person ▶ Sam Weitzel Date ▶ January 7, 2021

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/FormW9*.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, *later.*

Pear Deck Terms of Service

Last modified: November 12, 2018

1. Your relationship with Pear Deck

1.1 Your use of Pear Deck's products, software, services and web sites (referred to collectively as the "Services" in this document) is subject to the terms of a legal agreement between you and Pear Deck. "Pear Deck" means Pear Deck Inc., whose principal place of business is at 320 E. Prentiss Street, Iowa City, IA 52240, United States. This document explains how the agreement is made up, and sets out some of the terms of that agreement.
1.2 These Terms of Service form a legally binding agreement between you and Pear Deck in relation to your use of the Services. It is important that you take the time to read them carefully. This legal agreement is referred to below as the "Terms".

IMPORTANT NOTE REGARDING CHILDREN
1.3 Generally. Our Site offers certain Services to schools for the benefit of the schools and their students. In providing such educational Services, we may collect personal information from students. In order to collect, use, or disclose personal information from users under 13 years of age ("Children"), we are required to comply with the Federal Trade Commission Children's Online Privacy Protection Act ("COPPA"). Please read this Children's Privacy Policy carefully as it explains (a) our practices regarding the collection, use, and disclosure of personal information from Children who use the Service, (b) the Child's parent's or guardian's ("Parent's") ability to limit the collection, use and disclosure of personal information collected from their Children, and (c) the role of the Child's school ("School") in this process.

1.4 Parents. If your Child wants to use our Services, he/she must first get an Account from her school. Please contact your Child's school for an Account. Please also review Pear Deck's Children's Privacy Policy.
1.5 Schools. If you are accepting this Agreement on behalf of a School:
(a) You represent and warrant that: (i) you have read Pear Deck's Privacy Policy; and (ii) with respect to students at your School who are Children and are using this Site ("Child Students"), the School has the authority to act as the agent of the Child Students' Parents, for the purposes of COPPA compliance, including the following purposes: (1) for receiving notice of our policies regarding the collection, use and disclosure of personal information from their Children through the Service, and any changes to such policies; (2) for providing consent to such collection, use and disclosure; (3) for revoking the foregoing consent; (4) for requesting to review the personal information collected from their Children; and (5) for requesting to delete the personal information collected from their Children.
(b) You agree to use the Service solely for the benefit of your School and the students in your School, and not for commercial purposes. If at any time your School does not have the authority to act as the agent of a Child Student's Parent, you agree to notify us immediately.
(c) You, on behalf of the School (on behalf of each Child Student's Parent), hereby (i) consent to the collection, use and disclosure of personal information of Child Students, through the Site, in accordance with the Children's Privacy Policy and (ii) agree that the Child Student's online activities are subject to these Terms of Use.

2. Accepting the Terms

2.1 In order to use the Services, you must first agree to the Terms. You may not use the Services if you do not accept the Terms.
2.2 You can accept the Terms by:
(A) clicking to accept or agree to the Terms, where this option is made available to you by Pear Deck in the user interface for any Service; or
(B) by actually using the Services. In this case, you understand and agree that Pear Deck will treat your use of the Services as acceptance of the Terms from that point onwards.
2.3 You may not use the Services and may not accept the Terms if (a) you are not of legal age to form a binding contract with Pear Deck, or (b) you are a person barred from receiving the Services under the laws of the United States or other countries including the country in which you are resident or from which you use the Services.
2.4 Before you continue, you should print off or save a local copy of the Terms for your records.

3. Language of the Terms

3.1 Where Pear Deck has provided you with a translation of the English language version of the Terms, then you agree that the translation is provided for your convenience only and that the English language versions of the Terms will govern your relationship with Pear Deck.
3.2 If there is any contradiction between what the English language version of the Terms says and what a translation says, then the English language version shall take precedence.

4. Provision of the Services by Pear Deck

4.1 Pear Deck is constantly innovating in order to provide the best possible experience for its users. You acknowledge and agree that the form and nature of the Services which Pear Deck provides may change from time to time without prior notice to you.
4.2 As part of this continuing innovation, you acknowledge and agree that Pear Deck may stop (permanently or temporarily) providing the Services (or any features within the Services) to you or to users generally at Pear Deck's sole discretion, without prior notice to you. You may stop using the Services at any time. You do not need to specifically inform Pear Deck when you stop using the Services.
4.3 You acknowledge and agree that if Pear Deck disables access to your account, you may be prevented from accessing the Services, your account details or any files or other content which is contained in your account.
4.4 You acknowledge and agree that while Pear Deck may not currently have set a fixed upper limit on the number of transmissions you may send or receive through the Services or on the amount of storage space used for the provision of any Service, such fixed upper limits may be set by Pear Deck at any time, at Pear Deck's discretion.

5. Use of the Services by you

5.1 In order to access certain Services, you may be required to provide information about yourself (such as identification or contact details) as part of the registration process for the Service, or as part of your continued use of the Services. You agree that any registration information you give to Pear Deck will always be accurate, correct and up to date.
5.2 You agree to use the Services only for purposes that are permitted by (a) the Terms and (b) any applicable law, regulation or generally accepted practices or guidelines in the relevant jurisdictions (including any laws regarding the export of data or software to and from the United States or other relevant countries).
5.3 You agree not to access (or attempt to access) any of the Services by any means other than through the interface that is provided by Pear Deck, unless you have been specifically allowed to do so in a separate agreement with Pear Deck. You specifically agree not to access (or attempt to access) any of the Services through any automated means (including use of scripts or web crawlers) and shall ensure that you comply with the instructions set out in any robots.txt file present on the Services.
5.4 You agree that you will not knowingly engage in any activity that interferes with or disrupts the Services (or the servers and networks which are connected to the Services).
5.5 Unless you have been specifically permitted to do so in a separate agreement with Pear Deck, you agree that you will not reproduce, duplicate, copy, attempt to create a substitute or similar service through use of or access to, sell, trade or resell the Services for any purpose.
5.6 You agree that you are solely responsible for (and that Pear Deck has no responsibility to you or to any third party for) any breach of your obligations under the Terms and for the consequences (including any loss or damage which Pear Deck may suffer) of any such breach.
5.7 You agree that you will not, and will use reasonable efforts to make sure a third party does not, use the Services to store or transfer any data that is controlled for export under any export or reexport control law or regulation. You are solely responsible for any compliance with the Health Insurance Portability and Accountability Act of 1996 and any regulations thereunder, as may be amended from time to time.
5.8 You agree that you are responsible for your own conduct and Content while using the Services and for any consequences thereof. You agree to use the Services only for purposes that are legal, proper and in accordance with these Terms.

6. Billing and Payment

6.1 If you select a paid Services level, you may choose to subscribe and pay for the Services on either a monthly or annual basis and Pear Deck will bill the account administrator in advance for use of the Services. Pear Deck reserves the

right to modify pricing at any time, provided however that Pear Deck will notify the account administrator of a paid level account by email prior to any monthly or annual price increase affecting that account. If you upgrade to a higher paid level or tier, Pear Deck will credit any remaining balance from your previous subscription payment to your new level or tier. You may choose to discontinue your paid level account at any time; however, Pear Deck does not issue refunds for unused subscription periods.
6.2 You agree to maintain valid and up-to-date billing information on file with Pear Deck. You may update this billing information at any time in your Account settings.
6.3 All payments due are in U.S. dollars unless otherwise indicated on the subscription pricing page or invoice.
a. Credit Card or Debit Card. Fees for accounts where you are paying with a credit card, debit card or other non-invoice form of payment are due at the beginning of the month for which Services will be provided to you. For credit cards, or debit cards: (i) Pear Deck will charge you for all fees when due at the beginning of each service month or year, as applicable; and (ii) these fees are considered delinquent if not received at the start of each service month or year.
b. Invoices. Payments for invoices are due thirty days after the invoice date, unless otherwise specified, and are considered delinquent after such date.
c. Renewal. For paid levels, at the end of each annual or monthly subscription period (as applicable), the Services will automatically renew for an additional year or month, respectively. If you wish to change your subscription level or term, the account administrator must change the settings in the account administration console provided as part of the Services.
d. Other Forms of Payment. Pear Deck may enable other forms of payment by making them available in the account administration and payments page. These other forms of payment may be subject to additional terms which you may have to accept prior to using the additional forms of payment.
6.4 Delinquent payments may bear interest at the rate of one-and-one-half percent per month (or the highest rate permitted by law, if less) from the payment due date until paid in full. You will be responsible for all reasonable expenses (including attorneys' fees) incurred by Pear Deck in collecting such delinquent amounts, except where such delinquent amounts are due to Pear Deck's billing inaccuracies.
6.5 Pear Deck will endeavor to notify you (or in the case of a Team account, your account administrator) if your paid account has delinquent fees. If delinquent fees are not paid, Pear Deck will automatically downgrade your account to a free Pear Deck account and/or suspend your use of the Services.
6.6 You are responsible for any taxes, duties, and customs fees associated with the sale of the Services (other than Pear Deck's income tax) (collectively "Taxes"), and you will pay Pear Deck for the Services without any reduction for Taxes. If Pear Deck is obligated to collect or pay Taxes, the Taxes will be invoiced to you, unless you provide Pear Deck with a valid tax exemption certificate authorized by the appropriate taxing authority. If you are required by law to withhold any Taxes from your payments to Pear Deck, you must provide Pear Deck with an official tax receipt or other appropriate documentation to support such payments.
6.7 These billing and payment terms may not apply if you are not subscribing to the Services directly from Pear Deck.

7. Your passwords and account security

7.1 You agree and understand that you are responsible for maintaining the confidentiality of passwords associated with any account you use to access the Services.
7.2 Accordingly, you agree that you will be solely responsible to Pear Deck for all activities that occur under your account.
7.3 If you become aware of any unauthorized use of your password or of your account, you agree to notify Pear Deck immediately at help@peardeck.com.

8. Privacy and your personal information

8.1 For information about Pear Deck's data protection practices, please read Pear Deck's privacy policy at https://github.com/peardeck/policies/blob/master/privacy-policy.md. This policy explains how Pear Deck treats your personal information, and protects your privacy, when you use the Services.
8.2 You agree to the use of your data in accordance with Pear Deck's privacy policies.

9. Content in the Services

9.1 You understand that all information (such as data files, fonts, written text, computer software, music, audio files, image files or other sounds, photographs, videos or other images) which you may have access to as part of, or through

your use of, the Services are the sole responsibility of the person from which such content originated. All such information is referred to below as the "Content".
9.2 You should be aware that Content presented to you as part of the Services, including but not limited to advertisements in the Services and sponsored Content within the Services may be protected by intellectual property rights which are owned by the sponsors or advertisers who provide that Content to Pear Deck (or by other persons or companies on their behalf). You may not modify, rent, lease, loan, sell, distribute or create derivative works based on this Content (either in whole or in part) unless you have been specifically told that you may do so by Pear Deck or by the owners of that Content, in a separate agreement.
9.3 Pear Deck reserves the right (but shall have no obligation) to pre-screen, review, flag, filter, modify, refuse or remove any or all Content from any Service.
9.4 You understand that by using the Services you may be exposed to Content that you may find offensive, indecent or objectionable and that, in this respect, you use the Services at your own risk.
9.5 You agree that you are solely responsible for (and that neither Pear Deck nor the third party provider through whom you purchased Pear Deck has any responsibility to you or to any third party for) any Content that you create, transmit or display while using the Services and for the consequences of your actions (including any loss or damage which Pear Deck may suffer) by doing so.

10. Proprietary rights

10.1 You acknowledge and agree that Pear Deck (or Pear Deck's licensors) and its resellers own all legal right, title and interest in and to the Services, including any intellectual property rights which subsist in the Services (whether those rights happen to be registered or not, and wherever in the world those rights may exist). You further acknowledge that the Services may contain information which is designated confidential by Pear Deck or its resellers and that you shall not disclose such information without Pear Deck's prior written consent.
10.2 Unless you have agreed otherwise in writing with Pear Deck, nothing in the Terms gives you a right to use any of Pear Deck's or its resellers' trade names, trade marks, service marks, logos, domain names, and other distinctive brand features.
10.3 If you have been given an explicit right to use any of these brand features in a separate written agreement with Pear Deck, then you agree that your use of such features shall be in compliance with that agreement, and any applicable provisions of the Terms.
10.4 Other than the limited license set forth in Section 13, Pear Deck acknowledges and agrees that it obtains no right, title or interest from you (or your licensors) under these Terms in or to any Content that you submit, post, transmit or display on, or through, the Services, including any intellectual property rights which subsist in that Content (whether those rights happen to be registered or not, and wherever in the world those rights may exist). Unless you have agreed otherwise in writing with Pear Deck, you agree that you are responsible for protecting and enforcing those rights and that Pear Deck has no obligation to do so on your behalf.
10.5 You agree that you shall not remove, obscure, or alter any proprietary rights notices (including copyright and trade mark notices) which may be affixed to or contained within the Services.
10.6 Unless you have been expressly authorized to do so in writing by Pear Deck, you agree that in using the Services, you will not use any trade mark, service mark, trade name, logo of any company or organization in a way that is likely or intended to cause confusion about the owner or authorized user of such marks, names or logos.

11. Publicity

11.1. If you have a paid or educational Pear Deck account, you agree that Pear Deck may include your company name and logo in a list of Pear Deck customers. Within thirty (30) days of receiving your written request, Pear Deck will remove such information from its web site and make no further reference to you as a customer of the Services.

12. License from Pear Deck

12.1 Pear Deck gives you a personal, worldwide, royalty-free, non-assignable and non-exclusive license to use the software provided to you by Pear Deck as part of the Services as provided to you by Pear Deck (referred to as the "Software" below). This license is for the sole purpose of enabling you to use and enjoy the benefit of the Services as provided by Pear Deck, in the manner permitted by the Terms.

12.2 You may not (and you may not permit anyone else to) copy, modify, create a derivative work of, reverse engineer, decompile or otherwise attempt to extract the source code of the Software or any part thereof, unless this is expressly permitted or required by law, or unless you have been specifically told that you may do so by Pear Deck, in writing.
12.3 Unless Pear Deck has given you specific written permission to do so, you may not assign (or grant a sub-license of) your rights to use the Software, grant a security interest in or over your rights to use the Software, or otherwise transfer any part of your rights to use the Software.

13. Content license from you

13.1 You retain copyright and any other rights you already hold in Content which you submit, share, upload post or display on or through, the Services. By submitting, sharing, uploading, posting or displaying the content you give Pear Deck a worldwide, royalty-free, and non-exclusive license to reproduce, adapt, modify, translate, publish, publicly perform, publicly display and distribute any Content which you submit, share, upload, post or display on or through, the Services, solely for the purpose of enabling Pear Deck to provide you with the Services in accordance with the Pear Deck Privacy Policy.
13.2 You understand that Pear Deck, in performing the required technical steps to provide the Services to our users, may (a) transmit or distribute your Content over various public networks and in various media; and (b) make such changes to your Content as are necessary to conform and adapt that Content to the technical requirements of connecting networks, devices, services or media. You agree that this license shall permit Pear Deck to take these actions.
13.3 You confirm and warrant to Pear Deck that you have all the rights, power and authority necessary to grant the above license. You agree that you will not submit, share, upload, post or display Content on or through, the Service that is copyrighted, protected by trade secret or otherwise subject to third party proprietary rights, including privacy and publicity rights, unless you are the owner of such rights or have permission from their rightful owner to submit, share, upload, post or display the Content and to grant Pear Deck all of the license rights granted in this Section.

14. Software updates

14.1 The Software which you use may automatically download and install updates from time to time from Pear Deck. These updates are designed to improve, enhance and further develop the Services and may take the form of bug fixes, enhanced functions, new software modules and completely new versions. You agree to receive such updates (and permit Pear Deck to deliver these to you) as part of your use of the Services.

15. Ending your relationship with Pear Deck

15.1 The Terms will continue to apply until terminated by either you or Pear Deck as set out below.
15.2 If you want to terminate your legal agreement with Pear Deck, you may do so by (a) notifying Pear Deck at any time and (b) closing your accounts for all of the Services which you use, where Pear Deck has made this option available to you. Your notice should be sent, in writing, to Pear Deck's address which is set out at the beginning of these Terms.
15.3 Pear Deck may at any time, terminate its legal agreement with you:
(A) if you have breached any provision of the Terms (or have acted in a manner which clearly shows that you do not intend to, or are unable to comply with the provisions of the Terms); or
(B) if Pear Deck is required to do so by law (for example, where the provision of the Services to you is, or becomes, unlawful); or
(C) if Pear Deck is transitioning to no longer providing the Services to users in the area in which you are resident or from which you use the service; or
(D) if the provision of the Services to you by Pear Deck is, in Pear Deck's opinion, no longer commercially viable.
15.4 Nothing in this Section shall affect Pear Deck's rights regarding provision of Services under Section 4 of the Terms.
15.5 When these Terms come to an end, all of the legal rights, obligations and liabilities that you and Pear Deck have benefited from, been subject to (or which have accrued over time whilst the Terms have been in force) or which are expressed to continue indefinitely, shall be unaffected by this cessation, and the provisions of paragraph 22.6 shall continue to apply to such rights, obligations and liabilities indefinitely.

16. EXCLUSION OF WARRANTIES

16.1 NOTHING IN THESE TERMS, INCLUDING SECTIONS 16 AND 17, SHALL EXCLUDE OR LIMIT Pear Deck'S WARRANTY OR LIABILITY FOR LOSSES WHICH MAY NOT BE LAWFULLY EXCLUDED OR LIMITED BY APPLICABLE LAW. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR CONDITIONS OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR LOSS OR DAMAGE CAUSED BY NEGLIGENCE, BREACH OF CONTRACT OR BREACH OF IMPLIED TERMS, OR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, ONLY THE LIMITATIONS WHICH ARE LAWFUL IN YOUR JURISDICTION WILL APPLY TO YOU AND OUR LIABILITY WILL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

16.2 YOU EXPRESSLY UNDERSTAND AND AGREE THAT YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK AND THAT THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE."

16.3 IN PARTICULAR, Pear Deck AND ITS LICENSORS AND RESELLERS DO NOT REPRESENT OR WARRANT TO YOU THAT:

(A) YOUR USE OF THE SERVICES WILL MEET YOUR REQUIREMENTS,

(B) YOUR USE OF THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR,

(C) ANY INFORMATION OBTAINED BY YOU AS A RESULT OF YOUR USE OF THE SERVICES WILL BE ACCURATE OR RELIABLE, AND

(D) THAT DEFECTS IN THE OPERATION OR FUNCTIONALITY OF ANY SOFTWARE PROVIDED TO YOU AS PART OF THE SERVICES WILL BE CORRECTED.

16.4 ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS DONE AT YOUR OWN DISCRETION AND RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR OTHER DEVICE OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.

16.5 NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM Pear Deck OR THROUGH OR FROM THE SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TERMS.

16.6 Pear Deck AND ITS LICENSORS AND RESELLERS FURTHER EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

17. LIMITATION OF LIABILITY

17.1 SUBJECT TO OVERALL PROVISION IN PARAGRAPH 16.1 ABOVE, YOU EXPRESSLY UNDERSTAND AND AGREE THAT Pear Deck AND ITS LICENSORS SHALL NOT BE LIABLE TO YOU FOR:

(A) ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL CONSEQUENTIAL OR EXEMPLARY DAMAGES WHICH MAY BE INCURRED BY YOU, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY. THIS SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY LOSS OF PROFIT (WHETHER INCURRED DIRECTLY OR INDIRECTLY), ANY LOSS OF GOODWILL OR BUSINESS REPUTATION, ANY LOSS OF DATA SUFFERED, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR OTHER INTANGIBLE LOSS;

(B) ANY LOSS OR DAMAGE WHICH MAY BE INCURRED BY YOU, INCLUDING BUT NOT LIMITED TO LOSS OR DAMAGE AS A RESULT OF:

(I) ANY CHANGES WHICH Pear Deck MAY MAKE TO THE SERVICES, OR FOR ANY PERMANENT OR TEMPORARY CESSATION IN THE PROVISION OF THE SERVICES (OR ANY FEATURES WITHIN THE SERVICES);

(II) THE DELETION OF, CORRUPTION OF, OR FAILURE TO STORE, ANY CONTENT AND OTHER COMMUNICATIONS DATA MAINTAINED OR TRANSMITTED BY OR THROUGH YOUR USE OF THE SERVICES;

(III) YOUR FAILURE TO PROVIDE Pear Deck WITH ACCURATE ACCOUNT INFORMATION;

(IV) YOUR FAILURE TO KEEP YOUR PASSWORD OR ACCOUNT DETAILS SECURE AND CONFIDENTIAL;

17.2 THE LIMITATIONS ON Pear Deck'S LIABILITY, AND THAT OF ITS LICENSORS AND RESELLERS, TO YOU IN PARAGRAPH 17.1 ABOVE SHALL APPLY WHETHER OR NOT Pear Deck, ITS LICENSORS OR RESELLERS HAVE BEEN ADVISED OF OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF ANY SUCH LOSSES ARISING.

18. Copyright policies

18.1 Pear Deck does not permit infringement of intellectual property rights on its Services. Pear Deck may remove Content if it believes or has reason to believe such Content infringes on another's copyright. Without prior notice and at any time at its sole discretion, Pear Deck reserves the right to remove any Content, disable your ability to share or upload Content within the Service, or terminate your access to the Service (a) for uploading or sharing such Content in

violation of these Terms of Service; or (b) if, under appropriate circumstances, you are determined to be a repeat infringer.
18.2 Pear Deck reserves the right in its sole discretion to decide whether your conduct is inappropriate and whether it complies with these Terms of Service for violations other than copyright infringement, such as, but not limited to, pornography, obscene or defamatory material, etc. Pear Deck may terminate your access for such inappropriate conduct in violation of these Terms of Service at any time and remove any such objectionable Content, without prior notice and at its sole discretion.

19. Other content

19.1 The Services may include hyperlinks to other web sites or content or resources. Pear Deck may have no control over any web sites or resources which are provided by companies or persons other than Pear Deck.
19.2 You acknowledge and agree that neither Pear Deck nor its licensors or resellers are responsible for the availability of any such external sites or resources, and does not endorse any advertising, products or other materials on or available from such web sites or resources.
19.3 You acknowledge and agree that neither Pear Deck nor its licensors or resellers are liable for any loss or damage which may be incurred by you as a result of the availability of those external sites or resources, or as a result of any reliance placed by you on the completeness, accuracy or existence of any advertising, products or other materials on, or available from, such web sites or resources.

20. Community Galleries

20.1 The Service may contain galleries that may present third party content ("Community Galleries"). Community Galleries include without limitation the Templates Library and any other gallery that Pear Deck chooses at its discretion to make available to you. The content and information in the Community Galleries ("Gallery Content"), such as templates, was created by Pear Deck or by third parties. As between you and the creators of Gallery Content, any intellectual property or proprietary rights remain with the creators.
20.2 The Gallery Content: (a) is meant to serve as a suggestion only; and (b) is not a substitute for professional advice or specific, authoritative knowledge or direction. Pear Deck does not promise that the Gallery Content will work for your purposes, or that it is free from viruses, bugs, or other defects. The Gallery Content is provided "as is" and without warranty of any kind. You alone bear the risk of using Gallery Content. Pear Deck and its suppliers provide no express warranties, guarantees and conditions with regard to the Gallery Content. To the extent permitted under applicable law, Pear Deck excludes the implied warranties and conditions of merchantability, fitness for a particular purpose, workmanlike effort, title and non-infringement.
20.3 If you choose to submit Content to become part of the Community Galleries (your "Gallery Submission"), you direct and authorize Pear Deck and its affiliates to host, link to, and otherwise incorporate your Gallery Submission into the Services, and you grant Pear Deck and its end users a worldwide, royalty-free, non-exclusive license to exercise the rights in the Gallery Submission, as stated below:
(A) to reproduce the Gallery Submission;
(B) to create and reproduce derivative works of the Gallery Submission;
(C) to display publicly and distribute copies of the Gallery Submission;
(D) to display publicly and distribute copies of derivative works of the Gallery Submission.
You agree that your license to Pear Deck and Pear Deck end users will be perpetual. Furthermore, for the avoidance of doubt, Pear Deck reserves, and you grant Pear Deck, the right to syndicate the Gallery Submission submitted by you and use that Gallery Submission in connection with any of the Services offered by Pear Deck. You retain the right to stop distributing the Gallery Submission through the Pear Deck Community Galleries at any time; provided, however that any such election will not serve to withdraw the licenses granted to Pear Deck and its end users under these Terms of Service. In order to stop distributing the Gallery Submission through the Pear Deck Community Galleries, you must utilize the removal functions provided within the Services, in which case the Gallery Submission removal will be effective within a reasonable amount of time.
20.4 You represent and warrant that (a) you own or have obtained the necessary legal rights to provide all Gallery Submissions you submit through the Services, and will maintain these rights for as long as the Gallery Submission is available to Pear Deck end users; and (b) all of the Gallery Submission you submit through the Services abide by the posted Program Policies.

20.5 Pear Deck claims no ownership over any Gallery Submission you submit through the Services. You retain copyright and any other rights, including all intellectual property rights, you already hold in the Gallery Submission. You agree that you are responsible for protecting and enforcing those rights and that Pear Deck has no obligation to do so on your behalf.
20.6 You agree that you are solely responsible for (and that Pear Deck has no responsibility to you or to any third party for) any Gallery Submission that you submit. Pear Deck is not in any way responsible for the subsequent use or misuse by Pear Deck end users who access your Gallery Submission.
20.7 You hereby agree to indemnify, defend and hold Pear Deck, its resellers, partners, officers, directors, agents, affiliates, and licensors ("the Indemnified Parties") harmless from and against any claim or liability arising out of (a) any Content you submit, share, upload, post or display on or to the Service; (b) any use by Pear Deck end users of your Content; (c) any breach of or noncompliance with any representation, warranty or obligation in these Terms or applicable policies; and (d) any claim that your Content violates any applicable law, including without limitation that it infringes the rights of a third party. You shall cooperate fully in the defense of any claim. Pear Deck reserves the right, at its own expense, to assume the exclusive defense and control of any matter subject to indemnification by you. You acknowledge that damages for improper use of the Services may be irreparable; therefore, Pear Deck is entitled to seek equitable relief, including injunction and preliminary injunction, in addition to all other remedies. This section shall take precedence only over the indemnity provision provided in any Terms.

21. Changes to the Terms

21.1 Pear Deck may make changes to the Terms from time to time. When these changes are made, Pear Deck will make a new copy of the Terms available at https://github.com/peardeck/policies/blob/master/terms-of-service.md.
21.2 You understand and agree that if you use the Services after the date on which the Terms have changed, Pear Deck will treat your use as acceptance of the updated Terms.

22. General legal terms

22.1 Sometimes when you use the Services, you may (as a result of, or through your use of the Services) use a service or download a piece of software, or purchase goods, which are provided by another person or company. Your use of these other services, software or goods may be subject to separate terms between you and the company or person concerned. If so, the Terms do not affect your legal relationship with these other companies or individuals.
22.2 The Terms constitute the whole legal agreement between you and Pear Deck and govern your use of the Services (but excluding any services which Pear Deck may provide to you under a separate written agreement), and completely replace any prior agreements between you and Pear Deck in relation to the Services.
22.3 You agree that Pear Deck may provide you with notices, including those regarding changes to the Terms, by email, regular mail, or postings on the Services.
22.4 You agree that if Pear Deck does not exercise or enforce any legal right or remedy which is contained in the Terms (or which Pear Deck has the benefit of under any applicable law), this will not be taken to be a formal waiver of Pear Deck's rights and that those rights or remedies will still be available to Pear Deck.
22.5 If any court of law, having the jurisdiction to decide on this matter, rules that any provision of these Terms is invalid, then that provision will be removed from the Terms without affecting the rest of the Terms. The remaining provisions of the Terms will continue to be valid and enforceable.
22.6 The Terms, and your relationship with Pear Deck under the Terms, shall be governed by the laws of the State of Iowa without regard to its conflict of laws provisions. You and Pear Deck agree to submit to the exclusive jurisdiction of the courts located within Iowa City, Iowa to resolve any legal matter arising from the Terms. Notwithstanding this, you agree that Pear Deck shall still be allowed to apply for injunctive remedies (or an equivalent type of urgent legal relief) in any jurisdiction.

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
San Ysidro Middle School
Maria Rodriguez, Principal

☐ Informational
☒ Action

AGENDA ITEM: LICENSE AGREEMENT WITH IXL LEARNING FOR SAN YSIDRO MIDDLE SCHOOL

BACKGROUND INFORMATION:
IXL is a personalized learning online program with comprehensive K-12 curriculum, individualized guidance, and real-time analytics and it meets the unique needs of each learner. Students using IXL Math will gain fluency and confidence in Math, as it helps students master essential skills at their own pace through fun and interactive questions, built in support and motivating awards.

The Principal at San Ysidro Middle School is requesting approval to implement the IXL Math program during the 2021-22 school year. License agreement with IXL Learning will include site licenses for up to 650 students and the IXL Core Professional Development package for initial implementation of this program.

RECOMMENDATION:
Approve the license agreement with IXL Learning for the implementation of the IXL Math program and staff development at San Ysidro Middle School at a cost of $7,495.00 from the Title I Fund.

LCAP GOAL AND ACTION/SERVICE:
Goal 1: Student Achievement, Action 1.19: Continue to provide supplemental programs and resources (i.e., Reading Renaissance, math manipulatives, etc.) to support student achievement in core content areas and
1.14: Provide professional development opportunities to improve teaching and learning in the areas of English Language Arts (ELA), English Language Development (ELD), Mathematics, Science, and Social Studies. Professional development includes training specifically designed to address the achievement gap for students with disabilities.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications? ☒ Yes ☐ No

Are funds for this item available in the 2020-2021 Budget? ☒ Yes ☐ No

Requisition #

$7,495.00 (Amount)

Title I Fund (Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

IXL LEARNING™

IXL Learning
777 Mariners Island Blvd., Suite 600
San Mateo, CA 94404

QUOTE

QUOTE # 1046374
DATE: APRIL 19, 2021

TO:
Mayura Vongsavath
San Ysidro Middle School
4345 OTAY MESA RD
SAN YSIDRO, CA 92173

COMMENTS OR SPECIAL INSTRUCTIONS

SALESPERSON	TERMS	SUBSCRIPTION DURATION	QUOTE VALID UNTIL
Nikki Stark	1 Year	1 year	May 19, 2021

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
1	IXL site license (Grades 6-8: 650 students) Subject: Math	$6,500.00	$6,500.00
1	Professional Development: IXL Core PD Package *Unlimited instructor accounts included* *Auto-rostering services included*	$995.00	$995.00
		SUBTOTAL	$7,495.00
		SALES TAX	--
		SHIPPING & HANDLING	--
		TOTAL DUE	$7,495.00

Ordering instructions

We accept payment by purchase order, check, or credit card. To pay by purchase order, please email a copy of your PO to orders@ixl.com or fax it to 650-372-4301. Please be sure to list the quote number on your payment or purchase order. For international accounts, we can accept wire transfers for an additional fee.

San Ysidro School District

Board approved: _____

_____
Marilyn Adrianzen, CBO



Effective date: January 27, 2021

Thank you for your interest in using the online services operated by IXL Learning, Inc. (hereafter called "IXL"). These Terms of Service govern your use of online and/or mobile services, websites, and software provided on or in connection with www.ixl.com (collectively, the "Service"), which are offered through (i) www.ixl.com, (ii) mobile applications associated with www.ixl.com, and (iii) any other IXL website, app or online service which links to these Terms of Service.
By accessing or using the Service, or by clicking a button or checking a box marked "I Agree" (or something similar), you signify that you have read, understood and agree to be bound by these Terms of Service (the "Agreement"), and to the collection and use of your information as set forth in our Privacy Policy, whether or not you are a registered user of our Service. IXL reserves the right to modify this Agreement so long as it provides notice of these changes to you as described below. This Agreement applies to all visitors, users, and others who access or otherwise use the Service ("you" or "Users"). If you open an IXL account on behalf of a School, company, organization, or other entity, then "you" includes you and that entity.

A note about Student Data: This Service may be purchased by providers of educational services, such as schools, school districts, or teachers (collectively referred to as "Schools") that use our services for educational purposes. When IXL contracts with a School to provide the Service, we may collect or have access to Student Data (defined below), which may be provided by the School or by the student. We consider such Student Data to be strictly confidential and in general do not use such data for any purpose other than improving and providing our Services to the School or on the school's behalf. Our collection, use and sharing of Student Data is governed by this Agreement and any applicable laws and regulations including, in the U.S., provisions of the Family Educational Rights and Privacy Act ("FERPA"), the Children's Online Privacy Protection Act ("COPPA") and applicable state laws.

PLEASE READ THIS AGREEMENT CAREFULLY TO ENSURE THAT YOU UNDERSTAND EACH PROVISION. THIS AGREEMENT CONTAINS A MANDATORY INDIVIDUAL ARBITRATION AND CLASS ACTION/JURY TRIAL WAIVER PROVISION THAT REQUIRES THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS.

1. THE SERVICE

The Service helps its users to learn and practice various subjects including mathematics, language arts, science, and social studies. Unless explicitly stated otherwise, any new or improved features to the Service shall be provided subject to this Agreement. You understand and agree that the Service is provided "as-is" and that IXL assumes no responsibility for any mistakes, errors, or omissions, including any unavailability of the Service or deletion or loss of any data relating to the Service.
IXL grants you a personal, non-transferable and non-exclusive right and license to use the Service. You agree that you will not copy, modify, create a derivative work of, reverse engineer, reverse assemble or otherwise attempt to discover any source code, sell, assign, sublicense, grant a security interest in or otherwise transfer any right in the Software. You agree not to modify the Software in any manner or form, or to use modified versions of the Software, including (without limitation) for obtaining unauthorized access to the Service. You agree not to access the Service by any means other than through the interface that is provided by IXL for use in accessing the Service.
To use the Service, you must obtain access to the Internet, either directly or through devices that access web-based content, and pay any service fees or other costs associated with such access. In addition, you must provide all equipment necessary to make such connection to the Internet, including a computer and modem or other access device.

2. ELIGIBILITY AND AUTHORITY

IXL does not sell the Service to children, but only to adults who can purchase the Service with a credit card or other permitted payment method. If you are under eighteen (18) years of age, you may use the Service only with the involvement and consent of a parent, legal guardian, or at the direction of your School. Your School may impose additional policies regarding the use of the Service, with which you must comply.

If you open an IXL account to provide the Service to students in a School, you represent and warrant that you are an authorized representative of the School with the authority to bind the School to this Agreement, and that you agree to this Agreement on the School's behalf. If you contact IXL to take any action with respect to an account, you represent and warrant that you have all necessary authority to request such action(s) from or on behalf of the account-holder (e.g., a School or Parent).

The U.S. Children's Online Privacy and Protection Act ("COPPA") requires that online service providers obtain verifiable parental consent before collecting personal information from children under 13. If you are a School providing the Service to children under 13, you represent and warrant that you have the authority to provide consent on behalf of parents for IXL to collect information from students under 13 before allowing such students to access our Service. We recommend that all Schools provide appropriate disclosures to students and parents regarding their use of service providers such as IXL and that they provide a copy of our Privacy Policy and the IXL Learning Student Data Privacy Pledge to parents.

3. YOUR REGISTRATION OBLIGATIONS

In consideration of your use of the Service, you agree to: (a) provide true, accurate, current and complete information about yourself as prompted by the Service's registration form (such information being the "Registration Data") and (b) maintain and promptly update the Registration Data to keep it true, accurate, current and complete. If you provide any information that is untrue, inaccurate, not current or incomplete, or IXL has reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, IXL has the right to suspend or terminate your account and refuse all current or future use of the Service (or any portion thereof).

4. GENERAL ACCOUNT INFORMATION

IXL sells access to the Service to a subscriber in the form of an account. Each account is provided for a term and price subject to certain renewal, cancellation, and other terms and conditions specific to the account (the "Account Terms"). The Account Terms are identified (in order of precedence) in the then-current quote or sales contract for the account, the selections made and account-specific terms disclosed when signing up for the account (which may be confirmed by e-mail), the description of account terms accessible through the IXL website when signed in to an appropriate user associated with the account and the default Account Terms set forth below. Each account may have Account Terms in addition to or different from those as set forth in this Agreement, but only to the extent set forth in a signed writing by the account subscriber and an officer of IXL.

IXL provides a variety of "account types" which may apply depending on the subscriber and the way an IXL account is created. Each account type has a default set of Account Terms which apply unless superseded as set forth above. IXL reserves the right to provision accounts that do not belong to any of these default account types and/or to provision accounts with different Account Terms regardless of its account type.

Account Types:

- Family Account — A family account is purchased by or for a Parent. Family accounts are generally only available for purchase through the IXL website or a third-party app store using a credit card. A family account typically includes child profiles that can be used by a Parent's child at the Parent's direction. Family account subscriptions are generally for a term of one month, six months, or one year. The term is disclosed at the time of purchase. If multiple terms are available, the term can be selected at the time of purchase or later changed by contacting help@ixl.com. Family accounts automatically renew. See Section 6

below for more information about automatic renewal and cancellation of automatically renewing accounts.

- Classroom Account — A classroom account is purchased by or on behalf of a school, such as by a teacher. Classroom accounts may generally be purchased either through the IXL website, or by phone or e-mail. A classroom account typically includes a single teacher user and a small number of student users (which may vary depending on the purchase). A classroom account is typically for a term of one year. The term is disclosed at the time of purchase. Classroom accounts do not automatically renew. Action must be taken by the school or its authorized representative (e.g., teacher) to renew and continue using a classroom account past the end of the term. A classroom account is a type of school account. More information relating to school accounts may be found in Section 5 below.
- Site Account — A site account is purchased by or on behalf of a school or school district. Site accounts may be purchased by phone or e-mail. A site account typically includes an unlimited number of teacher users and a set maximum number of student users (which may vary depending on the purchase). A site account may be for a term of one year or longer. The term is disclosed at the time of purchase. Site accounts do not automatically renew. Action must be taken by the school or its authorized representative (e.g., school administrator) to renew and continue using a site account past the end of the term. A site account is a type of school account. More information relating to school accounts may be found in Section 5 below.

Quotes and Proposals: Any quotes or proposals provided by IXL are valid only for a limited time and are effective only with the agreement of the relevant parties. Quotes and proposals may be withdrawn by IXL at any time in its sole discretion. Quotes and proposals may include information that is proprietary and confidential to IXL and to the maximum extent permitted by law may not be disclosed to anyone other than their intended recipient. By requesting and/or accepting receipt of a quote or proposal from IXL you agree to keep such quotes or proposals confidential, to not disclose such quotes or proposals to any third party, and to immediately return and/or destroy all quote and proposal materials upon receiving a request to do so from IXL. To the extent that public records laws may apply to a quote or proposal provided by IXL, you agree to immediately notify IXL of any public records request that may result in disclosure of an IXL quote or proposal and provide IXL all reasonable opportunities to take steps to prevent such disclosure to the maximum extent permitted by law and will reasonably cooperate with IXL.

Payments: School accounts have the option to make payment by credit card, check, or other methods at IXL's discretion (contact us for details). Payment must be received by IXL no later than 30 days after IXL issues an invoice. If IXL does not receive payment within 30 days, the invoice is past due and IXL reserves the right to suspend access to the affected school account(s) and take collection action. Suspension of an account does not relieve the account-holder of its obligation to pay for the account. IXL reserves the right to charge a late fee in the amount of 1% per month or the maximum permitted by law and its reasonable attorney's fees in securing payment of past due amounts.

Cancellation: Except as set forth below or otherwise agreed by IXL in a signed writing, accounts may not be canceled until the end of the current term of the account. Unless otherwise provided for herein, all cancellations requested before the end of the then-current term will be effective at the end of the current term.

IXL permits early cancellations only in the following circumstances:

- In the event that the Service is permanently discontinued.
- IXL otherwise permits early cancellations only to the extent required by applicable law. In the event of such an early cancellation, the parties agree that the account-holder is responsible for all amounts due and payable before the date of early cancellation without pro-ration or to the greatest extent permitted by law. The parties agree that IXL's efforts in selling, provisioning and providing an account are front-loaded and for that reason, pro-ration of fees in the event of early cancellation is not necessary or appropriate.

End of Subscription: When an account subscription ends (e.g., at the end of the term if the account has not been renewed or has been canceled), the account no longer permits access to the Service. However, IXL may, at its sole discretion, permit continued, limited access for users of the Account for a limited time after the conclusion of the term. The Service includes built-in capabilities to download and export information relating to the account. If an account-holder or any of its users wishes to save or maintain any data, it is the account-holder and its user's sole obligation to download such data before the conclusion of the term. Once the term of an account ends, IXL may delete data relating to an account in accordance with this Agreement and the Privacy Policy. It is the account-holder's sole responsibility to request renewal of accounts that do not automatically renew to maintain continued access to the account and its associated data.

5. SCHOOL ACCOUNTS AND STUDENT DATA

This Section 5 applies to a School's use of the Service.

When IXL is used by a School for an educational purpose, IXL may collect or have access to Student Data that is provided by the School or by a student. "Student Data" is personal information that is directly related to an identifiable student and may include "educational records" as defined by the Family Educational Rights and Privacy Act ("FERPA").

The School or the student, and not IXL, owns and controls the Student Data. You authorize IXL to access, collect, transmit, modify, display and store Student Data to provide the Service and as described in this Agreement and in our Privacy Policy.

Compliance with Laws. In the U.S., IXL may collect and process Student Data as a School Official with a legitimate educational interest pursuant to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232(g). Individually and collectively, we and our School Users agree to uphold our obligations under FERPA, COPPA, the Protection of Pupil Rights Amendment ("PPRA"), applicable State laws relating to student data privacy, and with all other laws and regulations governing the protection of Student Data.

Use of Student Data. By submitting, providing us access to, or causing us to receive Student Data, you agree that IXL may use the Student Data for the purposes of (i) providing the Service, (ii) improving and developing our Service, (iii) enforcing our rights under these Terms, and (iv) as permitted with the School's or the User's consent.

Use of De-Identified or Anonymized Student Data. You agree that both before and after the term of the Agreement, IXL may collect, analyze, use, and retain data derived from Student Data as well as data about users' access and use of the Service, for the purpose of operating, analyzing, improving or marketing the Service, developing new products or services, conducting research or other purposes, provided that IXL may not share or publicly disclose information that is derived from Student Data unless such data is de-identified and/or anonymized such that it cannot reasonably identify a specific individual.

Use of Personal Information for Marketing. You agree that IXL may provide customized content, advertising, and commercial messaging to school, teacher or district administrative users and other non-student users from time to time, provided that such advertisements shall not be based on Student Data. For emphasis, and without limitation, IXL shall never use Student Data to engage in targeted advertising.

Disclosure of Student Data and Third-Party Service Providers. You acknowledge and agree that IXL may provide access to Student Data to our employees and service providers which have a legitimate need to access such information to provide their services to us. We and our employees, affiliates, service providers, or agents involved in the handling, transmittal, and processing of Student Data will be required to maintain the confidentiality of such data. IXL shall not share Student Data with third parties other than as described in this Agreement and in the IXL Privacy Policy, or with consent of the School or parent.

Student Data Access and Deletion Requests. You may request that we delete Student Data in our possession at any time by providing such a request in writing, and we shall comply with such request within thirty (30) days, except that IXL shall not be required to delete Student Data that has been moved to a personal family account on the Service or as otherwise prohibited by law. A parent or student over the age of 18 seeking to access, modify, correct, or delete personal information in a student account that is connected to a School account will be instructed to contact the School to discuss data deletion or modification. IXL is not required to delete data that has been derived from Student Data if such data is de-identified and/or anonymized such that it cannot reasonably identify a specific individual.

Data Security and Breach Notification. We have implemented administrative, physical and technical safeguards designed to secure the personal information in IXL's possession and control from unauthorized access, disclosure and use. If an unauthorized party gains access to or has been disclosed Student Data (a "Security Event"), that we have collected or received through the Service under this Agreement, we will promptly notify the School. If, due to a Security Event which is caused by the acts or omissions of IXL or its agents, a notification to an individual, organization or government agency is required under applicable privacy laws, the School shall be responsible for the timing, content, and method of any such legally-required notice and compliance with such laws and IXL shall indemnify the School for reasonable costs related to legally-required notifications. With respect to any Security Event which is not caused by the acts or omissions of IXL or its agents, IXL shall reasonably cooperate with School's investigation of the Security Event, as School requests, at School's reasonable expense, but IXL shall not indemnify a School for costs associated with the Security Event. IXL shall be responsible for the timing, content, cost and method of notice and compliance with such laws as they relate to users that are not associated with a School account.

State Specific Terms. The following additional terms may apply depending on the state a School is located:

5.1 Connecticut

This Section 5.1 applies to the use of the Service by Schools located in the State of Connecticut. The purpose of this Section 5.1 is to document compliance with applicable Connecticut state laws that may apply to the use of the Service by Schools in Connecticut, such as Conn. Gen. Stat. Ann. § 10-234aa-dd. This Section 5.1 incorporates by reference the definitions set forth in Conn. Gen. Stat. Ann. § 10-234aa.

If you open an IXL account to provide the Service to students in a School located in the State of Connecticut, you represent and warrant that you are authorized to do so on behalf of the local or regional board of education with authority over the School and that you are authorized to communicate with IXL on behalf of the local or regional board of education.

IXL and you shall comply with all applicable sections of Conn. Gen. Stat. Ann. § 10-234aa-dd. The following terms shall apply as required by Conn. Gen. Stat. Ann. § 10-234bb. To the extent that any such required terms conflict with other terms in this Agreement, the terms of this Section 5.1 shall apply.

a. Student information, student records and student-generated content are not the property of or under the control of IXL.

b. The local or regional board of education may request the deletion of any student information, student records or student-generated content in the possession of IXL by sending a request to compliance@ixl.com. As permitted by Conn. Gen. Stat. Ann. § 10-234bb(2), IXL is not required to delete information prohibited from deletion or required to be retained under state or federal law or stored as a copy as part of a disaster recovery storage system and that is (i) inaccessible to the public, and (ii) unable to be used in the normal course of business by the contractor. IXL will, however, comply with requests for deletion of student information, student, records, or student-generated content that is restored from such disaster recovery storage systems.

c. IXL will not use student information, student records and student-generated content for any purposes other than those authorized pursuant to this Agreement.

d. A student, parent or legal guardian of a student may review personally identifiable information contained in student information, student records or student-generated content and correct erroneous information, if any, in such student record by contacting their School. IXL will respond to such requests in accordance with instructions sent by an authorized School representative to compliance@ixl.com.
e. IXL will take actions designed to ensure the security and confidentiality of student information, student records and student-generated content.
f. IXL will promptly notify the local or regional board of education in accordance with the provisions of section 10-234dd when there has been an unauthorized release, disclosure or acquisition of student information, student records or student-generated content.
g. Student information, student records or student-generated content shall not be retained or available to the contractor upon expiration of this Agreement. This restriction shall not apply to the extent that a student, parent or legal guardian of a student independently establishes or maintains an electronic account with IXL for the purpose of storing their student-generated content.
h. IXL and the local or regional board of education shall ensure compliance with the Family Educational Rights and Privacy Act of 1974, 20 USC 1232g, as amended from time to time.
i. The laws of the state of Connecticut shall govern the rights and duties of IXL and the local or regional board of education.
j. If any provision of this Section 5.1 is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions or applications of the contract which can be given effect without the invalid provision or application.

5.2 New York

This Section 5.2 applies to the use of the Service by Schools located in the State of New York. The purpose of this Section 5.2 is to document compliance with New York state laws that may apply to the use of the Service by Schools in New York, such as New York State Education Law Section 2-d (Ed Law 2-d) and Part 121 of Title 8 of the Codes, Rules and Regulations of the State of New York (8 CRR-NY § 121). This Section 5.2 incorporates by reference the definitions set forth in Ed Law 2-d § 3 and 8 CRR-NY § 121.1.

If you open an IXL account to provide the Service to students in a School located in the State of New York, you represent and warrant that you are authorized to do so on behalf of the educational agency with authority over the School and that you are authorized to communicate with IXL on behalf of the educational agency.

IXL and you shall comply with all applicable sections of Ed Law 2-d and 8 CRR-NY § 121. The following terms shall apply as required by Ed Law 2-d § 5(b)(3) and 8 CRR-NY § 121.3, 121.6. To the extent that any such required terms conflict with other terms in this Agreement, the terms of this Section 5.2 shall apply.

- 8 CRR-NY § 121.6(a)(1): outline how the third-party contractor will implement all State, Federal, and local data security and privacy contract requirements over the life of the contract, consistent with the educational agency's data security and privacy policy –

  IXL has implemented policies and procedures consistent with the New York State Education Department Data Privacy and Security Policy v1.0 (available here). It is the School's responsibility to provide IXL with its data security and privacy policy if different than the New York State Education Department Data Privacy and Security Policy. IXL will review its policies and procedures against data security and privacy policies provided to it by educational agencies. In the event IXL's policies and practices are not consistent with the educational agencies' policies, IXL will take commercially reasonable efforts to achieve consistency.

- 8 CRR-NY § 121.6(a)(2): specify the administrative, operational and technical safeguards and practices it has in place to protect personally identifiable information that it will receive under the contract –

  IXL employs reasonable organizational and technical safeguards to prevent unauthorized access, use, alteration, or disclosure of personally identifiable information stored on systems under IXL's control. Please see Section 8 of

IXL's Privacy Policy. School administrators may also request a copy of IXL's Security Policies and Procedures.

- 8 CRR-NY § 121.6(a)(3): demonstrate that it complies with the requirements of section 121.3(c) of this Part –

  The Parent Bill of Rights, along with any other supplemental documentation relating specifically to your School, is included in this contract unless IXL and your School or District have entered into a separate signed written agreement regarding that subject matter. If your School does not have a Parent Bill of Rights, the New York State Parent Bill of Rights (available here) is applicable and is included in this contract.

- 8 CRR-NY § 121.3(c)(1) the exclusive purposes for which the student data or teacher or principal data will be used by the third-party contractor, as defined in the contract –

  to provide the IXL Service as set forth in this Agreement. Student data and teacher or principal data will not be used for any other purpose.

- 8 CRR-NY § 121.3(c)(2) how the third-party contractor will ensure that the subcontractors, or other authorized persons or entities to whom the third-party contractor will disclose the student data or teacher or principal data, if any, will abide by all applicable data protection and security requirements, including but not limited to those outlined in applicable State and Federal laws and regulations (e.g., FERPA; Education Law section 2-d) –

  Subcontractors and other authorized persons or entities will be provided such information pursuant to contractual obligations to maintain the confidentiality of such data in a manner consistent with this Agreement.

- 8 CRR-NY § 121.3(c)(3) the duration of the contract, including the contract's expiration date and a description of what will happen to the student data or teacher or principal data upon expiration of the contract or other written agreement (e.g., whether, when and in what format it will be returned to the educational agency, and/or whether, when and how the data will be destroyed) –

  This Agreement will be in effect for a School so long as that School has an active subscription to the IXL Service. Upon expiration or termination of a School's subscriptions without renewal, IXL will delete student data and teacher or principal data in accordance with the terms of any applicable written agreement with the School, written requests from authorized School administrators, and our standard data retention schedule. Authorized School administrators may contact IXL at compliance@ixl.com to request additional information about our standard data retention schedule and available options for customizing IXL's standard data retention schedule to meet individual School requirements.

- 8 CRR-NY § 121.3(c)(4) if and how a parent, student, eligible student, teacher or principal may challenge the accuracy of the student data or teacher or principal data that is collected –

  Parents, students, eligible students, and teachers or principals may contact their School to exercise this right. IXL will cooperate with the School to effectuate such requests at the School's direction.

- 8 CRR-NY § 121.3(c)(5) where the student data or teacher or principal data will be stored, described in such a manner as to protect data security, and the security protections taken to ensure such data will be protected and data security and privacy risks mitigated –

  Student data and teacher or principal data for Schools located in New York will be stored in the United States. Such data will be stored in a manner consistent with the NIST Cybersecurity Framework to mitigate against data security and privacy risks.

- 8 CRR-NY § 121.3(c)(6) address how the data will be protected using encryption while in motion and at rest –

IXL will utilize a technology or methodology specified or permitted by the Secretary of the United States Department of Health and Human Services in guidance issued under section 13402(H)(2) of Public Law 111-5.

- 8 CRR-NY § 121.6(a)(4) specify how officers or employees of the third-party contractor and its assignees who have access to student data, or teacher or principal data receive or will receive training on the Federal and State laws governing confidentiality of such data prior to receiving access –

IXL periodically provides training to its employees regarding data security and privacy obligations with respect to such data.

- 8 CRR-NY § 121.6(a)(5) specify if the third-party contractor will utilize sub-contractors and how it will manage those relationships and contracts to ensure personally identifiable information is protected –

While IXL does not sub-contract portions of any particular contract with a customer, IXL does utilize vendors in the course of providing the IXL Service. Such vendors will only be provided personally identifiable information to the extent necessary for them to provide their contracted-for services and will be subject to obligations of confidentiality and security consistent with this Section 5.2.

- 8 CRR-NY § 121.6(a)(6) specify how the third-party contractor will manage data security and privacy incidents that implicate personally identifiable information including specifying any plans to identify breaches and unauthorized disclosures, and to promptly notify the educational agency –

IXL will manage and respond to Security Events as set forth in Section 5 of this Agreement and Section 8 of the Privacy Policy. As required by Ed Law 2-d, IXL will notify the school of a Security Event in the most expedient way possible and without unreasonable delay.

- 8 CRR-NY § 121.6(a)(7) describe whether, how and when data will be returned to the educational agency, transitioned to a successor contractor, at the educational agency's option and direction, deleted or destroyed by the third-party contractor when the contract is terminated or expires –

Upon expiration or termination of a School's subscriptions without renewal, IXL will delete student data and teacher or principal data in accordance with the terms of any applicable written agreement with the School, written requests from authorized School administrators, and our standard data retention schedule. Authorized School administrators may contact IXL at compliance@ixl.com to request additional information about our standard data retention schedule and available options for customizing IXL's standard data retention schedule to meet individual School requirements.

6. MEMBERSHIP AND BILLING FOR ACCOUNTS WITH AUTOMATIC RENEWAL

This Section 6 applies to accounts that have been created through the Service using a credit card and automatically renew.

You can find specific details regarding your membership with IXL at any time. Simply sign in to your IXL account, click on the account menu in the upper-right corner, and select Membership details. You may also contact IXL with any questions that you may have by contacting us.

Billing and Automatic Renewals.

MEMBERSHIP SUBSCRIPTION RENEWAL FEES WILL BE AUTOMATICALLY CHARGED TO YOUR CARD ON FILE EACH SUBSCRIPTION PERIOD (MONTHLY OR YEARLY), UNTIL YOU CANCEL.

By starting your IXL membership, you are expressly agreeing that we are authorized to charge you the membership fee associated with the term of your membership (e.g., monthly or yearly) you chose during registration. Thereafter, we will automatically renew your subscription on each (monthly or yearly) anniversary of your subscription date, and as authorized by you by checking the box demonstrating your consent for automatic monthly/yearly renewals of your subscription during the sign-up process, we will charge your then-current payment method (or to a different payment method if you change your account information) associated with your account with the

applicable then-current fee and any sales or similar taxes that may be imposed. Please note that prices and charges are subject to change with notice. As used in this Agreement, "billing" shall indicate either a charge or debit, as applicable, against your Payment Method.
You acknowledge that the amount billed each billing period may vary for reasons that include differing amounts due to changes in your membership plan, and you authorize us to charge your Payment Method for such varying amounts. Payments are nonrefundable and there are no refunds or credits for partially used periods. We may change the fees and charges in effect, or add new fees and charges from time to time, but we will give you advance notice of these changes. If you want to use a different Payment Method or if there is a change in Payment Method, such as your credit card validity or expiration date, you may edit your Payment Method information from your Membership details page. To access your Membership details page, sign in to your IXL account, click on the account menu in the upper-right corner, and select Membership details. If your Payment Method reaches its expiration date and you do not edit your Payment Method information or cancel your account (see, "Cancellation" below), you authorize us to continue billing that Payment Method and you remain responsible for any uncollected amounts. You must cancel your membership before it renews each billing period to avoid billing of the next membership fee to your Payment Method. The membership fee will be billed at the beginning of the paying portion of your membership and each month or year thereafter unless and until you cancel your membership. Sign in to your IXL account, click on the account menu in the upper-right corner, and select Membership details to see the commencement date for your next renewal period. We automatically bill your Payment Method each month or year on the calendar day corresponding to the commencement of your paying membership. Membership charges are fully earned upon payment.

Note: In the event your monthly membership began on a day not contained in a given month, we bill your Payment Method on the last day of such month. For example, if you became a paying member on January 31, your Payment Method would next be billed on February 28.

Cancellation of Automatic Renewals. You may cancel your IXL membership at any time, and cancellation will be effective immediately. You will continue to have access to the program until the current billing period ends. We do not provide refunds or credits for any partially used membership periods. To cancel your membership, sign in to your IXL account and click the words "Cancel membership" on your Membership details page. Follow the instructions for cancellation under the heading "Cancel Membership."

Price Changes. We reserve the right to adjust the pricing for our Service, including but not limited to membership subscription plans, in any manner and at any time as we may determine in our sole and absolute discretion. Except as otherwise expressly provided for in this Agreement, any price changes will take effect following posting or other notice to you (e.g., e-mail).

Purchases through Third-Party Stores. If you purchased your IXL membership through a third-party store, such as through your Apple iTunes or Google Play account, portions of this Section may not apply to you. Because such a purchase is between you and the third-party store, and not IXL, you acknowledge and agree that IXL is not responsible for billing for your membership and is not responsible or liable for any claims relating to the billing of your purchase. If you have questions about membership or billing, you should contact the Apple iTunes store directly.

7. ACCOUNT PASSWORD AND SECURITY

You will have a password and account designation upon completing the Service's registration process. You are responsible for maintaining the confidentiality of the password and account and are fully responsible for all activities that occur under your password or account. You agree to (a) immediately notify IXL of any unauthorized use of your password or account or any other breach of security, and (b) ensure that you exit from your account at the end of each session. IXL cannot and will not be liable for any unauthorized access to your account or data that arises from your acts or omissions.
IXL accounts may not be shared by more than one person or organization unless express authorization is given by IXL Learning, Inc.

8. USER CONTENT

You are solely responsible for any content that you create, transmit or display while using the Service.

The Service or IXL may now or in the future allow Users to submit, post, display, provide, or otherwise make available content such as text, images, comments, questions, and other content or information (any such materials a User submits, posts, displays, provides, or otherwise makes available on the Service is referred to as "**User Content**").

We claim no ownership rights over User Content created by you. The User Content you create remains yours.

By submitting, posting, displaying, providing, or otherwise making available any User Content on or through the Service or to IXL, you expressly grant, and you represent and warrant that you have all rights necessary to grant, to IXL a royalty-free, sublicensable, transferable, perpetual, irrevocable, non-exclusive, worldwide license to use, reproduce, modify, publish, list information regarding, edit, translate, distribute, syndicate, publicly perform, publicly display, and make derivative works of all such User Content in whole or in part, and in any form, media or technology, whether now known or hereafter developed, for use in connection with the Service and IXL's (and its successors' and affiliates') business, including without limitation for promoting and redistributing part or all of the Service (and derivative works thereof) in any media formats and through any media channels. You also hereby grant each User of the Service a non-exclusive license to access your User Content through the Service, and to use, reproduce, distribute, display and perform such User Content as permitted through the functionality of the Service and under this Agreement.

You must have the legal right to the User Content you submit to the Service. You may not upload or post any User Content to the Service that infringes the copyright, trademark or other intellectual property rights of a third party nor may you upload User Content that violates any third party's right of privacy or right of publicity. You may post only User Content that you have permission to post by the by the owner or by law.

9. COPYRIGHT COMPLAINTS

It is our policy to respond to alleged infringement notices that comply with the Digital Millennium Copyright Act of 1998 ("DMCA").

If you believe that your copyrighted work has been copied in a way that constitutes copyright infringement and is accessible via the Service, please notify IXL's copyright agent as set forth in the DMCA. For your complaint to be valid under the DMCA, you must provide the following information in writing:

1. An electronic or physical signature of a person authorized to act on behalf of the copyright owner;
2. Identification of the copyrighted work that you claim has been infringed;
3. Identification of the material that is claimed to be infringing and where it is located on the Service;
4. Information reasonably sufficient to permit IXL to contact you, such as your address, telephone number, and, e-mail address;
5. A statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or law; and
6. A statement, made under penalty of perjury, that the above information is accurate, and that you are the copyright owner or are authorized to act on behalf of the owner.

The above information must be submitted to the following DMCA Agent:

DMCA Agent; Legal Department
IXL Learning, Inc.
777 Mariners Island Blvd.
Suite 600
San Mateo, CA 94404
E-mail: legalnotices@ixl.com

UNDER FEDERAL LAW, IF YOU KNOWINGLY MISREPRESENT THAT ONLINE MATERIAL IS INFRINGING, YOU MAY BE SUBJECT TO CRIMINAL PROSECUTION FOR PERJURY AND CIVIL PENALTIES, INCLUDING MONETARY DAMAGES, COURT COSTS, AND ATTORNEYS' FEES.

Please note that this procedure is exclusively for notifying IXL and its affiliates that your copyrighted material has been infringed. The preceding requirements are intended to comply with IXL's rights and obligations under the DMCA, including 17 U.S.C. §512(c), but do not constitute legal advice. It may be advisable to contact an attorney regarding your rights and obligations under the DMCA and other applicable laws.
In accordance with the DMCA and other applicable law, IXL has adopted a policy of terminating, in appropriate circumstances, Users who are deemed to be repeat infringers. IXL may also at its sole discretion limit access to the Service and/or terminate the accounts of any Users who infringe any intellectual property rights of others, whether or not there is any repeat infringement.

10. SPECIAL ADMONITIONS FOR INTERNATIONAL USE

Recognizing the global nature of the Internet, you agree to comply with and are solely responsible for ensuring compliance with all local laws, regulations, and rules in the jurisdiction(s) in which you reside. You agree to comply with all applicable laws regarding the transmission of data exported from the United States or the jurisdiction(s) in which you reside.

11. INDEMNITY

To the extent permitted by applicable law, you agree to indemnify and hold IXL, and its subsidiaries, affiliates, officers, agents, co-branders or other partners, and employees, harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of (i) content you submit, post, transmit or make available through the Service, including without limitation, User Content, (ii) your use or misuse of the Service, (iii) your connection to the Service, (iv) your violation of the Agreement, (v) your violation of any applicable law or the rights of another person or entity, (vi) your willful misconduct, or (vii) any other party's access and use of the Service with your unique username, password, or other appropriate security code. IXL reserves the right, at our own expense, to assume the exclusive defense and control of any matter for which you are required to indemnify us and you agree to cooperate with our defense of these claims.

12. NO RESALE OF SERVICE

You agree not to reproduce, duplicate, copy, sell, resell or otherwise exploit for any commercial purposes, any portion of the Service, use of the Service, or access to the Service.

13. NOTIFICATION PROCEDURES AND MODIFICATIONS TO AGREEMENT

IXL may provide notifications, whether required or provided by law or otherwise, to you via e-mail notice, written or hard copy notice, or through posting of such notice on our website, as determined by IXL in our sole discretion.
IXL may, in its sole discretion, modify or update this Agreement from time to time, which will be reflected in the `date last modified´ set forth below. If we change this Agreement in a material manner, we will update the `Effective Date´ at the top of this page and notify you that material changes have been made to this Agreement. Your continued use of the Services following such update constitutes your acceptance of the revised Terms. If you do not agree to any of the terms in this Agreement or to any future terms in a future revision of this Agreement, do not use or access (or continue to access) the Service.
Notwithstanding the foregoing, IXL shall not make any material change to the Terms that relate to the collection or use of Student Data without first giving notice to the school or parent and providing a choice before the Student Data is used in a materially different manner than was disclosed when the information was collected.
In the event that you have entered into a signed, written agreement with IXL in addition to this Agreement, any changes to this Agreement will not be effective as to you until either (a) you affirmatively accept the changes to this Agreement, either electronically or in a signed writing or (b) upon renewal at the end of the current term of your account.
You will not be permitted to continue using the Service and IXL reserves the right to cancel your account without notice if you refuse or otherwise fail to accept changes made by IXL to this Agreement.
Notices that are required or permitted to be sent to IXL must be sent to the following mailing address by certified mail with a copy sent by e-mail.

Legal Department
IXL Learning, Inc.
777 Mariners Island Blvd.
Suite 600
San Mateo, CA 94404
E-mail: legalnotices@ixl.com

14. MODIFICATION OR TERMINATION OF SERVICE

IXL reserves the right at any time and from time to time to modify or temporarily discontinue the Service (or any part thereof) with or without notice. You agree that IXL shall not be liable to you or to any third party for any modification, suspension or temporary discontinuance of the Service. In the event of permanent discontinuance of the Service, IXL's liability is limited to the paid subscription price, pro-rated to the amount of time remaining on the subscription.

You agree that IXL, in its sole discretion, may suspend or terminate your password, account (or any part thereof) or use of the Service, for any reason, including, without limitation, for lack of use or if IXL believes that you have violated or acted inconsistently with the letter or spirit of this Agreement. You agree that any termination of your access to the Service under any provision of this Agreement may be implemented without prior notice, and you acknowledge and agree that IXL may immediately deactivate or delete your account and all data relating to your account and/or bar any further access to the Service. Further, you agree that IXL shall not be liable to you or any third party for any termination of your access to the Service.

15. LINKS

The Service may provide, or third parties may provide, links to other Internet websites or resources. Because IXL has no control over such sites and resources, you acknowledge and agree that IXL is not responsible for the availability of such external sites or resources, and does not endorse and is not responsible or liable for any content, advertising, products, or other materials on or available from such sites or resources. You further acknowledge and agree that IXL shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods or services available on or through any such site or resource.

16. IXL's PROPRIETARY RIGHTS

You acknowledge and agree that the Service and any necessary software used in connection with the Service ("Software") contain proprietary and confidential information that is protected by applicable intellectual property and other laws. You further acknowledge and agree that information presented to you through the Service is protected by copyrights, trademarks, service marks, patents or other proprietary rights and laws. Except as expressly authorized by IXL or advertisers, you agree not to copy, modify, rent, lease, loan, sell, distribute or create derivative works based on the Service or the Software, in whole or in part. Any automated scraping, harvesting, indexing, mining, or any other extraction of any content from the Service is expressly prohibited.

The Service is protected by copyright and other laws in both the United States and elsewhere. Under the terms of this Agreement, it is expressly forbidden to distribute or reproduce the content of the Service or any portion thereof by any means, including but not limited to electronic and print.

IXL reserves the right to cancel your account without refund if it is determined that you have violated this section of the Agreement.

17. DISCLAIMER OF WARRANTIES

YOU EXPRESSLY UNDERSTAND AND AGREE THAT:

1. YOUR USE OF THE SERVICE IS AT YOUR SOLE RISK. THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. IXL EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

2. IXL MAKES NO WARRANTY OR CONDITION THAT (i) THE SERVICE WILL MEET YOUR REQUIREMENTS, (ii) THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE WILL BE ACCURATE OR RELIABLE, (iv) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR EXPECTATIONS, AND (V) ANY ERRORS IN THE SOFTWARE WILL BE CORRECTED.
3. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.
4. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM IXL OR THROUGH OR FROM THE SERVICE SHALL CREATE ANY WARRANTY OR CONDITION NOT EXPRESSLY STATED IN THE AGREEMENT.

18. LIMITATION OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL IXL, ITS AFFILIATES, AGENTS, DIRECTORS, EMPLOYEES, SUPPLIERS OR LICENSORS BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF IXL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (i) THE USE OR THE INABILITY TO USE THE SERVICE; (ii) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SERVICE; (iii) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (iv) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICE; OR (v) ANY OTHER MATTER RELATING TO THE SERVICE.
In no event shall IXL or its subsidiaries, parent companies, affiliates, licensors, contractors, employees, officers, directors, agents or third-party partners' total liability to you for all damages, losses, and causes of action arising out of or relating to this Agreement or your use of the IXL Service (whether in contract, tort, warranty or otherwise, exceed the amount paid by you, if any, for accessing the IXL Service during the twelve (12) months preceding your claim or one hundred dollars ($100), whichever is greater.

19. EXCLUSIONS AND LIMITATIONS

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES AND CONDITIONS OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR CERTAIN CLAIMS OR DAMAGES SUCH AS INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, THE DISCLAIMERS, EXCLUSIONS AND LIMITATIONS OF LIABILITY UNDER THIS AGREEMENT WILL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

20. TRADEMARK INFORMATION

IXL and the IXL logo are registered trademarks of IXL Learning, Inc. You agree not to use any IXL trademarks without the express advance written permission of IXL.

21. GOVERNING LAW AND VENUE

You agree that: (i) the Service shall be deemed solely based in California; and (ii) the Service shall be deemed a passive one that does not give rise to personal jurisdiction over us, either specific or general, in jurisdictions other than California. This Agreement shall be governed by the internal substantive laws of the State of California, without respect to its conflict of laws principles. The parties acknowledge that this Agreement evidences a transaction involving interstate commerce. Notwithstanding the preceding sentences with respect to the substantive law, any arbitration conducted pursuant to the terms of this Agreement shall be governed by the Federal Arbitration Act (9 U.S.C. §§ 1-16). This Agreement is a contract for the provision of services and not a contract for the sale of goods. The provisions of the Uniform Commercial Code (UCC), the Uniform Computer Information Transaction Act (UCITA), or any substantially similar legislation as may be enacted, shall not apply to this Agreement. If you are located outside of the

territory of the United States, the parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not govern this Agreement or the rights and obligations of the parties under this Agreement.
You agree to submit to the personal jurisdiction of the federal and state courts located in San Mateo County, California for any actions for which we retain the right to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation or violation of our copyrights, trademarks, trade secrets, patents, or other intellectual property or proprietary rights, as set forth in the Arbitration provision below, including any provisional relief required to prevent irreparable harm. You agree that San Mateo County, California is the proper forum for any appeals of an arbitration award or for trial court proceedings if the arbitration provision below is found to be unenforceable.

22. ARBITRATION

READ THIS SECTION CAREFULLY BECAUSE IT REQUIRES THE PARTIES TO ARBITRATE THEIR DISPUTES AND LIMITS THE MANNER IN WHICH YOU CAN SEEK RELIEF FROM IXL. For any dispute with IXL, you agree to first contact us at legalnotices@ixl.com and attempt to resolve the dispute with us informally. In the unlikely event that IXL has not been able to resolve a dispute it has with you after sixty (60) days, we each agree to resolve any claim, dispute, or controversy (excluding any claims for injunctive or other equitable relief as provided below) arising out of or in connection with or relating to this agreement, or the breach or alleged breach thereof (collectively, "Claims"), by binding arbitration by JAMS, under the Optional Expedited Arbitration Procedures then in effect for JAMS, except as provided herein. JAMS may be contacted at www.jamsadr.com. The arbitration will be conducted in San Mateo County, California, unless you and IXL agree otherwise. If you are a School or are using the Service for commercial purposes, each party will be responsible for paying any JAMS filing, administrative and arbitrator fees in accordance with JAMS rules, and the award rendered by the arbitrator shall include costs of arbitration, reasonable attorneys' fees and reasonable costs for expert and other witnesses. If you are an individual using the Service for non-commercial purposes: (i) JAMS may require you to pay a fee for the initiation of your case, unless you apply for and successfully obtain a fee waiver from JAMS; (ii) the award rendered by the arbitrator may include your costs of arbitration, your reasonable attorney's fees, and your reasonable costs for expert and other witnesses; and (iii) you may sue in a small claims court of competent jurisdiction without first engaging in arbitration, but this does not absolve you of your commitment to engage in the informal dispute resolution process. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. Nothing in this Section shall be deemed as preventing IXL from seeking injunctive or other equitable relief from the courts as necessary to prevent the actual or threatened infringement, misappropriation, or violation of our data security, Intellectual Property Rights or other proprietary rights.

23. CLASS ACTION/JURY TRIAL WAIVER

WITH RESPECT TO ALL PERSONS AND ENTITIES, REGARDLESS OF WHETHER THEY HAVE OBTAINED OR USED THE SERVICE FOR PERSONAL, COMMERCIAL OR OTHER PURPOSES, ALL CLAIMS MUST BE BROUGHT IN THE PARTIES' INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS ACTION, COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL ACTION OR OTHER REPRESENTATIVE PROCEEDING. THIS WAIVER APPLIES TO CLASS ARBITRATION, AND, UNLESS WE AGREE OTHERWISE, THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE PERSON'S CLAIMS. YOU AGREE THAT, BY ENTERING INTO THIS AGREEMENT, YOU AND IXL ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION, COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL ACTION, OR OTHER REPRESENTATIVE PROCEEDING OF ANY KIND.

24. ADDITIONAL TERMS FOR MOBILE APPLICATIONS

Mobile Applications, Generally. We may make available software to access the Service via a mobile device ("Mobile Applications"). To use a Mobile Application, you must have a mobile device that is compatible with at least one of the Mobile Applications. IXL does not warrant that the Mobile Applications will be compatible with your mobile device. You may use mobile data in connection with the Mobile Applications and may incur additional charges from your wireless

provider for these services. You agree that you are solely responsible for any such charges. IXL hereby grants you a non-exclusive, non-transferable, revocable license to use a compiled code copy of the Mobile Applications for one IXL User Account on one mobile device owned or leased solely by you, for your personal use. You may not: (i) modify, disassemble, decompile or reverse engineer the Mobile Applications, except to the extent that such restriction is expressly prohibited by law; (ii) rent, lease, loan, resell, sublicense, distribute or otherwise transfer the Mobile Applications to any third party or use the Mobile Applications to provide time sharing or similar services for any third party; (iii) remove, circumvent, disable, damage or otherwise interfere with security-related features of the Mobile Applications, features that prevent or restrict use or copying of any content accessible through the Mobile Applications, or features that enforce limitations on use of the Mobile Applications; or (iv) delete the copyright and other proprietary rights notices on the Mobile Applications. You acknowledge that IXL may from time to time issue updates and upgrades, including but not limited to upgraded versions of the Mobile Applications, and may automatically electronically upgrade the version of the Mobile Applications that you are using on your mobile device. By installing the Mobile Applications, you consent to the activation of the Mobile Application by IXL, 777 Mariners Island Blvd., Suite 600, San Mateo, CA 94404, and to all future automatic upgrading and updating on your mobile device, and agree that the terms and conditions of this Agreement will apply to all such upgrades. You can withdraw your consent at any time by uninstalling the Mobile Applications. To request assistance, please contact IXL support at help@ixl.com. You acknowledge and understand and agree that the Mobile Applications, and the Service (including any updates and upgrades) will (a) cause your device to automatically communicate with our servers to deliver the Service's functionalities (as described where you downloaded the Mobile Applications (such as iTunes and Google stores) (b) affect the app-related preferences or data stored in your device, and (c) collect personal information as set out in our Privacy Policy. Any third-party code that may be incorporated in the Mobile Applications is covered by the applicable open source or third-party license EULA, if any, authorizing use of such code. The foregoing license grant is not a sale of the Mobile Applications or any copy thereof, and IXL or its third-party partners or suppliers retain all right, title, and interest in the Mobile Applications (and any copy thereof). Any attempt by you to transfer any of the rights, duties or obligations hereunder, except as expressly provided for in this Agreement, is void. IXL reserves all rights not expressly granted under this Agreement. If the Mobile Applications is being acquired on behalf of the United States Government, then the following provision applies. The Mobile Applications will be deemed to be "commercial computer software" and "commercial computer software documentation," respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212, as applicable. Any use, reproduction, release, performance, display or disclosure of the Service and any accompanying documentation by the U.S. Government will be governed solely by this Agreement and is prohibited except to the extent expressly permitted by this Agreement. The Mobile Applications originates in the United States, and is subject to United States export laws and regulations. The Mobile Applications may not be exported or re-exported to certain countries or those persons or entities prohibited from receiving exports from the United States. In addition, the Mobile Applications may be subject to the import and export laws of other countries. You agree to comply with all United States and foreign laws related to use of the Mobile Applications and the Service.

Mobile Applications from Apple App Store. The following applies to any Mobile Applications you acquire from the Apple App Store ("Apple-Sourced Software"): You acknowledge and agree that this Agreement is solely between you and IXL, not Apple, Inc. ("Apple") and that Apple has no responsibility for the Apple-Sourced Software or content thereof. Your use of the Apple-Sourced Software must comply with the App Store Terms of Service. You acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Apple-Sourced Software. In the event of any failure of the Apple-Sourced Software to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price for the Apple-Sourced Software to you; to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the Apple-Sourced Software, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be solely governed by this Agreement and any law applicable to IXL

as provider of the software. You acknowledge that Apple is not responsible for addressing any claims of you or any third party relating to the Apple-Sourced Software or your possession and/or use of the Apple-Sourced Software, including, but not limited to: (i) product liability claims; (ii) any claim that the Apple-Sourced Software fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation; and all such claims are governed solely by this Agreement and any law applicable to IXL as provider of the software. You acknowledge that, in the event of any third-party claim that the Apple-Sourced Software or your possession and use of that Apple-Sourced Software infringes that third party's intellectual property rights, IXL, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim to the extent required by this Agreement. You and IXL acknowledge and agree that Apple, and Apple's subsidiaries, are third-party beneficiaries of this Agreement as relates to your license of the Apple-Sourced Software, and that, upon your acceptance of the terms and conditions of this Agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce this Agreement as relates to your license of the Apple-Sourced Software against you as a third-party beneficiary thereof.

Mobile Applications from Google Play Store. The following applies to any Mobile Applications you acquire from the Google Play Store ("Google-Sourced Software"): (i) you acknowledge that the Agreement is between you and IXL only, and not with Google, Inc. ("Google"); (ii) your use of Google-Sourced Software must comply with Google's then-current Google Play Store Terms of Service; (iii) Google is only a provider of the Google Play Store where you obtained the Google-Sourced Software; (iv) IXL, and not Google, is solely responsible for its Google-Sourced Software; (v) Google has no obligation or liability to you with respect to Google-Sourced Software or the Agreement; and (vi) you acknowledge and agree that Google is a third-party beneficiary to the Agreement as it relates to IXL's Google-Sourced Software.

25. GENERAL TERMS

This Agreement, together with any amendments and any additional agreements you may enter into with IXL relating to the Service, shall constitute the entire agreement between you and IXL and govern your use of the Service, superseding any prior agreements between you and IXL. We object to and reject any additional or different terms proposed by you, including those contained in your purchase order, acceptance or website. This Agreement may only be superseded by a signed, notarized writing executed by an officer of IXL. The failure of IXL to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision. If any provision of the Agreement is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of the Agreement remain in full force and effect. Except for actions for nonpayment or breach of a party's proprietary rights, no action, regardless of form, arising out of or relating to this Agreement may be brought by either party more than one (1) year after the cause of action has accrued. We might make versions of this Agreement or one or more of our Policies available in languages other than English. If we do, the English version of this Agreement and any such Policies will govern our relationship and the translations are provided for convenience only and will not be interpreted to modify the English version of this Agreement or such Policies.

The section titles in this Agreement are for convenience only and have no legal or contractual effect.

Last Updated: January 27, 2021

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Vista Del Mar Middle School
Irene Herrera-Cevallos, Principal

☐ Informational
☒ Action

AGENDA ITEM: TEACHERS PAY TEACHERS (TPT) SCHOOL ACCESS SUBSCRIPTION FOR VISTA DEL MAR MIDDLE SCHOOL

BACKGROUND INFORMATION:
Teachers Pay Teachers (TpT) School Access is a subscription for U.S. K-12 schools that gives teachers immediate access to a comprehensive library of more than 3 million TpT resources. The Subscription to Teachers Pay Teachers will equip educators with access to the resources and digital tools they need to teach at their best in any learning environment. Teachers Pay Teachers School Access unlocks access to a catalog of nearly 4 million Pre-K-12 resources that includes EASEL aby Teachers Pay Teachers any easy to use, suite of digital tools.

The Principal at Vista Del Mar Middle School is requesting approval to purchase the Teachers Pay Teachers 1-year subscription, which will give access to all teachers in the school.

RECOMMENDATION:
Approve the purchase of the Teachers Pay Teachers 1-year subscription for Vista Del Mar Middle School at the total cost of $3,400.00 from the Title I Fund.

LCAP GOAL AND ACTION/SERVICE:
Goal 1: Student Achievement – Action 1.19: Continue to provide supplemental programs and resources (i.e., Reading Renaissance, math manipulatives, etc.) to support student achievement in core content areas.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications? ☒ Yes ☐ No

Are funds for this item available in the 2020-2021 Budget? ☒ Yes ☐ No

Requisition # 6738

$3,400.00 (Amount)

Title I Fund, Goal 1 (Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

TPT School Access™

QUOTE

Company: Teacher Synergy LLC
Send Purchase Order to:
Attn: School Purchasing Department
PO Box 1411
New York, NY 10276

Date Issued: 05/04/2021
Expiration Date: 07/02/2021

Send Payment to:
Teacher Synergy LLC
75 Remittance Drive – Department 6759
Chicago, IL 60675-6759

SUBSCRIBER DETAILS:
Customer: Vista Del Mar Middle School
4885 DEL SOL BLVD
SAN DIEGO, CALIFORNIA, 92154

Sales Representative	TpT Quote ID
Ross Manssur	Q016080

Account Contact:
Name: Irene Herrera-Cevallos
Email Address: irene.herrera-cevallos@sysdschools.org

Invoicing Contact:
Name: Irene Herrera-Cevallos
Email Address: irene.herrera-cevallos@sysdschools.org

SUBSCRIPTION DETAILS:

USERS	SERVICE TERM
Up to 20	**Start Date**: 07/21/2021 **Months**: 12

SERVICE	QUANTITY	PRICE
Easel by TpT (Digital Suite)	1	$1,400.00
Resource Licenses	400	$2,000.00

ADDITIONAL SERVICES:

SERVICE	LIST PRICE	DISCOUNT	PRICE
Professional Development	$500	100%	$0

PAYMENT TERMS:

Payment Due	Net 30 (from invoice date)
Payment Method	Check
Currency	USD

SUBTOTAL	$3,400.00
Estimated Tax*	Tax Exempt
TOTAL	**$3,400.00**

*Sales tax ultimately charged may differ. The final sales tax amount will be calculated when an invoice is created.

Directions: If you need to reference a purchase order for this order, you can

Purchase Order #
(if applicable, for reference

TPT School Access™

QUOTE

write the PO # in the box to the right and submit your signed PO with this signed Quote.

only)

Authorized Signature

Name: Marilyn Adrianzen

Title: CBO

Date:

Board approved: _____

Terms & Conditions:

This Quote is for the purchase of successive 12 month Service Terms ("Terms") as indicated by the number of Terms listed herein (collectively the "Subscription Commitment"), where each Term includes access to the TpT School Access platform for the number of users and the number of resource licenses designated herein. If Customer's needs change during the course of the Subscription Term, Customer may purchase additional resource licenses and/or additional user seats for Easel by paying additional fees. The Easel by TpT fee covers standard platform features currently available. TpT may introduce additional features available at an additional cost during the course of Subscription Commitment that Customer may be able to purchase by executing a Quote for such additional services and paying the applicable fees. This Quote and your use of the TpT School Access Services is governed by our TpT School Access Subscription Terms ("Terms") found at the following URL: http://bit.ly/TpTSchoolAccessTerms which Terms are incorporated by reference into this Quote and together with this Quote and our Privacy Policy form the "Agreement". By signing this Quote, Customer agrees to be bound by this Agreement and the individual signing represents and warrants that he or she is authorized to bind Customer to the Agreement. Customer acknowledges and agrees that any reference to a purchase order in this Quote or any associated invoice is solely for Customer's convenience in record keeping, and no such reference or any delivery of Services to Customer following any issuance of a purchase order shall be deemed as Company's acknowledgement of or agreement to any terms or conditions associated with any such purchase order or in any way be deemed to modify, alter, supersede or supplement the Agreement. The terms and conditions of the Agreement are the exclusive agreement of the parties with respect to the subject matter hereof and no other terms or conditions shall be binding upon Company or otherwise have any force or effect.

TpT School Access Subscription Terms

Effective as of 05/01/2021, see previous version here.

These TpT School Access Subscription Terms ("Terms") are entered into between Teacher Synergy LLC ("TpT", "us", "we", or "our") and the educational institution named on an executed TpT School Access Quote (or "Quote as defined herein) ("Customer"). Together with the Terms, any executed Quote(s), our Privacy Policy, Student Privacy Policy and any other policies incorporated herein or attached hereto form the "Agreement" between TpT and the Customer. The individual entering the Agreement on behalf of Customer by signing a Quote represents and warrants that they are an authorized representative of and have the authority to bind the Customer to the Agreement. As to the subject matter of this Agreement, in the event of an inconsistency between these Terms, the terms of the Quote, any feature specific terms or policies, or the marketplace Terms of Service, the order of precedence shall be first the terms of the applicable Quote followed by applicable feature specific terms (but only with regard to the use of such feature), followed by these Terms, provided such order of precedence shall only apply to the extent of a conflict. In the event of a conflict between the Privacy Policy and the Student Privacy Policy, the Student Privacy Policy shall govern only with respect to Student Information (as defined therein) and only to the extent of the conflict.

1. **Definitions**. Capitalized terms throughout the Agreement shall have the meaning assigned in this section or elsewhere in the Agreement as applicable.
   - 1.1 **"Access Level"** means the maximum number of Resource Licenses that an Account may Access during the Service Term, as listed on the applicable Quote.
   - 1.2 **"Access" or "Accessed"** means that, with regard to a Resource, a User has obtained a Resource License by electronically viewing, downloading, printing or otherwise accessing a Resource. All Access is only permitted for the duration of the Service Term and is considered final; once Accessed, the Resource counts as a Resource License towards the Account's overall Access Level for that Service Term. Once Accessed, a Resource may not be returned or refunded for any credit towards the remaining Access Level.
   - 1.3 **"Account"** refers to an individual School Access account provisioned by TpT to each Customer, which houses the Customer's information, and through which Customer's Users access the Services.
   - 1.4 **"Account Owner"** is the individual the Customer assigns to the Account Owner User Role and who has the privileges defined in sections 4.3.1 and 4.3.3. Only one User per Account may be designated as the Account Owner.
   - 1.5 **"Account Administrator"** is any one or more Users who are assigned to the Account Administrator User Role and who have the privileges defined in sections 4.3.1 and 4.3.2.
   - 1.6 **"Account Member"** is any one or more Users who is neither an Account Administrator nor an Account Owner and who has the privileges defined in section 4.3.1.
   - 1.7 **"Agreement"** means these TpT School Access Subscription Terms together with an executed Quote, our Privacy Policy, Student Privacy Policy, TpT Digital Tool User Agreement and any other policies incorporated herein. The Agreement governs the relationship between the parties and the terms and conditions on which TpT offers and Customer accepts the Services.
   - 1.8 **"Customer"** means the educational institution entity listed on the Quote which is purchasing, and will be receiving, the ordered Services.
   - 1.9 **"Customer Data"** means any data, information or material entered by or added to the Service by Customer or Customer's Users or otherwise received by the Service from Customer or Customer's Users in the course of accessing or using the Service, for example, Customer's contact and billing information, Customer's roster of Users and User Account information.
   - 1.10 **"Effective Date"** of the Agreement is the earlier of the date on which a valid Quote is signed by Customer and accepted by TpT (including electronically), or the start date of the Service Term set forth in an applicable Quote.
   - 1.11 **"Fees"** refers to the amount due as listed on the applicable Quote for the particular Services ordered, as well as any other fees that may apply.

1.12 **"Quote(s)"** means the TpT issued order document titled "TpT School Access Quote" memorializing the Order Terms TpT offers to Customer. Quotes are subject to the expiration date listed thereon, as applicable.

1.13 **"Order Terms"** means TpT's offer to Customer as described on the Quote including the identity of the Customer to receive Services, the Services being ordered (including Access Level), the Service Term, and the Fees Customer will be charged for those Services. Customer may accept the Order Terms by signing and returning the Quote prior to the Quote expiration date. If the Order Terms are not accepted, signed, and returned by the Quote expiration date, TpT will not be required to honor the Order Terms and the Customer may not be offered the same Order Terms on any subsequently issued Quotes.

1.14 **"Resource(s)"** means the individual materials, as available, in the Resource Catalog that may be Accessed by Users. Resources are created and owned by TpT's marketplace sellers ("Teacher-Authors") and are licensed by the Teacher-Author for use through the Services. TpT cannot and does not guarantee the availability or accessibility of any particular Resource at any time.

1.15 **"Resource Catalog"** means the collection of Resources that are available, at any given time, through the Services. The Resource Catalog is subject to change during the Service Term as Resources may be added and/or removed throughout the Service Term at TpT or the Teacher-Author's discretion.

1.16 **"Resource License"** means, when a Resource is Accessed, the limited license, as described in section 3.2.2, that a User is granted to use the Resource during the Service Term.

1.17 **"Services"** refers to the TpT School Access platform and features ("School Access Platform"), the Resource Catalog, Resources, and any related products or services that TpT may offer.

1.18 **"Service Term"** is the duration pursuant to which you can use to the Services, as determined by the start date and end date listed on the applicable executed Quote.

1.19 **"User(s)"** means any individual who is given access to the Services through the Customer's Account including Account Members, Account Administrators, and the Account Owner. All Users of a Customer's Account must be authorized employees, contractors or agents of the Customer.

1.20 **"User Account"** means the individual account of a User as part of the Customer's Account.

1.21 **"User Roles"** means the defined roles (Account Member, Account Administrator, or Account Owner) that Users under the Account can be assigned, each of which relate to a set of privileges with respect to the use and administration of Customer's Account. Every User must have an assigned User Role.

2. **Services description.** TpT School Access is a subscription-based service that allows, subject to this Agreement, Customer and its Users access to the School Access Platform, available standard features, and Resources, as available, in the Resource Catalog for the Service Term. TpT agrees to provide the Services as set out on the applicable Quote. TpT reserves the right to modify, and/or make improvements, or updates to the Services at its discretion and may, from time to time, offer or introduce additional features or services for which there may be additional Fees and/or terms and conditions of use, which by this reference are incorporated herein.

3. **License Grants and Use Restrictions.**

3.1 **Services**. Subject to limitations described herein and in accordance with the terms of any Quote, TpT grants Customer a limited, non-exclusive, non-transferable, non-sublicensable, worldwide, royalty-free right to (i) access and use the School Access Platform during the Service Term solely for the purposes of Accessing Resources in accordance with this Agreement and (ii) use the Accessed Resources in accordance with the applicable license terms and as further set forth in Section 3.2.2. Customer may not, and may not permit its Users or others to, (a) share or provide access to the Services to any other entity or third parties other than as specifically permitted hereunder; (b) resell, rent, lease, or sublicense the Services; (c) reverse engineer, decompile, attempt to discover or derive the source code from, or create derivative works of the Services, and/or (d) use or share Resources or Resource Licenses in violation of Section 3.2.2, for example by sharing Resources or Resource Licenses with others, including other Users. Notwithstanding the license granted herein, TpT maintains all legal right, title and interest in and to the Services, including all intellectual property and proprietary rights and this Agreement does not convey any such rights except as expressly described herein.

3.2 **Resources.** Customer's Users may Access Resources available through the Services in accordance with the following terms.

3.2.1. **Access Level.** Subject to the terms of this Agreement, Customer's Users are permitted to collectively Access up to the number of Resource Licenses associated with Customer's Access Level, per Service Term, which is listed on the applicable Quote. Resource Licenses are personal to the User who Accessed the particular Resource, may not be shared or transferred, and Access to Resource Licenses will not roll over from one Service Term to subsequent Service Term. This means that: (i) in the event that more than one User Accesses the same Resource, each User's Access counts as a used Resource License towards the Customer's overall Access Level for the applicable Service Term, (ii) Resource Licenses used by a User who is thereafter removed from the Account may not be recouped, retained, transferred or otherwise used by another User, (iii) Resources Accessed in one Service Term may only be Accessed in a subsequent Service Term by obtaining a new Resource License for such Resource in accordance with the applicable Quote and available Access Level.

3.2.2. **Resource License.** When a User Accesses a Resource through the Services, the Teacher-Author grants the Accessing User a non-exclusive, royalty free, non-transferable, revocable, limited license to use the Resource solely for that User's use for the internal and, as expressly permitted herein, instructional purposes of the Customer and only during the Service Term so long as the Accessing User maintains an active User Account with the Customer. Resource Licenses are personal to the Accessing User and may not be shared with other Users or any third parties, except that a User may use the Resource as necessary with the User's students for instructional purposes. Customer will not and will not permit its Users to reproduce, copy, distribute, display, resell, rent, lease, publish, share online (including posting to any Customer website, shared drives, centralized database, or learning management system), create derivatives of, or otherwise use Resources beyond the Resource License granted herein. A Resource License may be revoked at any time during the Service Term if TpT is no longer able to host the Resource for any reason including for example, to comply with any policies or laws. No credit or adjustment will be made to Customer's remaining Access Level as a result of a Resource License being revoked.

3.2.3. **Digital and Student Tools**. Customer and Customer's Users may use Accessed Resources with available Student Tools (as defined in our Student Privacy Policy) which are tools and other available functionality enabling digital use and interaction with students, including but not limited to Easel by TpT. Any use of Student Tools by Customer or any of Customer's Users is governed by and subject to the Student Privacy Policy, and any use of the Easel by TpT is governed by and subject to the TpT Digital Tool User Agreement, each of which are incorporated herein and made part of the Agreement by reference.

4. **Account, Users, Rights and Responsibilities.**

4.1 **Account provisioning.** Prior to the start of the Service Term, TpT will provision an Account to the Customer's designated Account Owner.

4.2 **User Seats.** Customer may add or invite up to the number of Users indicated on an applicable Quote to join its Account. Each User will have a unique User Account and User Accounts may not be shared by multiple individuals. In the event that a User is removed from the Customer's Account the User's Account will be closed and a new User with a new User Account may be added to the Customer's Account.

4.3 **User Role Privileges.** Users have the following rights and responsibilities as determined by their assigned User Role.

4.3.1. **All Users.** All Users can access the Services to discover and Access Resources, subject to the limitations described herein. Any User who has been removed from the Account may no longer access the Services. TpT shall revoke all licenses and rights to use the Services and any Resource Licenses acquired by a User when the User is removed from the Account.

4.3.2. **Additional Rights of Account Administrator.** Each Account may have multiple Users assigned to the role of Account Administrator. Account Administrators can add, remove, and otherwise manage Account Members.

4.3.3. **Additional rights of Account Owner.** Each Account can only have one Account Owner. The Account Owner serves as the primary contact person for the Customer and has the highest level of authority out of the Users to manage the Account. Notices and other important communications related to the Account will be sent to the email address associated with the Account Owner, which must be an email address owned or controlled by, or licensed to, the Customer (e.g. within the Customer's email domain). The Account Owner can add, update or remove Users, update User Roles, and manage information and settings associated with the Account. Only the Account Owner can assign a different user as the Account Owner.

4.3.4. **Additional rights of TpT.** TpT reserves the right to refuse registration of, or to cancel, Accounts or login information that violate the terms and conditions set forth in this Agreement. TpT also reserves the right to transition, including without limitation at Customer's request, Account (including Account Owner) access to another individual employed by Customer if necessary for the orderly transition, maintenance, or operation of Customer's Account.

4.4 **Responsibility for Users**. Customer is responsible for all loss or damage arising from Customer's and its Users' acts, omissions or failure to keep the Account (including User Accounts) secure, for all activity that happens under its Account (including User Accounts), including the actions of its Users or other third parties (whether or not such activity was with Customer's knowledge or consent), and for ensuring that its Users comply with this Agreement. Customer shall be responsible for any breach of this Agreement by any of its Users.

4.4.1. **Login Credentials.** Customer is responsible for ensuring the security and confidentiality of its Account and for ensuring that its Users maintain the security and confidentiality of their login information (e.g., login id and password) associated with the User's School Access User Account. Customer will immediately notify TpT of any unauthorized use or access to its Account (including any User Accounts) or any other actual or suspected breach, accidental disclosure, loss or theft of any login information associated with Customer's Account. TpT will not be liable to Customer for any loss or damage arising from any unauthorized activity on the Account (including User Accounts), or any other failure to secure access to Customer's Account (including User Accounts).

4.4.2. **Prohibited Activities**. Customer must ensure that its Users comply with this Agreement and any policies or documentation pertaining to use of the Services, and Customer must not and must not permit its Users to (i) remove any title, trademark, copyright or restricted rights notices or labels from the School Access Platform, Resources or any related documentation, (ii) share accounts or passwords with anyone, (iii) post, transmit, disseminate, send, or share any Customer Data, content, Reviews (as defined below), or communication that is or may be infringing, libelous, defamatory, hateful, harassing, offensive, explicit, or otherwise objectionable or inappropriate, (iv) introduce any malicious code or viruses to the Services, (v) engage in any activity that overloads or causes a strain on the Services or otherwise impacts or impairs the ability of another Customer to use and enjoy the Services, (vi) attempt to gain unauthorized access to the Services or use the Services beyond what is permitted in this Agreement including, but not limited to, accessing or attempting to access the Services (including Resources) beyond the Customer's Access Level or Service Term.

5. **Customer Data and Feedback**

5.1 **Customer Data.** Except as provided herein, as between Customer and TpT, Customer owns the Customer Data and is responsible for the accuracy and completeness of Customer Data and for ensuring that it has the proper authority to grant TpT the right to use Customer Data in accordance with this Agreement. Customer grants TpT all necessary rights to use, access, and disclose Customer Data (i) as necessary to provide the Services, (ii) for the purpose of TpT enforcing its rights under this Agreement, (iii) for TpT's business purposes including but not limited to analytics, evaluations, benchmarking tests, studies, monitoring, and (iv) for research, development or other purposes to improve our Services.

5.2 **Insights and Activity Feed.** The Services may include features that display activity or reports related to usage of the Services, Resources Accessed by Users, or other insights or engagement information related to Customer's Account and its Users. Such activity and reports may be viewed by any Users, unless otherwise specified.

5.3 **Usage Data.** Data related to Customer or its Users' use of the Services which doesn't identify Customer's Users individually or personally, and Customer Data that has been anonymized or aggregated, is "Usage Data". Usage Data will be owned by TpT and may be used, retained, and disclosed by TpT in its discretion for any and all business purposes.

5.4 **Feedback.** As you use the Services, you may provide, or we may solicit, feedback about your experience and satisfaction, suggestions or ideas for improvements, modifications, or new features for the Services or any other aspects of our current or future business ("Feedback"), through various means, including but not limited to usability research, account management communications, interactions with our customer support team, and surveys. You agree that all Feedback is the sole property of TpT, and, as such, TpT may use your Feedback without consideration or compensation for any and all purposes in our discretion including internal business and development purposes and external marketing and promotional purposes. You hereby make and agree to make all assignments necessary to affect the foregoing ownership.

5.5 **Resource Ratings and reviews.** Users may have the opportunity to rate and/or leave a written review of Resource(s) the User has Accessed through the Services ("Reviews"). Customer and its Users grant TpT the right to use, display, and reproduce such Reviews including the User's name as published with such Review i) throughout the Services, as well as through any other services or platforms we may currently provide or hereinafter develop, and ii) for any and all marketing, promotion, or other business purposes in TpT's discretion.

5.6 **Student Data**. To the extent that TpT collects personal information from Student Users (as defined in our Student Privacy Policy) on Customer's behalf as a result of Customer's or Customer's Users' use of Student Tools, such information will be treated in accordance with our Student Privacy Policy.

6. **Fees and Payment**

6.1 **Fees.** The Fees due for the Services are as listed on the applicable Quote. Fees are subject to change from time to time, and Customer will be charged the then-current Fees in effect for the applicable Services at the time the Quote is executed.

6.2 **Invoicing and Payment.** Customer will be invoiced for, and agrees to pay, the full amount of any Fees listed on each executed Quote. Payment may be made by one of the accepted payment methods designated by TpT, which TpT reserves the right to modify in its discretion. Payment will be due in full within 30 days of the date of invoice, unless otherwise indicated on the Quote, and TpT reserves the right to suspend or terminate Services in the event of late payments or unpaid Fees. All payments for the Services are non-refundable and non-cancellable, except as expressly provided herein, and are based on the Services ordered not the Services actually used. Customer will not be due any amount of a refund for any unused User seats or unused portion of the Access Level, and Customer may not reduce its User Seats or Access Level during the Service Term. In no event will the unused portion of a Customer's Access Level or any unused User seats be rolled over to the Customer's next Service Term. Customer may, during the Service Term, purchase additional User seats or upgrade its Access Level by executing an additional Quote for such increase and paying any additional Fees in accordance with this section.

6.3 **Taxes.** The Quote may list and TpT may charge sales tax as applicable unless TpT has first received a valid sales tax exemption form. If no sales tax is listed or charged and TpT later determines that sales tax should have been charged, TpT will invoice Customer, and Customer agrees to pay, any amount of sales tax that may be due as a result of Customer's purchase of the Services. Customer is solely responsible for any use tax that Customer may owe.

7. **Term and Termination.**

7.1 **Term and renewal.** All Service Terms will be for one year unless otherwise specified on the applicable Quote. The Service Term will start and end on the dates specified in the applicable Quote. To continue to use the Services after the expiration of each Service Term, Customer will have to execute a new Quote and pay the associated Fees for each subsequent Service Term. The Agreement remains in effect from the Effective Date until the end of the final Service Term (when there are no active Quotes in effect between the parties), except that certain provisions shall survive the Agreement as provided in section 7.3.

7.2 **Termination.**

7.2.1. **Expiration**. Except as provided herein, this Agreement will terminate at the expiration of the then-current Service Term if the Customer does not execute a new Quote and enter into a subsequent Service Term.

7.2.2. **Termination for breach.** This Agreement may be earlier terminated by Customer or TpT in the event the other party breaches a material term of this Agreement which breach is not cured within 30 days of the aggrieved party providing notice of the breach to the breaching party. Notwithstanding the foregoing, TpT may terminate the Agreement immediately if Customer violates section 3, section 4.4, or section 6. If TpT terminates the Agreement in accordance with this section 7.2.2, any outstanding or unpaid Fees will become fully due and payable. If Customer terminates this Agreement in accordance with this section 7.2.2 for TpT's uncured material breach of this Agreement, Customer will be due a prorated refund for any Fees paid for unused portion of the Services which unused portion shall be calculated by multiplying the total Fees due by the percentage of Resource Licenses remaining unused as of the date of termination (from the total number of Resource Licenses permitted by Customer's Access Level) and subtracting any unpaid Fees.

7.3 **Effect of Termination.** Upon any termination of this Agreement or expiration of any Service Term, Customer and its Users will immediately cease any use or access of the Services and any Resources. All licenses granted in section 3 expire and are hereby revoked as of the date of termination of this Agreement or expiration of any Service Term. This means that Customer may not and will not permit its Users to continue using any Resources Accessed during the Service Term after the Service Term ends, and Customer agrees to destroy or return any copies of any Resources, documentation, notes, Confidential Information or other materials relating to the Service that may still be in its or its Users possession. For example, Customer must ensure that any copies of Resources that have been downloaded, printed, or otherwise saved by Customer's Users are destroyed and will no longer be used after the Service Term. If Customer enters a subsequent Service Term, its available Resource Licenses, as applicable to its Access Level for such subsequent Service Term (as determined on the applicable Quote), may be used to enable Customer's Users to continue using Resources Accessed in the previous Service Term but such Resource Licenses will count towards the subsequent Service Term's Access Limit. The following provisions of the Agreement shall survive termination of the Agreement: sections 1, 3, 4.4.2, 5, 6.2, 6.3, 7, 8, 9, 10, 11, 13, and 14.

8. **Confidentiality.**

8.1 **Definition.** "Confidential Information" means information and materials provided by a party ("Discloser") to the other party ("Recipient") that (i) are identified as confidential at the time of disclosure, or (ii) a reasonable person should understand to be confidential based on the nature of the information and materials and all other relevant factors. Notwithstanding the foregoing, information that (a) was already rightfully known by or disclosed to the Recipient without restriction at or before the time of disclosure by Discloser, (b) is or becomes publicly known without fault of the Recipient, or (c) is or was independently developed by the Recipient without access to or reliance on the Confidential Information shall not be considered Confidential Information. Customer's Confidential Information includes Customer Data except for any such Customer Data that is also Usage Data. TpT's Confidential Information includes the terms of this Agreement, including pricing terms offered under any Quote, TpT's non-public business plans, all non-public aspects of the Services (including the Beta Features (as defined below)). Due to the unique nature of TpT's Confidential Information, Customer agrees that any breach or threatened breach of this section 8.1 by Customer will cause not only financial harm to TpT, but also irreparable harm for which money damages will not be an adequate remedy. Therefore, TpT shall be entitled, in addition to any other legal or equitable remedies, to an injunction or similar equitable relief against any such breach or threatened breach without the necessity of posting any bond.

8.2 **Permitted use and disclosure.** Customer may only use the Confidential Information of TpT as necessary to exercise its rights and meet its obligations under this Agreement and may only share such Confidential Information as may be necessary with its employees, contractors, or agents (together "Representatives") (i) having a need to know the Confidential Information, and (ii) who have been apprised of and agree to restrictions at least as protective of the Confidential Information as this Agreement. Customer shall be responsible for any breach of its obligations hereunder by any of its Representatives. TpT may use Customer's Confidential Information, and may share Customer's Confidential Information with employees, contractors, and subcontractors as needed to provide the

Services to Customer. Notwithstanding the foregoing, Recipient's disclosure of the Discloser's Confidential Information in response to a government request, a court order or other legal process, or as otherwise required by law, will not be a violation of this section; provided that prior to any such disclosure, Recipient shall use reasonable efforts to (a) promptly notify Discloser in writing of such requirement to disclose, and (b) cooperate with Discloser in protecting against or minimizing any such disclosure or obtaining a protective order.

8.3 **Obligations.** Except as provided above, the Recipient may not use the Discloser's Confidential Information for any purpose beyond those described in section 8.2, must hold in confidence; may not disclose, or permit other to disclose, Discloser's Confidential Information to any third parties; and must exercise at least the same degree of care to protect the Discloser's Confidential information from unauthorized access as it would its own Confidential Information, but no less than reasonable care.

9. **Warranties and Disclaimers.**

9.1 **Warranties by Customer.** Customer represents and warrants that (i) the individual entering this Agreement for Customer is a duly authorized representative of Customer with authority to enter into this Agreement on Customer's behalf and bind Customer to the terms of this Agreement, (ii) that Customer will comply with all local, state, and federal laws and regulations as applicable to its use of the Services, (iii) the execution, delivery and performance of this Agreement does not and will not conflict with any agreement, instrument, judgment or understanding, oral or written, to which it is a party or by which it may be bound, and (iv) Customer Data does not and will not infringe any patent, trademark, trade secret, copyright, right of publicity or any other proprietary right of any other person or entity.

9.2 **WARRANTY DISCLAIMER.** TO THE FULLEST EXTENT PERMITTED BY LAW, THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE" AND TPT MAKES NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED INCLUDING ANY WARRANTIES AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, OR AVAILABILITY. TPT CANNOT AND DOES NOT GUARANTEE THAT THE SERVICES WILL BE FREE OF ERRORS, BUGS, OR OTHER DEFECTS OR THAT ANY SUCH DEFECTS WILL BE REMEDIED. TPT CANNOT AND DOES NOT MAKE ANY GUARANTEES AS TO THE QUALITY, ACCURACY, EFFECTIVENESS, SUITABILITY OR APPROPRIATENESS OF ANY RESOURCES, THAT RESOURCES WILL BE FREE OF INFRINGEMENT, OR THAT ANY PARTICULAR RESOURCE WILL BE OR REMAIN AVAILABLE THROUGH THE SERVICES.

10. **Limitation of liability.** TO THE FULLEST EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, INCLUDING, BUT NOT LIMITED TO, TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE, SHALL TPT BE LIABLE TO YOU OR ANY OTHER PERSON (A) FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER; (B) ANY LOST DATA, LOST PROFITS, OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR (C) FOR ANY MATTER BEYOND ITS REASONABLE CONTROL. TPT'S LIABILITY FOR DAMAGES OF ANY KIND WHATSOEVER ARISING OUT OF THIS AGREEMENT OR CUSTOMER'S USE OF THE SERVICES SHALL BE LIMITED TO THE TOTAL FEES PAID BY CUSTOMER TO TPT (IF ANY) FOR THE SERVICES IN THE TWELVE MONTH PERIOD PRIOR TO THE CLAIM ARISING OR $100 (U.S.), WHICHEVER IS GREATER, EXCEPT WHERE NOT PERMITTED BY APPLICABLE LAW, IN WHICH CASE TPT'S LIABILITY SHALL BE LIMITED TO THE MINIMUM AMOUNT PERMITTED BY SUCH APPLICABLE LAW. ALL THE FOREGOING LIMITATIONS SHALL APPLY EVEN IF TPT HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. ALL THE FOREGOING LIMITATIONS ALSO APPLY WITH RESPECT TO TPT'S LICENSORS, CONTRACTORS AND AGENTS. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION AND EXCLUSION MAY NOT APPLY SUCH CASES.

11. **Indemnification**. Customer agrees to indemnify, defend, and hold harmless TpT from and against any and all damages, costs, expenses (including reasonable attorney's fees) arising from third party claims related to (i) Customer's or any of its Users', agents', employees', or contractors' misuse of the Services, (ii) Customer's or any of its Users', agents', employees', or contractors' gross negligence or willful misconduct, (iii) TpT's use of any Customer Data, (iv) Customer's breach of any representation, warranty, covenant or other agreement made herein, or (v) Customer Data infringing any patent, trademark, trade secret, copyright, right of publicity or any other proprietary right of any other person or entity.

12. **Trial Access and Beta Features.** In the event that TpT allows any Customer (i) to use the Services for any period prior to the start date of the Customer's Service Term; (ii) to test or use any portion of the Services without entering a Quote or paying applicable Fees; or (iii) early access to features that are not yet publicly available ("Beta Features") any such access is "Trial Access", Customer understands and agrees that, (a) notwithstanding anything to the contrary in the Agreement, the terms of the Agreement apply to any such Trial Access, except in the case of any direct conflict with this section 12, in which case this section 12 shall apply, and (b) Trial Access is at Customer's own risk, (c) TpT makes no representations or warranties of any kind with respect to the Trial Access or any Beta Features, (d) TpT may revoke Trial Access at any time with or without warning or cause, (e) TpT may never make the Beta Features publicly available and may modify or remove Beta Features at any time, (f) TpT will not be liable to Customer for any loss, damage, or expense Customer may incur as a result of the Trial Access or using any Beta Features. TpT is not obligated to offer Trial Access or Beta Features to any Customer, and reserves the right to condition Trial Access or access to Beta Features on a commitment by Customer to provide Feedback in the form of user research calls, surveys or other forms.

13. **Government Agencies & Public Entities** If you are a federal, state, or local government or government agency in the United States and are using TpT in your official capacity, the following amendments to these Terms apply:
    13.1 **Federal Governments & Entities**. If you are a federal government or federal government entity, the provisions entitled "Indemnification," and "Governing Law" apply to your official use of the Services only to the extent permitted by federal laws or regulations.
    13.2 **State and Local Governments & Entity.** If you are a state or local government, or state or local government entity, the provisions entitled "Indemnification," and "Governing Law," will apply to your official use of the Services only to the extent permitted by your jurisdiction's laws.

14. **General.**
    14.1 **Entire Agreement.** The Agreement constitutes the entire understanding and agreement between TpT and the Customer and supersedes any and all previous or alternative terms, conditions, documents, or agreements whether oral or in writing as to the subject matter of this Agreement. For the avoidance of doubt, no force or effect will be given to any additional terms or conditions that may be contained in any Customer document (including but not limited to purchase orders, vendor agreements, procurement solicitations, or other procurement documentation) unless explicitly in reference to the Services described in this Agreement and agreed to by TpT in writing, and regardless of any failure by TpT to object.
    14.2 **Publicity.** Customer permits TpT to use the Customer's name, logos, and/or likeness, and, notwithstanding anything to the contrary in this Agreement, including without limitation any confidentiality and non-use obligations, information related to the Customer's location (e.g., address, neighborhood, geographical area, city, and state) on any published customer lists, as a reference with other potential customers, and in other marketing and promotional materials or campaigns in order to identify Customer as a customer of the Services and may disclose information as to which Resources Customer's Users have Accessed. Customer may not use TpT's name, logos, or likeness for any purposes without TpT's prior written consent.
    14.3 **Assignment.** Customer may not assign or transfer any of its rights, responsibilities, or obligations of this Agreement to any third party without the prior written consent of TpT. TpT may, in its discretion and without prior consent, assign its rights, responsibilities, and obligations to any successor to all or substantially all of its assets (whether by sale of assets or equity, merger, consolidation or otherwise).
    14.4 **Relationship**. Customer and TpT are each independent contractors. This Agreement creates no employment, partnership, joint venture, or other relationship between the parties.
    14.5 **Modifications.** TpT may amend the Agreement from time to time. TpT will notify Customer of any material changes by sending an email to the Account Owner and/or posting notice on the Services. Each such notice will provide an effective date of the change and your continued use of the Services beyond the effective date of the change serves as your agreement thereto. No modifications of the Agreement by Customer will have any force or effect unless agreed to in writing by TpT.

14.6 **Severability.** If any provision of this Agreement is determined to be illegal or unenforceable, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.

14.7 **Governing Law.** This Agreement shall be governed by and construed under the laws of the State of New York and the United States without regard to conflicts of laws provisions thereof. Exclusive jurisdiction and venue for actions related to this Agreement will be the state and federal courts located in New York County, New York, and both parties consent to the jurisdiction of such courts with respect to any such actions.

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Preschool & Child Development Programs
Lorena Varela-Reed, Director

☐ Informational
☒ Action

AGENDA ITEM: AGREEMENT WITH THE REGENTS OF THE UNIVERSITY OF CALIFORNIA FOR VISION & HEARING SCREENING SERVICES

BACKGROUND INFORMATION:
The Regents of the University of California have been providing vision screening services to the students of the San Ysidro School District for several years. The District recognizes the importance of students' physical and emotional health and its relationship to learning. The District believes in the value of maintaining the quality of school health services offered to students and their families. The Regents of the University of California through their School of Medicine, Department of Ophthalmology will be providing these services at a minimal cost to the District.

The University provides vision examinations, prescription for glasses and corrective lenses as needed, and glasses at no charge for children referred to the Eye Mobile, assistance with program evaluation; and advise to District personnel on the need for referral of children for ongoing ophthalmologic care.

RECOMMENDATION:
Approve the agreement with The Regents of the University of California for vision and hearing screening services during 2021-22 school year at a cost of $19.50 per student from the State Preschool budget.

LCAP GOAL AND ACTION/SERVICE (please indicate):

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2021-2022 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	

$19.50 per student	State Preschool Budget
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

AGREEMENT BETWEEN
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
AND
SAN YSIDRO SCHOOL DISTRICT
CONCERNING VISION AND HEARING SCREENING SERVICES

THIS AGREEMENT is made and entered by and between The Regents of the University of California on behalf of the University of California, San Diego School of Medicine, Department of Ophthalmology ("UNIVERSITY") and San Ysidro School District, a political subdivision of San Diego County, California ("DISTRICT") with reference to the following facts:

WHEREAS, UNIVERSITY desires to provide vision and hearing services with the assistance of DISTRICT and to educate DISTRICT personnel to conduct vision and hearing screening services and related issues; and

WHEREAS, DISTRICT desires vision and hearing screening for its students, follow-up and referrals, program evaluation and DISTRICT provides assistance to UNIVERSITY by its personnel to perform such vision and hearing screening and related services; UNIVERSITY employs physicians and other personnel with training in ophthalmology, optometry and hearing ("Vision Screeners") and its support staff to perform such services;

WHEREAS, DISTRICT desires to secure, and UNIVERSITY desires to provide, the non-exclusive services of its Vision Screeners and staff;

IN FURTHERANCE of the foregoing purpose, it is agreed:

1. Location. UNIVERSITY shall transport the UCSD Shiley Eye Mobile ("Eye Mobile") to DISTRICT campus locations within San Diego County.

2. Hours of Services. UNVERSITY shall provide its services described herein during normal school hours for DISTRICT campus location and on a mutually agreed upon schedule.

2. RESPONSIBILITIES OF UNIVERSITY

UNIVERSITY agrees that it shall:

2.1 Educate DISTRICT personnel on conduct vision and hearing services and related issues.

2.2 Provide vision examinations, hearing screening, prescriptions for glasses and corrective lenses as needed for children referred to the Eye Mobile; provide assistance with program evaluation; and advice to DISTRICT personnel on the need for referral of children for ongoing ophthalmologic and hearing care.

2.3 Coordinate and oversee UNIVERSITY staff, Vision Screeners and the services they provide under this Agreement.

2.4 Recruit and select UNIVERSITY staff that are appropriately credentialed, licensed, or otherwise authorized to participate in providing such services.

2.5 Provide the names of UNIVERSITY staff and their assignments to DISTRICT sufficiently in advance to allow for convenient schedule planning.

2.6 Develop and implement a mechanism for determining evaluation of the performance of staff to include, where appropriate, input from DISTRICT staff.

2.7 Maintain records and reports concerning the services and of UNIVERSITY staff time spent in the various activities referred to in this Agreement, as may be required by UNIVERSITY and DISTRICT.

2.8 Cooperate with and assist DISTRICT in investigating facts which may serve as a basis for taking any disciplinary or academic action against a DISTRICT staff member/volunteer. DISTRICT may, but need not, consult with UNIVERSITY concerning any proposed disciplinary action. UNIVERSITY agrees to abide by DISTRICT recommended disciplinary action against DISTRICT staff member/volunteer(s). Notwithstanding the foregoing, UNIVERSITY shall have the right, for good cause and after consultation with DISTRICT, to prohibit further attendance at any UNIVERSITY sites of any DISTRICT staff; provided, however, that UNIVERSITY will not take any action against DISTRICT in an arbitrary or capricious manner. Upon such termination, DISTRICT will use its best efforts to replace the terminated staff member/volunteer with another staff member/volunteer as soon as possible.

2.9 Advise DISTRICT of needed repairs or replacement of equipment necessary for the proper performance of services under this Agreement either recognized by or brought to the attention of Vision Screeners.

2.10 Provide clinical supervision for medical students, residents and fellows participating in providing the services under this Agreement.

3. RESPONSIBILITIES OF DISTRICT

DISTRICT agrees that it shall:

3.1 Assist with preliminary vision screening of students at each school site where it desires to have vision follow-up services of UNIVERSITY.

3.2 Space. DISTRICT, at its own expense, shall maintain adequate staff and facilities at its premises to meet objectives of UNIVERSITY'S vision screening program in a manner consistent with the standards and requirements established by UNIVERSITY.

3.3 Records. DISTRICT, at its expense, shall maintain a health records system that includes parent/guardian consent information, age, ethnicity, eye exam results, use of corrective lenses history and future performance for each child to be examined by Vision Screeners, and make available such information as needed by UNIVERSITY for program evaluation purposes. All such patient records shall be retained by DISTRICT and shall remain the property of DISTRICT. DISTRICT shall maintain patient files in compliance with the standards established by HIPAA, and governing agencies. Such patient files and records shall be transmitted in a confidential and secure manner to ensure privacy, security and integrity of data required by HIPAA.

3.4 Support Services. DISTRICT shall designate a person to coordinate program, screening, examination, and scheduling while the Eye Mobile is at a DISTRICT site.

3.5 With respect to any professional services performed by UNIVERSITY under this Agreement, DISTRICT agrees to inform UNIVERSITY as follows:

3.5.1 Immediately upon initiation of an investigation of UNIVERSITY staff or upon the occurrence of a substantive untoward event involving a UNIVERSITY staff.

3.5.2 Within five days after receipt of services of a complaint, summons or notice of a claim naming or involving University staff.

3.5.3 Prior to making or accepting a settlement offer in any lawsuit or legal claim in which a UNIVERSITY staff member has been named or in which a settlement is being proposed on behalf of any staff member.

3.6 Cooperate with and assist UNIVERSITY in investigating facts which may serve as a basis for taking any disciplinary or academic action against UNIVERSITY staff. UNIVERSITY may, but need not consult with DISTRICT concerning any proposed disciplinary action. DISTRICT agrees to abide by UNIVERSITY'S recommended disciplinary action against UNIVERSITY staff. Notwithstanding the foregoing, DISTRICT shall have the right, for good cause and after consultation with UNIVERSITY, to prohibit further attendance at DISTRICT sites of any UNIVERSITY staff; provided, however, that DISTRICT will not take any action against UNIVERSITY staff in an arbitrary and capricious manner. Upon such termination, UNIVERSITY will use its best efforts to replace the terminated staff member with another staff member as soon as possible.

3.7 DISTRICT shall not require any UNIVERSITY staff member to conduct his/her professional behavior that would contradict the requirements of UNIVERSITY'S compliance program.

3.8 The population served shall be limited to those students who are enrolled in DISTRICT schools or other programs conducted on school grounds and who have

received written consent from their parent(s) or guardian for vision examination services and a prescription of corrective lenses as appropriate.

4. COMPENSATION AND BILLING

As compensation for services rendered by UNIVERSITY to DISTRICT pursuant to subsection 2.2 of this Agreement, DISTRICT shall pay UNIVERSITY Nineteen dollars and fifty cents ($19.50) per student. DISTRICT shall pay UNIVERSITY within thirty (30) days of receipt of UNIVERSITY's invoice.

4.1 Payment of UNIVERSITY Vision Screeners salary and benefits shall be the sole responsibility of UNIVERSITY as the employer of the Vision Screeners.

4.2 DISTRICT acknowledges that UNIVERSITY employees shall follow the ethical and legal standards established by the UNIVERSITY'S Compliance Program, as well as those of DISTRICT's compliance program, if such program exists, and a copy has been provided to the UNIVERSITY'S employee.

4.3 The parties acknowledge that none of the benefits granted UNIVERSITY or UNIVERSITY physician employees is conditioned on any requirements that UNIVERSITY or PHYSICIAN make referrals to, be in a position to make or influence referrals to, or otherwise generate business for any party. The parties further agree that physician services provided hereunder are non-exclusive and physicians may establish privileges at, refer any service to, or otherwise generate any business for any other entity of physicians' choosing.

5. DISTRICT'S INSURANCE

DISTRICT, at its sole cost and expense, shall insure DISTRICT'S activities in connection with this Agreement and obtain, keep in force, and maintain insurance as follows:

5.1 Comprehensive or Commercial Form General Liability Insurance (contractual liability included) with a minimum limit of one million dollars ($1,000,000) per occurrence.

5.2 Business Automobile Liability Insurance for owned, non-owned, or hired automobiles with a combined single limit of not less than one million dollars ($1,000,000) per occurrence.

If the above insurance is written on a claims-made form, it shall continue for three (3) years following termination of this Agreement. The insurance shall have a retroactive date of placement prior to or coinciding with the effective date of this Agreement.

5.3 Workers' Compensation as required under California State law.

5.4 Such other insurance in such amounts which from time-to-time may be reasonably required by mutual consent of the UNIVERSITY and DISTRICT against other insurable risks relating to performance.

Coverage required under Subsections 5.1, 5.2 and 5.3 shall not limit the liability of DISTRICT.

The coverage referred to under Subsection 5.1 shall include UNIVERSITY as an additional insured. Such a provision, however, shall apply only in proportion to and to the extent of the negligent acts or omissions of DISTRICT, its officers, employees, and agents. DISTRICT upon the execution of this Agreement shall furnish UNIVERSITY with certificates of insurance evidencing compliance with all requirements. Certificates shall further provide for thirty (30) days (10 days for non-payment of premium) advance written notice to UNIVERSITY of any material modification, change or cancellation of any of the above insurance coverage.

6. UNIVERSITY'S INSURANCE

UNIVERSITY, at its sole cost and expense, shall insure its activities in connection with this Agreement by maintaining programs of self-insurance as follows:

6.1 Professional Medical and Hospital Liability Self-insurance Program with limits of two million dollars ($2,000,000) per occurrence.

6.2 General Liability Self-Insurance Program with a limit of one million dollars ($1,000,000) per occurrence.

6.3 Business Automobile Liability Insurance for owned, non-owned, or hired automobiles with a combined single limit of not less than one million dollars ($1,000,000) per occurrence.

6.4 Workers' Compensation as required under California State law.

6.5 Such other insurance in such amounts, which from time to time may be reasonably required by mutual consent of the parties against other insurable risks relating to performance

Coverage required under this section 6.1, 6.2 and 6.3 shall not in any way limit the liability of UNIVERSITY.

The coverage referred to under Subsection 6.2 shall include DISTRICT as an additional insured. Such a provision, however, shall apply only in proportion to and to the extent of the negligent acts or omissions of UNIVERSITY, its officers, employees, and agents. UNIVERSITY, upon request, shall furnish DISTRICT with certificates of insurance evidencing compliance with all requirements.

7. INDEMNIFICATION

7.1 DISTRICT's Indemnification. DISTRICT shall defend, indemnify and hold UNIVERSITY, its officers, employees, and agents harmless from and against any

and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of DISTRICT, its officers, employees, or agents.

7.2 UNIVERSITY'S Indemnification. UNIVERSITY shall defend, indemnify and hold DISTRICT, its officers, employees and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of UNIVERSITY, its officers, employees, or agents.

8. COOPERATION IN DISPOSITION OF CLAIMS

DISTRICT and UNIVERSITY agree to cooperate with each other in the investigation and disposition of third-party liability claims arising out of any services provided under this Agreement. It is the intention of the parties to fully cooperate in the disposition of all such claims. Such cooperation may include joint investigation, defense and disposition of claims of third parties arising from services performed under this Agreement. DISTRICT and UNIVERSITY agree to promptly inform one another whenever an incident report, claim or complaint is filed or when an investigation is initiated concerning any professional service performed under this Agreement. To the extent allowed by law, DISTRICT and UNIVERSITY shall have reasonable access to the medical records and charts of the other relating to any such claim or investigation; provided, however, that nothing in this section shall require either DISTRICT or UNIVERSITY to disclose any peer review documents, incident reports, records or communications which are privileged under Section 1157 of the California Evidence Code, under the Attorney-Client Privilege or under the Attorney Work-Product Privilege.

9. TERM AND TERMINATION

9.1 Term of Agreement. The term of this Agreement shall be for the period from July 1, 2021 through June 30, 2022. This Agreement may be renewed upon the mutual written agreement of both parties.

9.2 Termination Without Cause. Notwithstanding any other provision to the contrary, this Agreement may be terminated without cause, for any reason, at any time by DISTRICT or UNIVERSITY upon thirty (30) days' prior written notice to the other party. Termination without cause shall not include termination based upon the volume of revenue or referrals generated under this Agreement.

10. PATIENTS' RECORDS

Any and all of DISTRICT'S patient records and charts created at DISTRICT'S medical office as a result of the performance under this Agreement shall be and remain the property of DISTRICT. Both during and after the term of this Agreement,

UNIVERSITY shall be permitted to inspect and/or duplicate, at UNIVERSITY'S expense, any individual charts or records 1) to the extent necessary to assist in the defense of any malpractice or similar claim to which such chart or records may be pertinent and/or 2) for educational purposes upon written approval by DISTRICT. Such inspection and/or duplication shall be permitted and conducted pursuant to commonly accepted standards of patient confidentiality in accordance with applicable federal, state and local laws.

11. INDEPENDENT CONTRACTOR

None of the provisions of this Agreement shall be construed to or shall create a relationship of agency, representation, joint venture, ownership, control or employment between the parties, and it is understood and agreed that UNIVERSITY is at all times acting and performing the services pursuant to this Agreement as an independent contractor and not as an employee or agent of DISTRICT. DISTRICT shall not control or direct the manner or methods by which UNIVERSITY performs the contemplated medical services. However, UNIVERSITY shall be responsible for performing the services in a manner and at times so as to ensure that the contemplated services are performed and rendered in a competent, efficient and satisfactory manner.

12. MODIFICATIONS AND AMENDMENTS

This Agreement may be amended or modified at any time by mutual written consent of the authorized representatives of both parties. DISTRICT and UNIVERSITY agree to amend this Agreement if such amendment is required by applicable regulatory authority and does not materially affect the relative economic benefits of the parties.

13. COMPLIANCE WITH GOVERNMENTAL REQUIREMENTS

UNIVERSITY and DISTRICT shall comply with all applicable codes, ordinances, rules, regulations, and applicable requirements of all municipal, state, and federal authorities now in force, or which may hereinafter be in force pertaining to the provision of services by volunteer(s). The parties agree that in the event of new governmental requirements are imposed which effect the parties' obligations and performance under this Agreement, the parties shall negotiate mutually acceptable additional terms to conform this Agreement to such new requirements.

14. DISPUTE RESOLUTION

In the event of any dispute arising out of or relating to this Agreement, the parties shall attempt, in good faith, to promptly resolve the dispute mutually between themselves. If they are unable to do so, then the following procedures shall apply.

14.1 Mediation. Any dispute between the parties which cannot be resolved in accordance with Article 14 of this Agreement may be submitted to mediation. If the parties mutually agree that mediation is appropriate, within ten (10) business days of the delivery of a request for mediation, the parties shall agree upon a mediator. If the parties are unable to agree on a mediator, a mediator shall be appointed by JAMS/Endispute. In consultation with the mediator selected, the parties shall promptly designate a mutually convenient time and place for the

mediation. At the mediation, each party shall be represented by persons with authority to negotiate a resolution of the dispute, and may be represented by counsel. The mediator shall determine the format for the meetings. The mediation session shall be private. The fees and expenses of the mediator shall be borne equally by the parties, each of whom shall be responsible for their own costs. The entire mediation process shall be confidential and the privileges and protection of Evidence Code Section 1152.5 shall apply. Prior to commencement of mediation, the parties and the mediator shall execute a written confidentiality agreement in accordance with the provisions of Evidence Code Section 1152.5. At any time, either party may withdraw from the mediation process and submit the matter to binding arbitration.

14.2 Arbitration. All disputes between the parties relating to this contract which cannot be resolved by mutual agreement or mediation shall be resolved exclusively by arbitration in accordance with the provisions of this Subparagraph. Either party may commence arbitration by sending a written demand for arbitration to the other party setting forth the nature of the controversy, the dollar amount involved, if any, and the remedies sought. There shall be one (1) arbitrator. If the parties fail to select a mutually acceptable arbitrator within ten (10) days after the demand for arbitration is mailed, then the parties stipulate to arbitration before a single arbitrator sitting on the San Diego JAMS/Endispute panel, who is a retired judge and is selected in the sole discretion of the JAMS/Endispute office administrator. The parties shall share all interim costs of the arbitration until decision. The prevailing party shall be entitled to reimbursement by the other party of such party's attorneys' fees and costs and any arbitration fees and expenses incurred with the arbitration. The substantive law of the State of California shall be applied by the arbitrator. The parties shall have the rights of discovery as provided for in Part 4 of the California Code of Civil Procedure and as provided for in Section 1283.05 of said Code. The California Code of Evidence shall apply to testimony and documents submitted to the arbitrator. Arbitration shall take place in San Diego, California. As soon as reasonably practicable, a hearing with respect to the dispute or matter to be resolved shall be conducted by the arbitrator. As soon as reasonably practicable thereafter, the arbitrator shall arrive at a final decision, which shall be reduced to writing, signed by the arbitrator and mailed to each of the parties and their legal counsel. All decisions of the arbitrator shall be final, binding and conclusive on the parties and shall constitute the only method of resolving disputes or matters. A court of appropriate jurisdiction may issue a writ to enforce the arbitrator's decision. Judgment may be entered upon a decision in accordance with applicable law in any court having appropriate jurisdiction.

15. GOVERNING LAW

This Agreement shall be governed in all respects by the laws of the State of California.

16. ASSIGNMENT

Neither DISTRICT nor UNIVERSITY shall assign their rights, duties, or obligations under this Agreement, either in whole or in part, without the prior written consent of the other.

17. SEVERABILITY

If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws effective during the term hereof, such provision shall be fully severable. This Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part hereof, and the remaining provisions shall remain in full force and effect unaffected by such severance, provided that the invalid provisions are not material to the overall purpose and operation of this Agreement.

18. WAIVER

Waiver by either party of any breach of any provision of this Agreement or warranty of representation herein set forth shall not be construed as a waiver of any subsequent breach of the same or any other provision. The failure to exercise any right hereunder shall not operate as a waiver of such right. All rights and remedies provided for herein are cumulative.

19. ENTIRE AGREEMENT

This Agreement contains all the terms and conditions as agreed upon by the parties hereto regarding the subject matter of the Agreement and supersedes any prior agreements, oral or written, and all other communications between the parties relating to such subject matter.

20. ATTORNEYS' FEES

In the event of any action, suit or proceeding between the parties hereto, the cost of such action, suit or proceeding, including reasonable attorneys' fees, shall be borne by the losing party or, in the case of an arbitration, as determined by the arbitrator.

21. INTERRUPTION OF SERVICES

Any of the parties shall be excused from any delay or failure in performance hereunder caused by reason of any occurrence or contingency beyond its reasonable control, including, but not limited to, acts of God, acts of war, fire, insurrection, labor disputes, riots, earthquakes, or other acts of nature. The obligations and rights of the parties so excused shall be extended on a day-to-day basis for the time period equal to the period of such excusable interruption. In the event the interruption of the excused party's obligations continues for a period in excess of thirty (30) days, the other party shall have the right to terminate this Agreement upon ten (10) days prior written notice to the excused party.

22. SUBJECT HEADINGS

The subject headings used in this Agreement are for convenience only and shall not be deemed to affect the meaning or construction of any of the terms, provisions, covenants or conditions of this Agreement.

23. METHOD OF NOTIFICATION

All notices required or permitted to be given hereunder which may be given by any party to the other, shall be deemed to have been fully given when made in writing and sent by facsimile to the number set forth below or sent by reputable overnight courier, or deposited in the United States mail, postage prepaid, certified mail, return receipt requested, and addressed as follows:

TO UNIVERSITY:
Chief Operating Officer
UC San Diego Health Sciences
9500 Gilman Drive, #0602
La Jolla, CA 92093-0602
Facsimile number: 858.534.6573

TO DISTRICT:
Chief Business Official
San Ysidro School District
4350 Otay Mesa Road
San Ysidro, CA 92173
Facsimile number: 619.428.1393

24. COUNTERPARTS

This Agreement may be executed in separate counterparts, none of which need contain the signatures of all parties, each of which shall be deemed to be an original, and all of which taken together constitute one and the same instrument. Telecopied or scanned signatures will be deemed to have the same effect as an original.

Signature page follows immediately after

The parties have executed this Agreement as set forth below.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA,
on behalf of the University of California San Diego, School of Medicine,
Department of Ophthalmology

By: _____ 5/5/21
Gene Hasegawa — Date
Chief Operating Officer
UC San Diego Health Sciences

SAN YSIDRO SCHOOL DISTRICT

By: _____ _____
Date

Name: Marilyn Adrianzen

Title: Chief Business Official

Board approved: _____

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Maintenance, Operations, Transportation & Facilities
Paulo Azevedo, Director

☐ Informational
☒ Action

AGENDA ITEM: AGREEMENT WITH EMCOR SERVICES MESA ENERGY SYSTEMS, INC.

BACKGROUND INFORMATION:
The Emcor Needle Point Bipolar Ionization (NPBI) system was just installed at all school sites including the district office buildings to create a safer environment for staff and students by purifying the air, improving filtration and combating infected surfaces.

In order to have the system work efficiently, the following one-time preventive maintenance tasks on all 285 Roof Top Units (RTUs) is necessary to confirm that the GPS units are working correctly. Services include:

1. Filter Service
2. Mechanical Inspections
3. Belt Changes

RECOMMENDATION:
Approve/Ratify the agreement with Emcor Services Mesa Energy Systems Inc. to provide the one-time preventive maintenance services at a cost up to $2 4,830.00 from the ESSER II fund.

LCAP GOAL AND ACTION/SERVICE (please indicate):
2.1 Maintain basic operating services of the district including MOT personnel, transportation, contracted services, and utilities.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☒ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	

UP TO $24,830.00	ESSER II
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

EMCOR
Build. Power. Service. Protect.

Paulo Azevedo
San Ysidro School District
4350 Otay Mesa Road, San Ysidro, CA
92173

PROFESSIONAL HVAC MAINTENANCE SERVICES

SUBMITTED BY:

Dave Patterson
Account Manager
Mesa Energy Systems, Inc.
900 Vernon Way, El Cajon CA 92020
E-mail: dpatterson@emcor.net

Date: 04/10/2021
Quote #: 39530
Agreement Valid for 30 Days

04/10/2021

Dear Paulo Azevedo

Mesa Energy Systems, Inc. dba: EMCOR Services Mesa Energy appreciates the opportunity to provide you with our proposal for a best-in-class one time maintenance customized specifically for the HVAC equipment at San Ysidro School District. The benefits from a well-designed and implemented Maintenance program such as the one we are offering often include:

- **Reduction in unplanned down-time**
- **Reduction in costly emergency repairs**
- **Extension of equipment lives**
- **Improved ability to forecast repair & maintenance costs**

Further, our commitment to documenting equipment condition, status, and service-work allows us to create an operational baseline, which can then be compared to historical data. Over time, and with utilization of more advanced analytics and predictive services, we can even begin to identify and correct problems before major damage can occur. Our program is predicated and driven with this in mind.

As you review our proposal, you'll see that it begins with a conceptual overview of the Maintenance Program options, followed by pricing for your facilities. Within the Appendices you will find additional detail including equipment schedules, specific tasking, rate schedules, and other information that you may find useful during your review of our solution.

We at Mesa Energy Systems, Inc. look forward to working with you and your staff in performing this Maintenance program. Should you have any questions or require additional information, please contact me and these adjustments will be made immediately.

Sincerely,
Dave Patterson
Account Manager
858.868.0908
dpatterson@emcor.net
Mesa Energy Systems, Inc.

Proprietary & Confidential

1. LIST OF COVERED EQUIPMENT AND TASKS

List of Covered Preventive Maintenance Tasks

(X) Included	Type of Service	Frequency
X	Filter Service	One Time
X	Mechanical Inspections	One Time
X	Belt Changes	One Time

List of Covered Equipment

HVAC Equipment:

Qty.	*Equipment*	*Make*	*Size*	*Location*
9	RTUs	Various	Various	District Office
7	RTU's	Various	Various	La Mirada
19	RTU's	Various	Various	Smythe
54	RTU's	Various	Various	SYMS
58	RTU's	Various	Various	Willow
60	RTU's	Various	Various	OVH
18	RTU's	Various	Various	Sunset East
21	RTU's	Various	Various	Sunset West
5	RTU's	Various	Various	Sunset CDC
34	RTU's	Various	Various	VDM

Total Units: 285

Tasks

PACKAGE UNITS – QTY 285

1. Perform required lock out tag out to safely service required equipment.
2. Inspect area around equipment for any leaks, trash or debris
3. Inspect interior of cabinets for excessive dirt and debris
4. Inspect blower assembly for any abnormalities.
5. Inspect blower assembly for excessive vibration.
6. Check motor mounts and vibration pads.
7. Check belts for wear, tension, and alignment.
8. Provide and change belts as needed.
   a. Verify proper alignment
9. Inspect sheaves for excessive wear.
10. Inspect electrical connections and contactors. Check for wear, pitting, and signs of overheating.
11. Inspect outside air intake screens.
12. Inspect compressors for excessive vibration.
13. Inspect compressor compartment for excessive dirt, debris, rust.
14. Inspect refrigerant piping for any signs of leaks (Oil).
15. Inspect condenser fan motors, blades, motor mounts.
16. Inspect condenser coils for cleanliness.
17. Inspect condenser coils for signs of refrigerant leaks
18. Inspect drain pans and condensate traps
19. Inspect evaporator coils for cleanliness.
20. Inspect evaporator coils for any signs of refrigerant leaks (Oil).
21. Change filters

a) If SYSD provides filters, EMCOR technicians will install the filters provided by the district.

b) We have also provided options for MERV 8, MERV 10, AND MERV 11 filters.

22. Secure equipment panels.
23. Inspect roof top duct work connections
24. Inspect roof top duct work for any air leaks.
25. Report any deficiencies and required repairs to appropriate personnel.

Proprietary & Confidential

Services Not Included

- Maintenance, repair or replacement of non-maintainable parts of the equipment included in the List of Covered equipment such as, but not limited to, unit cabinets, insulating materials, electrical wiring, structural supports and other non-moving parts, is not included in this agreement.
- This Agreement does not apply to replacement of the equipment included in the List of Covered Equipment, or if repairs are required because of vandalism, flooding, fire, lightning, roof leaks, power failure, installation of incompatible equipment, improper operating procedures, improper/inadequate water treatment or filter service not provided by Contractor or by any other cause beyond the control of Contractor.
- Any and all additional items or equipment required by any governmental authority, insurance company or otherwise, and not specifically set forth on Schedule I hereof.
- Except as may be specifically included in Section 2, Services, above, it is agreed and understood that Contractor shall not be responsible or obligated to provide service hereunder with respect to the following:
- Piping other than refrigerant piping.
- Damage due to freezing weather or corrosion of equipment.
- All non-moving parts such as pressure vessels, tubes, cabinets, casings, door seals, floor drains, thermometers, gauges, flues, ductwork, grilles, heat transfer tubes and coils, refractories, oil or gas heat exchangers, fan housings, ductwork, structural support.
- Valves
- Electrical supply, disconnect switches, circuit breakers.
- Monitoring/Recording devices affixed to equipment.
- Water treatment services or chemicals.
- Annual Boiler Certifications are not included in this contract. If needed, we will coordinate with customer and submit further pricing and inspection scheduling.

2. TERMS AND CONDITIONS (Maintenance Service Agreement)

This agreement (the "Agreement") is made 2/8/2021 between **Customer**, and **Mesa Energy Systems, Inc. located at 900 Vernon Way, El Cajon, California (the "Contractor").**

1. SERVICES:

1.1. Contractor will perform the mechanical maintenance services set forth in Appendix A1 (Equipment List), attached hereto, for Customer at Customer's premises, located at Main Building.

1.2. Contractor will provide the Services at the Site for the equipment set forth in Appendix A1 (the "Equipment").

1.3. Contractor will perform the Services for the Equipment pursuant to the provisions of this Agreement, including the provisions set forth in Schedule I.

2. PRICING AND PAYMENT- Customer agrees to pay Contractor pursuant to the provisions of this Agreement, including the provisions set forth in Schedule II, Pricing, Invoicing, and Payment, attached hereto, for the Term (as defined herein).

3. PRELIMINARY WORK AND ADDITIONAL WORK:

3.1. Prior to performing any Services, Contractor will conduct an initial inspection of the Equipment to determine if the Equipment is in good working order and in suitable condition for the Services. If Contractor determines that initial repair, replacement, or other work is required for any Equipment prior to commencement of the Services, such work shall not constitute a Service under this Agreement, and Contractor will provide Customer with a quotation for such work. If Customer refuses to authorize such work, Contractor may, at its sole option, renegotiate the provisions of this Agreement for such Equipment or terminate this Agreement.

3.2. If Customer requests maintenance, repair, replacement, emergency services, or any other work that Contractor concludes is outside the scope of Services, Customer will pay Contractor the rates and material charges then applicable to such labor and items at such time.

4. SITE ACCESS AND CUSTOMER OBLIGATIONS- Customer agrees to:

4.1 provide safe and reasonable access to the Equipment so that Contractor can perform the Services, and to remove any partitions, fixtures, or materials that may impede Contractor's ability to perform the Services;

4.2 allow Contractor to start and stop the Equipment as is necessary to perform the Services;

4.3 provide any other assistance as is reasonably necessary so that Contractor can perform the Services;

4.4 use and operate the Equipment in accordance with the manufacturer's specifications and directions;

4.5 immediately notify Contractor in the event of any change in the normal use or operation of the Equipment, or any Equipment malfunction; and

4.6 take reasonable safety precautions to protect life and property including, but not limited to, fire watch and/or suppression, in the event of any emergency or system failure during the period of time from when Contractor is first notified of the emergency or failure until such time that Contractor notifies Customer that the emergency has cleared or the system is operational.

5. WARRANTY:

5.1. Contractor warrants that (i) the materials provided in performing the Services will be free from defects to the same extent as set forth in the warranty provided by the manufacturer of such materials and (ii) the workmanship provided in performing the Services will be good and of a workman-like standard for sixty (60) days from the date of the Services.

5.2. Contractor's warranty in section 5.1. of this article (i) applies only to materials and labor furnished by Contractor in performing the Services and (ii) shall be null and void if Customer subsequently has another contractor provide goods or services that relate to, concern, or otherwise affect the Equipment.

5.3. Contractor promptly shall repair or replace, at its sole option, any defective materials occurring within the applicable warranty period for such item, to the extent of such warranty. If a manufacturer's warranty excludes payment to Contractor for labor costs associated with removal, installation, repair, or other like or similar costs to remedy defective materials, Contractor will provide such labor at its own expense during normal working hours for sixty (60) days from the date of the Service, and if Customer requires warranty work at any other time outside normal hours, Customer will pay Contractor the rates then applicable to such labor at such time. Thereafter, Customer will pay Contractor the rates then applicable to such labor at such time.

5.4. Contractor promptly shall repair or replace, at its sole option, any improper workmanship of its Work occurring within the applicable warranty period without cost to Customer. Contractor will provide labor for the performance of this warranty work at its own expense only during normal working hours, and if Customer requires warranty work at any other time, Customer will pay Contractor the rates then applicable to such labor at such time.

5.5. CUSTOMER'S SOLE AND EXCLUSIVE WARRANTY IS THE REPAIR OR REPLACEMENT SET FORTH IN THIS ARTICLE. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF, INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER IMPLIED WARRANTIES. CONTRACTOR'S TOTAL LIABILITY UNDER THIS WARRANTY IS LIMITED TO THE OBLIGATIONS SET FORTH IN THIS ARTICLE. THIS IS CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND IT IS IN LIEU OF ANY AND ALL OTHER POSSIBLE REMEDIES, DAMAGES, CLAIMS, OR WARRANTIES WHETHER EXPRESS OR IMPLIED. THE DAMAGE LIMITATION SET FORTH IN ARTICLE 7 ALSO SHALL APPLY TO THIS WARRANTY.

6. EXCUSED DELAY:

6.1. Contractor shall not be liable for any delay, or loss or damage arising therefrom, and shall be entitled to additional time for the Services, if the delay is caused by an occurrence beyond the control of Contractor, or Contractor's subcontractors, suppliers, or vendors, and without fault or negligence of any of them.

6.2. Contractor shall be entitled to additional compensation for any excused delay as set forth in section 6.1 of this article.

6.3. Contractor shall be entitled to additional compensation for any acceleration or compression of the schedule set forth in Schedule I, and for any out of sequence or overtime work, except to the extent caused by Contractor's own negligent acts or omissions.

7. LIMITATION OF LIABILITY:

7.1. Under no circumstances, whether arising out of contract, tort (including negligence), strict liability, warranty or otherwise, shall either party be liable to the other for special, indirect, incidental, consequential, exemplary or punitive damages of any nature.

7.2. In no event shall Contractor's aggregate liability to Customer for such actual and direct damage exceed an amount, at Contractor's sole option, that is equal to (i) the amount of this Agreement, but if the Agreement is multi-year agreement or variable-priced agreement, an amount that is equal to the value of all Services performed in the year of the event giving rise to the claim, or (ii) the cost to Contractor to repair or replace the Equipment giving rise to the claim.

8. HAZARDOUS MATERIALS:

8.1. Contractor shall not perform any services of any sort that concerns hazardous materials, and shall have no responsibility for accumulation, storage, transportation, or disposal of any hazardous materials or waste generated by Customer or present at the Site.

8.2. Contractor shall not be deemed an "operator" of the Site for purposes of current or pending federal, state, or local laws, rules, or regulations pertaining to hazardous materials.

8.3. In no event shall Contractor be required to sign any manifests related to hazardous materials generated by Customer or present at the Site.

8.4. Customer shall disclose to Contractor in writing and in advance of Contractor performing any Services any known hazardous materials that are present at the Site, including, but not limited to, the location and type of each such hazardous material, so that Contractor can inform and protect its employees from health risks associated with such hazardous materials.

8.5. Contractor shall not be required to perform any Services in any part of the Site where hazardous materials are present or where Contractor suspects the presence of hazardous materials, and Contractor immediately may stop providing Services in either instance and notify Customer of the circumstance giving rise to the stoppage. Contractor's nonperformance of Services due to such actual or potentially unsafe working conditions shall constitute an excused delay. Customer will be responsible for taking any and all actions neces-sary to correct such condition in accordance with all applicable laws and regulations, and Contractor will resume performance of the Services in the affected area only in the absence of hazardous materials and/or when the affected area has been rendered harmless and safe for Contractor's performance of the Services.

8.6. Customer shall defend, indemnify, and hold harmless Contractor from any claims, damages, losses or expenses, including, but not limited to, reasonable attorneys fees, arising out of or resulting from this article.

8.7 Notwithstanding anything to the contrary in this agreement, the water treatment program and/or services provided by EMCOR or its sub-contractor expressly exclude any detection or remediation of, prevention or protection from, or other form of treatment for micro-biological growth and/or biological hazards that may be present in or enter customer's water, water works, and/or systems that contain water, specifically including, but not limited to, Legionella bacteria. Customer and EMCOR agree that EMCOR or its Sub Contractor shall not be liable or responsible for any of the foregoing, or for any loss or damage arising therefrom.

9. TERM AND TERMINATION:

9.3. The provisions set forth in Schedules I and II shall apply for the duration of the Term. If the Agreement is not terminated at the end of the Term, the parties will endeavor to reach agreement on mutually acceptable prospective provisions, which will apply to the next yearly successive term. The parties will follow such process for each successive yearly term until the Agreement is terminated. Failure to reach agreement on prospective provisions for any successive yearly term shall render the Agreement terminated, which the parties shall confirm in writing.

9.4. Customer or Contractor may terminate this Agreement (i) for convenience upon sixty (60) days prior written notice to the other party or (ii) upon thirty (30) days written notice prior to the commencement of any successive yearly term. In the event of either such termination, Customer will pay Contractor for all Services performed through the date of termination and, in addition, in the event of termination for convenience by Customer, all other reasonable costs incurred by Contractor that are associated with such termination.

9.5. Customer may terminate this Agreement for cause, but only upon seven (7) days written notice and, further, upon Contractor's failure to commence curative measures in such time and thereafter to proceed to effect such cure. In the event of such termination, Customer will pay Contractor all undisputed amounts due Contractor for all Services performed through to the date of termination.

9.6. Contractor may suspend its performance of Services, without liability of any sort to Customer, if Customer fails to make payment to Contractor within thirty (30) days after the date payment is due. Upon payment, Contractor will recommence performance, and shall be entitled to an extension of time equal to the suspension and all reasonable costs associated with such suspension.

9.7. If, during the Term or successive terms of this Agreement, Customer utilizes an entity other than Contractor to perform any repair, replacement, modification, or other work on any Equipment, Contractor may, at its sole option, renegotiate the provisions of this Agreement for such Equipment or terminate this Agreement.

10. NO ASSIGNMENT- Neither Customer nor Contractor shall assign any of its rights or obligations hereunder without the prior written approval of the other party.

11. CHOICE OF LAW AND JURISDICTION:

11.1. This Agreement shall be governed by, construed, and enforced for all purposes in accordance with the laws of the State where the Services are performed, without giving effect to its conflict of laws provisions.

11.2. Any and all actions arising from, relating to, or concerning the subject matter of this Agreement shall be commenced in the United States Federal Court in the appropriate district of such State or the State court of such State, either of which shall have exclusive jurisdiction over such actions.

11.3. Any such action shall be submitted TO THE COURT ONLY for resolution, WITHOUT TRIAL TO A JURY. THE PARTIES HEREBY WAIVE ANY RIGHT TO A JURY TRIAL REGARDING ANY SUCH ACTION.

11.4. Any such action also shall be commenced with one (1) year from the date of the Services giving rise to such claim, with the exception of any action by Contractor for collection of amounts due to it.

11.5. Contractor shall be entitled to all fees and costs, including reasonable attorney's fees, incurred by it in any action to collect amounts due to it from Customer.

12. ENTIRE AGREEMENT- This Agreement sets forth the entire agreement between the parties on the subject matter contained herein, and supersedes and renders null and void any and all prior or contemporaneous oral or written understandings, negotiations, or promises relating to these issues. No agreement modifying this Agreement shall be binding unless made in writing and signed by a duly authorized representative of the party to be bound.

SCHEDULE I (SERVICES, EQUIPMENT, AND SCHEDULE)

- **SERVICES-** Contractor will perform the services described by the specific equipment tasking lists and frequencies included in Appendix A1.
- **EQUIPMENT-** Contract will perform the Services for the following Equipment:
- **SCHEDULE FOR SERVICES-** Contractor will perform the Services on the following schedule:
- **OTHER SERVICE TERMS:**

1. Contractor will perform the Services during normal working hours, Monday through Friday, from 8 AM to 5PM, unless specified otherwise as follows:
2. Services do not include any labor for or during off-hours, overtime work, stand by time, or emergency services, unless specified otherwise as follows:
3. Contractor will perform the Services using electrical power from the Site.
4. Any (i) schedule issues (including, but not limited to, delays, access issues, or allowed work hours/off-hours work), (ii) overtime hours, or (iii) additional protocols, altered working conditions, or extra costs relating thereto, that arise, either directly or indirectly, as a result of the COVID-19 pandemic or Corona virus will entitle contractor to an equitable adjustment for time for performance and costs.

- **EXCLUSIONS:**

1. Unless otherwise stated within the proposal document or its appendices, services do not include the following:

   (i) maintenance, repair, or replacement of stationary and/or non-maintainable parts of the Equipment, including, but not limited to, cabinets, enclosures, casings, insulating materials, electrical wiring, structural supports, pressure vessels, tubes, door seals, floor drains, thermometers, gauges, flues, ductwork, grilles, heat transfer tubes and coils, refractories, oil or gas heat exchangers, fan housings, ductwork, and like or similar other non-moving parts;

   (ii) maintenance, repair, replacement, or other work that is necessitated by (a) circumstances beyond the normal, customary, and anticipated operating environment for the Equipment, including, but not limited to, vandalism, flooding, fire, lightning, roof leaks, or power failure or (b) Customer's improper acts or omissions, including, but not limited to, installation of incompatible equipment, improper operating procedures, and improper or inadequate water treatment or filter service; and

   (iii) any other goods or services not set forth in the Services that any governmental authority, insurance company, or other entity may require that has the authority to direct Customer to take certain actions concerning the Equipment.

2. Any goods or services for, or concerning, the following items:

   (i) piping, other than refrigerant piping;

   (ii) maintenance, repair, replacement, or other work due to damage to Equipment caused by freezing weather or corrosion;
   (iii) valves;
   (iv) electrical supply, disconnect switches, circuit breakers; and
   (v) monitoring/recording devices affixed to Equipment.

SCHEDULE II (PRICING, INVOICING, AND PAYMENT)

- **PRICING-** Customer agrees to pay Contractor for the Services in accordance with the following rates and material charges:
- **INVOICING AND PAYMENT-** Customer agrees to pay Contractor in accordance with the following requirements:
  - Customer also shall pay Contractor, in addition to the pricing set forth above, all excise, sales, use, occupation or other similar taxes imposed on Contractor by any governmental authority or in any way connected with Contractor's performance of its obligations under this Agreement;
  - Contractor will invoice Customer as follows:
  - Customer's payment on invoices is due net 30 days from date of invoice; and late payment to Contractor shall be subject to simple interest at the rate of one and one-half percent (1½ %) per month, not to exceed the maximum amount allowed by applicable law, calculated from the date payment was due until the date payment is received by Contractor.

3. PROGRAM PRICING

Maintenance Solution	Pricing
Base Price - Our services will be performed as outlined for a cost of:	$24,830.00
Option 1: Provide and install MERV 8 Filters:	$5,639.00
Option 2: Provide and install MERV 10 Filters:	$9,949.00
Option 3: Provide and install MERV 11 Filters:	$12,822.00

This agreement shall begin on customer's preferred date below

☐ *Month/Year:* */ 2021* Customer Initials _____ EMCOR / Mesa Initials _____

4. ACCEPTANCE

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, including the Program Option selected in Section 2 (above), as of the date and year written below.

Customer:
Customer

By: _____

Name: _____

Title: _____

Date: _____

Contractor:
Mesa Energy Systems, Inc.

By: _____

Name: _____

Title: _____

Date: _____

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SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Special Education Department
Oscar Madera, Director

☐ Informational
☒ Action

AGENDA ITEM: AGREEMENT WITH PARADIGM HEALTHCARE SERVICES FOR 2021-2022 SCHOOL YEAR

BACKGROUND INFORMATION:
The San Ysidro School District is renewing its agreement with Paradigm Healthcare Services to reduce the administrative burden associated with the Random Moment Time Survey (RMTS) submission and review process by providing healthcare billing services to San Ysidro School District.

LEA Medi-Cal Billing: 15% of the total reimbursed amount.
Medi-Cal Administrative Activities (MAA): $45.00 per participant claimed on Client's MAA Invoice per quarter and $500.00 per month on consultation fee.

RECOMMENDATION:
Approve the agreement with Paradigm Healthcare Services to provide health billing services and consultation for school year 2021-2022.

LCAP GOAL AND ACTION/SERVICE:

☒ **Renewal** ☐ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2021-2022 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	

To be determined	Special Education
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

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paradigm | healthcare

SERVICE AGREEMENT

This Service Agreement (**"Agreement"**) is entered into as of the 1st day of July 2021 between Paradigm Healthcare Services, LLC, a California Limited Liability Company (**"Paradigm"**) and San Ysidro Elementary School District, a Local Education Agency (**"Client"**).

RECITALS

Paradigm is engaged in the business of providing Medicaid direct service and administrative claiming services to local education agencies, local governmental agencies, school districts, County offices of education, and local education consortia within the State of California.

Client desires to retain Paradigm, and Paradigm desires to be retained by Client, to provide the services described in greater detail below.

Accordingly, in consideration of the mutual obligations undertaken herein, THE PARTIES AGREE AS FOLLOWS:

TERMS

1. ***Retention.***

   Client hereby retains Paradigm and grants it the exclusive right to perform the services described below subject to the terms and conditions set forth in this Agreement.

2. ***Term.***

   This Agreement shall commence on the date first set forth above and shall continue in full force and effect through June 30, 2022 ("Initial Term") subject to the termination provisions set forth in Paragraph, "Termination." Unless either party sends written notice to the other party at least 60 days prior to the end of the Initial Term or any subsequent term, this agreement shall automatically renew for an additional year on each July 1 following the Initial Term, subject to termination provisions herein. The phrase "Term of the Agreement" shall refer to the Initial Term and any subsequent renewal period. The phrase "Fiscal Year" as used in this Agreement shall refer to the period July 1 through June 30. The Agreement will govern activities required to be performed by either party to complete obligations undertaken under this Agreement, regardless whether those activities are to be performed during or after the Term of the Agreement.

3. ***Paradigm LEA Billing Services.***

   a. **<u>Program Implementation Services</u>.**

   (1) Paradigm will assist Client with all start-up documentation required by the California Department of Health Care Services ("DHCS") to enroll Client as a Medi-Cal Provider, and establish Paradigm as the Client agent for purposes of submitting reimbursement requests under this Agreement.

(2) Paradigm will work with Client to assess program potential, establish provider and site databases for effective service tracking, and provide implementation training to Client program coordinator(s). This implementation process will be designed to identify areas of reimbursement and to facilitate an effective partnership between the Client and Paradigm.

b. Training and Materials.

(1) Paradigm will provide training to Client's program coordinator(s) and healthcare providers as part of the initial contract implementation and at least annually thereafter. Training will include the following subject areas: DHCS audit requirements for Client's LEA billing program; all necessary information and procedures for submitting Client billing data to Paradigm; and "best practices" to implement and maintain an optimized, audit-ready program.

(2) Paradigm will provide Client personnel with all necessary training materials including a proprietary "Coordinator's Handbook" containing a detailed review of the rules and regulations governing the LEA billing program. At Client's request Paradigm will also make available its proprietary "provider forms" for use in documenting the delivery of healthcare services (available in paper and electronic versions).

c. Claims Preparation and Submission.

(1) **Eligibility.** Upon the commencement of LEA Billing Services under this Agreement and quarterly thereafter during the Term of the Agreement, Paradigm will use its proprietary algorithms and know-how to determine Medi-Cal eligibility and identify Medi-Cal numbers within limits imposed by the DHCS and county governments. Eligibility match information will be retained by Paradigm and will be used solely to provide services hereunder subject to all the confidentiality provisions provided in the Agreement.

(2) **Claims Submittal.** Paradigm will make reasonable efforts to submit each LEA Medi-Cal billing claim eligible for submission pursuant to California law or regulation within thirty (30) days of receipt from Client of all information necessary for processing that claim. Paradigm will also make reasonable efforts to bill retroactive claims existing at the commencement of this Agreement so as to minimize revenue lost due to Medi-Cal's one (1) year billing limit.

(3) **Review and Resubmittal.** Paradigm will monitor the submittal and payment process, review denials, suspensions, and holds, as reported by DHCS, and make reasonable efforts to resolve any challenged Client reimbursement claim.

d. Management Reports and Program Analysis. Paradigm will provide Client with periodic management reports using provider, procedure, and/or site parameters. The frequency of such reports will be determined by mutual agreement of Paradigm and Client, but in any event shall occur no less frequently than quarterly.

e. Coordination with Client.

(1) **Information Sharing.** Paradigm will provide Client with information regarding program policy, interpretation of policy, and regulatory updates as applicable. Quarterly "Bulletins" will be provided to Client's coordinator(s) to ensure timely communication about program changes and updates to Paradigm's systems and processes.

(2) **Support.** Paradigm will provide a "Client Care Center" available for the use of Client's program coordinator(s) and accessible via toll-free phone and email. A Paradigm Help Desk will be available to Client program coordinator(s) and participants utilizing Paradigm's web-based software, accessible by toll-free phone during regular business hours and by email.

(3) **Audit and Site Visit Support.** Paradigm will provide Client personnel with training on audit requirements and program compliance. In the event of a program audit or review, Paradigm will assist in preparing for and responding to the audit to the extent permitted by DHCS and or any other auditing party.

f. Paradigm Technologies Software. Paradigm will make available its proprietary web-based software to assist Client in effective management of program participation, including at Client's option, the web-based Paradigm Technologies application. Note: Access to any Paradigm Technologies web-based applications requires acceptance of a separate, no-fee online Software License Agreement found at Paradigm's website.

4. ***Client's LEA Billing Service Obligations.***

a. Program Coordinator(s). Client will make available designated personnel to assist with the implementation of Paradigm's services, and coordinate with Client's individual program participants.

b. Provider Logs. Client will maintain complete and accurate provider logs of all healthcare services provided by Client and will return the completed logs to Paradigm at the end of each month.

c. Student Data. Upon commencement of the Agreement and quarterly thereafter (October 1st, December 15th, March 15th, and June 15th), Client will provide Paradigm with a computer file in a format specified by Paradigm of all student data reasonably requested by Paradigm in connection with its performance under this agreement from Client's computer systems or from the computer systems of the individual schools Client comprises.

d. Official RMTS Participant Roster (TSP). On the last day of the first month of the fiscal quarter, Client will submit to Paradigm the official RMTS participant roster (referred to as the TSP in the California State RMTS claiming plan).

5. ***Paradigm CRCS Services.***

Paradigm will prepare the annual Cost and Reimbursement Comparison Schedule ("CRCS") Workbook in accordance with the claim guidelines approved by DHCS, based on information supplied by Client for each fiscal year, in accordance with the terms of the Agreement. Client will have final approval over the CRCS Workbook submission prepared by Paradigm.

6. ***Client's CRCS Obligations.***

Client will submit to Paradigm, in a format specified by Paradigm, all elements needed to complete the CRCS Workbook for each provider for whom reimbursement is sought. Documentation will be submitted to Paradigm no later than sixty (60) days after the end of the Fiscal Year for which the CRCS is to be submitted.

7. ***Paradigm MAA Billing Services.***

All services described below will be provided in accordance with and to the extent allowed by the California Department of Health Care Services ("DHCS") Medi-Cal Administrative Activities ("MAA") Plan.

a. MAA Program Consulting Services.

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(1) **Ongoing Consultation**. Paradigm will work with Client to assess program potential, and establish an optimized claim plan, which consists of review and analysis of all program participants and their fiscal eligibility. Ongoing consultation will be designed to identify areas of reimbursement and to facilitate Client's full participation in the MAA program.

(2) **Training**. Paradigm will provide training to Client's program coordinator(s). Training will include the following subject areas: DHCS audit requirements for Client's MAA program; information and procedures for submitting MAA fiscal information to Paradigm; and "best practices" to implement and maintain an optimized, audit-ready program.

(3) **Information Sharing**. Paradigm will provide Client with information regarding program policy, interpretation of policy, and regulatory updates as applicable. Quarterly "Bulletins" will be provided to Client's coordinator(s) to ensure timely communication about program changes and updates to Paradigm's systems and processes.

(4) **Program Compliance Support**. Paradigm will provide Client personnel with training on audit requirements and program compliance, and will perform "compliance reviews" to assist the Client in maintaining audit records. In the event of a program audit or review, Paradigm will assist in preparing for and responding to the audit to the extent permitted by DHCS and or any other auditing party.

(5) **Supplemental Support**. Paradigm will provide a "Client Care Center" available for the use of Client's program coordinator(s) and accessible by toll-free phone during regular business hours and by email. A Paradigm Help Desk will be available to Client program coordinator(s) and staff utilizing Paradigm's web-based software, accessible by toll-free phone during regular business hours and by email.

(6) **Paradigm Technologies**. Paradigm will make available, as applicable, its proprietary web-based software to assist Client in effective program participation. Note: Access to any Paradigm Technologies web-based applications requires acceptance of a separate, no-fee online Software License Agreement found at Paradigm's website.

b. <u>MAA Invoice Preparation & Submission Services</u>.

(1) **Medi-Cal Eligibility**. Paradigm will use its proprietary algorithms and know-how to determine Medi-Cal eligibility and identify Medi-Cal numbers within limits imposed by DHCS and County governments. Eligibility match information will be retained by Paradigm and will be used solely to provide services hereunder subject to all the confidentiality provisions provided in the Agreement.

(2) **Invoice Processing**. Paradigm will assist Client in preparing the fiscal information needed to complete the MAA invoice. Paradigm will compile all required invoice data (including the Time Survey Summary Results) provided by Client and prepare MAA invoices in accordance with the claim guidelines approved by DHCS, based on information supplied by Client for each fiscal quarter during the Term of the Agreement. Client will be afforded a reasonable opportunity to monitor Paradigm efforts, and will have final approval of the MAA invoices prior to submission by Paradigm.

(3) **Direct Charge**. Paradigm will assist Client in the calculation of direct charges, provided that Client supplies Paradigm with the information necessary to make such calculations in accordance with DHCS school-based MAA directives.

(4) **Agency Coordination**. Paradigm will coordinate the submittal of the MAA Operational Plan and MAA invoice to the County or Regional MAA Coordinator and provide information requested by regional, state and federal agencies as related to the MAA Operational Plan and invoices submitted thereunder.

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(5) **Management Reports and Program Analysis**. Paradigm will provide Client with periodic management reports for the ongoing analysis of Client's MAA claims. The frequency of such reports will be determined by mutual agreement of Paradigm and Client.

(6) **Paradigm Technologies**. Paradigm will make available, as applicable, its proprietary web-based software to assist Client in effective program participation. Note: Access to any Paradigm Technologies web-based applications requires acceptance of a separate, no-fee online Software License Agreement found at Paradigm's website.

8. ***Client's MAA Obligations.***

a. Program Coordinator(s). Client will make available designated personnel to assist with the implementation of Paradigm's services, and coordinate with Client's individual program participants.

b. MAA Operational Plan. Client will provide to Paradigm all pertinent information needed for developing each MAA Operational Plan in a timely manner. Client will designate individuals to serve as Paradigm contacts for the collection of such information.

c. Official RMTS Participant Roster (TSP). On the last day of the first month of the fiscal quarter, Client will submit to Paradigm the official RMTS participant roster (referred to as the TSP in the California State RMTS claiming plan).

d. Time Survey Summary Results. Client will submit to Paradigm a time survey summary report that indicates the MAA time, as certified by the regional agency, for that quarter based on the RMTS methodology, and that contains all data required for the SMAA invoice by LEA and claiming unit. This report of summarized MAA time shall be submitted to Paradigm no later than sixty (60) days after the end of the quarter for which the invoice is submitted or fifteen (15) days after the report is received by Client from its regional agency, whichever is earlier.

e. Direct Charge Documentation. Client will provide Paradigm with all documentation to support Client's direct charge reimbursements in accordance with DHCS school-based MAA directives. Client will submit direct charge documentation to Paradigm no later than thirty (30) days after the end of the quarter for which it will apply.

f. MAA Invoice Submittal. Client will submit to Paradigm all elements needed to complete the detailed MAA invoice form for the claiming unit that undertook the activities for which reimbursement is sought. Client will submit documentation to Paradigm no later than sixty (60) days after the end of the quarter for which the invoice is to be submitted.

g. Compliance. Client will comply with enabling legislation, regulations, administrative claiming process directives, policies, and program letters of the DHCS, as well as directives from the Lead County or Regional Agency, and with the terms of the approved MAA Operational Plan, which define allowable MAA and processes for appropriate MAA reimbursements.

h. Student Data. Upon commencement of the Agreement and quarterly thereafter (October 1st, December 15th, March 15th, and June 15th), Client will provide Paradigm with a computer file in a format specified by Paradigm of all student data reasonably requested by Paradigm in connection with its performance under this agreement from Client's computer systems or from the computer systems of the individual schools Client comprises.

i. **Documentation for Invoice Submittal.** Client will cooperate with Paradigm and will provide Paradigm access to all personnel and files reasonably requested by Paradigm to assist Paradigm in its performance of MAA Invoice Preparation and Submission Services hereunder.

j. **Data Processing.** Client will be responsible for the accuracy and appropriateness of all MAA information it provides to Paradigm for the preparation of MAA invoices and for compliance with all applicable laws and regulations regarding preparation of MAA invoices.

9. ***Additional Client Obligations.***

In addition to the specific obligations set forth above, Client will take such other reasonable actions as Paradigm may request to facilitate Paradigm's provision of services under this Agreement.

10. ***Fees and Payment Terms.***

a. **Fees for LEA Billing Services.**

(1) **Flat Fee Per Approved Service.** Paradigm fees for Client LEA claims submitted or originating during the Term of the Agreement will consist in a flat fee for each claimed service that DHCS approves for interim reimbursement ("Interim Approved Claim"). The schedule of Paradigm flat fees for Interim Approved Claims is set forth in Appendix A subject to adjustment in accordance with the terms of Sub-paragraphs (2)-(5) following.

(2) **Sliding Scale Reduction of Paradigm Fees.** Paradigm's fees for LEA Billing Services in any Fiscal Year decrease whenever the dollar value of Client's Interim Approved Claims exceeds $500,000 in that Fiscal Year. An additional decrease in Paradigm's fees will apply to Client's Interim Approved Claims in excess of $1,000,000 in the same Fiscal Year. These fee reductions will apply prospectively, i.e., to LEA Billing claims receiving interim approval after an applicable threshold is reached and before the end of the Fiscal Year. The schedule of Paradigm's reduced fees at each threshold is set forth in Appendix A.

(3) **Effect of Increase in Reimbursement Rates.** In the event the Federal Medical Assistance Percentage (FMAP) increases or DHCS increases the reimbursement rates to Client for any LEA service claim during the Term of this Agreement, Paradigm's flat fee for such services will simultaneously and without requirement of prior notice to Client increase by the same percentage as the percentage DHCS increase.

(4) **Cap on Paradigm Fees.** Notwithstanding any other provision of this Paragraph (a) and the fee schedule set forth in Appendix A, the total fees payable to Paradigm based on Interim Approved Claims during any Fiscal Year will not exceed the following:

13.5% of the dollar value of the first $500,000 of Interim Approved Claims;

12% of dollar value of Interim Approved Claims from $500,001 to $1,000,000; and

10% of the dollar value of Interim Approved Claims in excess of $1,000,000.

(5) **Application of Fiscal Year Limits.** For purposes of computing Paradigm's fees, thresholds and fee caps for LEA Billing Services, the date of an Interim Approved Claim will be the warrant date of the Remittance Advice Details ("RAD") issued by DHCS granting interim approval of the claim, regardless of when the claim originates or is submitted by Paradigm to DHCS for payment, and regardless of when or whether Client is reimbursed for the claim by DHCS. Paradigm will invoice Client monthly based on Interim Approved Claims identified in DHCS RADs.

(6) **Approval of Interim Approved Claims After the Termination of the Agreement.** Nothing in this Agreement shall constitute a limitation or waiver of Paradigm's entitlement to receive fees based on Interim Approved Claims submitted pursuant to this Agreement whose date of interim approval is after the termination of this Agreement.

b. Fees for CRCS Services. The fee for each Fiscal Year for which CRCS services are rendered will be equal to the lesser of: (i) $100 per employee or contractor used in the final calculation of "Net Total Personnel Costs" as reported on Worksheets A and B, or (ii) $8,500. Paradigm will invoice Client for CRCS services on an annual basis.

c. Fees for MAA Billing Services.

(1) **MAA Program Consulting Services.** The fee for MAA Program Consulting Services will be $500 per month. Paradigm will invoice Client on a monthly basis during the Term of the Agreement.

(2) **MAA Invoice Preparation & Submission Services.** The fee for MAA Invoice Preparation & Submission Services each fiscal quarter during the Term of the Agreement will be an amount equal to $45 multiplied by the sum of: (i) the number of time survey participants claimed on Client's MAA Invoice for that fiscal quarter, and (ii) the number of individuals identified as a direct charge in Client's MAA Invoice for that fiscal quarter. Paradigm will invoice Client quarterly based on MAA payments received by Client from DHCS.

(3) The foregoing MAA fee arrangement will allow Client to recover as MAA reimbursable costs fifty percent (50%) of any fees charged by Paradigm, to the extent allowed by DHCS.

d. Substitution of Alternative Methodology and/or Fee Terms. In the event that any LEA Billing, CRCS, or MAA fee arrangements, or and part thereof are or become inconsistent with applicable federal or state laws or regulations, or court order, or that any time survey methodology other than Worker Log or RMTS is approved by DHCS for use by Client in determining the percentage of allowable costs for MAA reimbursement, Paradigm will on thirty (30) days written notice provide substitute fee arrangements and/or substitute time survey services consistent with applicable law regulation or court order. Any such substitute fee arrangements shall not increase the total amount Client would otherwise have been required to pay Paradigm for services under this Agreement.

e. Late Fees. Client will incur a late fee of two percent (2%) per month or any part thereof, or the maximum fee allowed by law, whichever is less, on any invoiced amount unpaid after sixty (60) days. The fees specified herein do not include taxes or similar surcharges, which are the sole responsibility of Client (excluding taxes on Paradigm's gross income).

11. *Protection of Confidential Information.*

a. Definitions.

(1) **"Client Confidential Information"** shall mean all information in whatever form that Client provides or authorizes to be provided to Paradigm in connection with the services rendered under this Agreement and that at the time of first receipt: (i) is clearly marked "confidential" or "proprietary;" (ii) constitutes protected health information, personal information, or student or pupil information, as defined by any federal or state laws or regulations, including but not limited to the Family Education Rights Privacy Act (FERPA), 20 U.S.C. §1232g, et al., the Protection of Pupil Rights Amendment (PPRA), 20 U.S.C. §1232h, the Children's Online Privacy Protection Act (COPPA), 15 U.S.C. §§6501-6506, and the California Education Code (including §49073.1); (iii) is governed by the

terms of a Data Use Agreement (DUA) between Client and DHCS; (iv) is otherwise disclosed under circumstances of confidence; or (v) reasonably should be understood by the receiving party to be confidential. Without limiting the foregoing, Client Confidential Information shall include all Client student healthcare data and other student information, and all Medi-Cal data files received by Paradigm as Client's designated custodian. Confidential Information shall not include any information that is or becomes publicly known through no fault of Paradigm, is already known by Paradigm at the time of disclosure based on information received from a source other than Client, or is rightfully received or independently developed by Paradigm after disclosure.

(2) **"Paradigm Confidential Information"** shall mean all information in whatever form that Paradigm provides or authorizes to be provided to Client in connection with the services rendered under this Agreement and that, at the time of first receipt: (i) is clearly marked "confidential" or "proprietary;" (ii) is otherwise disclosed under circumstances of confidence; or (iii) reasonably should be understood by the receiving party to be confidential. Without limiting the foregoing, Paradigm's Confidential Information shall include all business, marketing, technical, financial, customer, supplier, or other information, data entry means, processed claiming data, instructions, management reports, data file specifications, instructional materials, algorithms, software, forms, boilerplate plans, technologies, know-how related to making eligibility determinations, and data and results derived from the foregoing, except to the extent such Confidential Information is set forth in this Agreement, which is a public record.

(3) **"Confidential Information"** shall mean Client Confidential Information and Paradigm Confidential Information.

b. Protection of Confidential Information.

(1) Each party shall use reasonable and appropriate measures to safeguard and keep confidential all Confidential Information of the other party and shall not disclose, use, or copy any Confidential Information except as necessary to perform its obligations hereunder. Such reasonable and appropriate measures shall be no less than the measures taken by each to protect its own confidential information of a similar nature, but in any event no less than the measures governing protection, maintenance, disclosure, retention and destruction of Confidential Information subject to the terms of any DUA between Client and DHCS and any applicable federal or state laws or regulations.

(2) Paradigm represents that all its employees who work with Confidential Information provided by Client under this Agreement: (i) have received regular training in data security procedures and federal and state laws and regulations applicable thereto; (ii) have reviewed Paradigm's written data security policies and procedures; and (iii) have signed an agreement to be bound by the confidentiality terms contained in this Agreement.

(3) Each party may disclose Confidential Information of the other party to its responsible employees and independent contractors to the extent permitted by law and provided that such employees and independent contractors: (i) have a need to access such Confidential Information for purposes of fulfilling the party's obligations hereunder; (ii) have been informed of the confidentiality provisions of this Agreement; and (iii) have agreed in writing to be bound by such provisions to the same extent as the parties. Each party shall be responsible for any breach of the confidentiality provisions of this Agreement by its employees and independent contractors.

(4) Each party will promptly notify the other of any misuse, unauthorized disclosure, or unauthorized access to Confidential Information, and shall reasonably assist the other in responding to such a breach in accordance with all applicable federal and state laws and regulations. Paradigm

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will designate a Security Coordinator who shall serve as a first point of contact between Client and Paradigm for matters relating to the management and protection of Client Confidential Information.

c. Ownership and Use of Client Confidential Information. Client Confidential Information provided to Paradigm under this Agreement continues to be the property of, and under the control of, Client, and will not be used for any purpose other than the requirements of this Agreement. Without limiting the foregoing, Paradigm will not use personally identifiable student information for commercial or advertising purposes. Nothing in this Agreement shall prohibit Paradigm from using student or other Client Information with all personal identification removed for purposes of training, research, or other activities designed to enhance the services provided to Client and to other Paradigm Clients receiving LEA Billing or MAA services, provided that and to the extent such use is consistent with applicable federal and state laws and regulations.

d. Review and Correction. Client represents that it maintains a procedure by which parents, legal guardians, and eligible students can review student records and correct erroneous information; Paradigm does not interact directly with parents, guardians or students, but will cooperate with Client as necessary to allow for the review and correction of student records.

e. Retention of Confidential Information.

(1) Paradigm certifies that it will only retain Client's Confidential Information for as long a period as is reasonably necessary to fulfill its obligations under this Agreement, including compliance with DHCS audit requirements, and applicable federal and state laws and regulations. At the end of such compliance period, Paradigm in its reasonable discretion will either destroy all Client Confidential Information in a secure manner or return this Information to Client. Paradigm will confirm in writing its disposition of all Client Confidential Information within five business days of such action.

(2) Client represents that it will only retain Paradigm's Confidential Information for as long a period as is reasonably necessary to fulfill its obligations under this Agreement, including compliance with DHCS audit requirements, and applicable federal and state laws and regulations. At the end of such compliance period, Client will return this Information to Paradigm and confirm such disposition of Paradigm Confidential Information within five business days thereafter.

f. Lawful Disclosure. This Paragraph shall not be construed as prohibiting either party from disclosing the other's Confidential Information to the extent required by law, regulation, or court order, provided such party notifies the other party promptly after becoming aware of such obligation and permits the other party to seek a protective order or otherwise to challenge or limit such required disclosure within the time permitted by law.

g. Statutory Compliance. A description of Paradigm's procedures to ensure the security and confidentiality of Client Confidential Information in accordance with the terms of this Agreement and all applicable state and federal laws and regulations is incorporated by reference herein, and is available for inspection by Client upon request at Paradigm's office. The parties acknowledge that, notwithstanding any other provision of this Agreement, Client has taken reasonable and appropriate steps to ensure that Paradigm's current practices with respect to Client Confidential Information comply with FERPA requirements, and Client remains legally responsible for any FERPA violations that may occur in the course of Paradigm's performance of services under this Agreement. The parties also acknowledge that they have made best efforts to ensure that this Agreement complies with the requirements of California Education Code §49073.1.

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h. Continuing Obligations. The obligations contained in this Section, "Protection of Confidential Information," shall survive for a period of twenty (20) years after the expiration or termination of this Agreement.

12. *Accuracy of Information.*

a. Client Efforts. Client will make reasonable efforts to insure that the information supplied to Paradigm hereunder shall be true, complete, and accurate in all respects. Client assumes sole responsibility, and Paradigm shall have no liability, for the truth, completeness, and accuracy of all information supplied to Paradigm.

b. Paradigm Efforts.

(1) Paradigm shall make reasonable efforts to verify the completeness and accuracy of information underlying the claims it submits on Client's behalf. Due to the volume of data being processed from manual data entry forms and the necessity of correlating student records from several databases maintained by Paradigm, it is inevitable that some requests for reimbursement (or categories of requests or patients) will be denied or reduced due to incorrect or incomplete supporting data or healthcare insurance information. Paradigm will make reasonable efforts to minimize such denials or reductions. Client acknowledges that such denials are inherent in the LEA billing process, and will not constitute a breach of Paradigm's obligations under this Agreement. Client's sole and exclusive remedy for any such denial or reduction in reimbursement is to request that Paradigm re-bill such claims. Paradigm will determine in its sole and absolute discretion if such rebilling is reasonable and cost effective. Except as set forth in this paragraph, Paradigm shall not be liable, and Client shall have no remedy, for any denial or reduction in reimbursement to Client for healthcare or administrative services.

(2) Paradigm shall make reasonable efforts to submit all operational plans and claims made thereunder in a timely manner. However, Paradigm shall not be responsible in any way in the event that any operational plan or any claim made thereunder is submitted late or incomplete directly or indirectly because of the failure or delay by Client or its employees, students, agents or independent contractors in making all necessary information available to Paradigm, or any third party's failure or delay in submitting documentation to the DHCS.

(3) Client acknowledges that Paradigm is not providing Client with legal, medical, or healthcare information or services and that any forms, software, and other materials supplied to Client hereunder are not intended to provide legal, medical, or healthcare advice.

13. *Limitation of Liability.*

In no event shall Paradigm be liable to Client for any incidental, indirect, consequential, special, or punitive damages arising out of or relating to this Agreement, including without limitation damages for lost reimbursements, lost healthcare services, or lost data, regardless of whether Paradigm has been advised of the possibility of such damages, and regardless of whether the claim for damages sounds in contract, tort, or other form of action. In the event Client elects not to utilize Paradigm's services to prepare its annual CRCS Workbook, or fails to make available information necessary to timely complete the Workbook, Paradigm will not be liable in any manner for resulting termination of Client from participation in the LEA Billing Option or for any resulting disallowance of Client claims. In no event shall Paradigm's total liability for damages to Client arising out of or related to this Agreement exceed the net fees paid to Paradigm hereunder during the one (1) year period preceding the date on which the first claim alleged to give rise to damages occurs, regardless of the number of claims, causes of action, or amount of the alleged losses.

14. ***Licenses and Permits.***

Client represents and warrants that: (a) it has all licenses and permits necessary or appropriate to render the medical services it currently provides to its students, and to be eligible for reimbursement from Medi-Cal; (b) Client will maintain such licenses in full force and effect during the Term of this Agreement; and (c) Client has all necessary authority, including approval by the Board of Education if necessary, to enter into this Agreement and to perform all of its obligations hereunder.

15. ***Indemnification.***

a. **Client's Indemnification Obligations.** Client shall indemnify and hold harmless Paradigm, its managing members, employees, and agents against and from any and all liabilities, claims, demands, losses, damages, and expenses, including reasonable attorneys' fees and costs (collectively "**Claims**"), to the extent arising from Client's negligence, gross negligence, or intentional misconduct in the course of Client's discharge of its obligations under this Agreement, including without limitation: (i) breach of any provisions of this Agreement by Client; (ii) failure of Client or its health care providers, to provide any service for which reimbursement is sought; (iii) failure of Client or its health care providers to perform health care or related services in accordance with any professional standards applicable thereto; (iv) failure of the Client to provide accurate Confidential Information; or (v) failure of Client or its health care providers to obtain or maintain in good standing any licenses, permits, or registrations required to render the healthcare and related services for which reimbursement is sought. Notwithstanding the foregoing, Client shall not be required to indemnify Paradigm hereunder to the extent that Paradigm is obligated to indemnify Client pursuant to the following paragraph, "Paradigm's Indemnification Obligations."

b. **Paradigm's Indemnification Obligations.** Paradigm shall indemnify and hold harmless Client, its school board, officers, directors, employees, and agents against and from any and all Claims to the extent such claims arise from Paradigm's negligence, gross negligence, or intentional misconduct in the course of performing services under this Agreement. Notwithstanding the foregoing, Paradigm shall not be required to indemnify Client hereunder to the extent that Client is obligated to indemnify Paradigm pursuant to the preceding paragraph, "Client's Indemnification Obligations."

c. The indemnification rights set forth in this Section, "Indemnification," are conditional on the following: (i) the party seeking indemnification (each an "**Indemnified Party**") shall provide prompt written notice of any Claim as to which indemnification is sought to the party from whom indemnification is sought (the "**Indemnifying Party**"), provided, however, that failure to give such notice shall not relieve the Indemnifying Party of its obligations hereunder except to the extent that it is materially prejudiced thereby; (ii) all Indemnified Parties shall reasonably cooperate with the Indemnifying Party in the defense and settlement of the underlying Claim at no cost to the Indemnified Party; and (iii) the Indemnifying Party shall have full and exclusive authority to defend or settle the underlying Claim, provided that the Indemnifying Party shall not enter into any settlement that includes an admission of liability by the Indemnified Party or injunction against any Indemnified Party without the consent of such Indemnified Party, such consent not to be unreasonably withheld or delayed, and provided further that each Indemnified Party shall have the right to participate in such Claim with counsel of its own selection at its own expense.

16. ***Termination.***

a. **For Cause.** Either party may terminate this Agreement upon written notice to the other party if the other party is in material breach of its obligations under this Agreement and such breach is not cured within thirty (30) days after receipt of written notice of the specific nature of such breach (or, in

the case of nonpayment of fees, within fifteen (15) days after receipt of written notice). The non-breaching party shall give its reasonable cooperation and assistance to the breaching party in any efforts made to cure such breach.

b. Without Cause.

(1) **Mutual Agreement.** The parties may terminate this Agreement at any time by written agreement of both parties, effective as of the date specified in such agreement.

(2) **CRCS Termination.** Notwithstanding anything to the contrary in this Agreement, Client may terminate Paradigm's CRCS Services by written notice sent no later than sixty (60) days prior to the end of any Fiscal Year for which the CRCS Services would otherwise be provided under this Agreement.

(3) **MAA Consulting Services Termination**. Notwithstanding anything to the contrary in this Agreement, Client may terminate Paradigm's MAA Consulting Services by written notice sent no later than sixty (60) days prior to the beginning of any Fiscal Year for which the MAA Consulting Services would otherwise be provided under this Agreement.

c. Effect of Termination. Upon the expiration or termination of this Agreement for any reason:

(1) **Payment for Services Completed.** All fees Client owes to Paradigm for services provided prior to expiration or termination shall immediately become due and payable upon receipt of an invoice from Paradigm.

(2) **Payment for Approved LEA Billing Claim Submittals**. Paradigm will prepare and submit to DHCS for reimbursement all Client LEA Billing claims arising from services provided by Client prior to termination or expiration and shall receive payment pursuant to the terms of this Agreement upon approval of such claims or part thereof by DHCS. Such claims for reimbursement shall be documented and submitted to Paradigm for submittal to DHCS within six (6) months after the earlier of expiration or termination of this Agreement.

(3) **Payment for MAA Invoice Preparation and Submission Services**. Paradigm shall prepare and submit to DHCS the MAA invoice for any quarter which has commenced as of the date of termination or expiration and shall receive payment pursuant to the terms of this Agreement upon approval and payment of the invoice or part thereof by DHCS.

(4) **Confidential Information.** Client shall, upon request, return or destroy, at Paradigm's option, all Confidential Information received from Paradigm and shall certify to Paradigm its compliance with this provision.

d. Survival of Terms. All provisions of this Agreement which by their express terms extend beyond expiration or termination of this Agreement or which by their nature so extend shall survive expiration or termination, including but not limited to Paragraphs: "Protection of Confidential Information," "Limitation of Liability," "Indemnification," "Termination," "Paradigm Proprietary Rights," and "Miscellaneous."

17. *Paradigm Proprietary Rights.*

Client acknowledges and agrees that Paradigm retains all right, title, and interest, including without limitation all intellectual property rights, in and to Paradigm's Confidential Information (as defined above), and all forms, materials, submissions, and software prepared or supplied by Paradigm. Except as and to the extent otherwise provided in this Agreement, neither this Agreement nor

Paradigm's performance of services under this Agreement shall give Client any ownership interest in or license to any of Paradigm's intellectual or other property.

18. ***Miscellaneous.***

a. **Notice.** Any notice required or permitted to be given under this Agreement shall be in writing and may be delivered in person, by overnight courier, or by email if confirmed by first class mail, or sent by certified or registered mail, addressed to the other party at the address set forth on the signature page of this Agreement. Notice will be effective as of the date personally delivered, or if by email, three business days after the date of mailing of by first class mail, certified or registered mail, provided that notice received on holidays, weekends or nights will be effective at 9:00 a.m. on the next business day.

b. **Relationship.** It is intended that the relationship of Paradigm to Client shall at all times be that of an independent contractor. Nothing contained in this Agreement is intended or to be construed so as to create any partnership, joint venture, employment, agency, franchise or other representative relationship between the parties. No party hereto, or their respective officers, directors, employees, or agents shall have any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other party, or to bind the other party to any contract, agreement, or undertaking with any third party.

c. **Governing Law.** This Agreement and the rights and obligations of the parties under it shall be subject to, governed by, construed, and enforced pursuant to the laws of the State of California without giving effect to any choice of law principles. Headings are for convenience only.

d. **Severability.** If any provision of this Agreement is held by a court or arbitrator to be invalid or unenforceable, the remaining portions of this Agreement shall remain in full force and effect, and such court or arbitrator shall be empowered to substitute provisions similar to said provision, or other provisions, so as to provide the parties the benefits intended by said provision, to the fullest extent permitted by applicable law.

e. **Arbitration.** Any dispute arising in connection with the interpretation or enforcement of this Agreement shall be resolved by compulsory binding arbitration under the auspices of and in accordance with the commercial arbitration rules of JAMS in San Francisco, California before a single arbitrator to be selected by mutual agreement of the parties or, failing such agreement, by JAMS from a list of three arbitrators proposed by each side. The decision of the arbitrator will be final and not appealable. The arbitrator shall interpret and enforce this Agreement in accordance with the laws of the State of California. The arbitrator shall be empowered to award the prevailing party any remedy available in law or equity not specifically precluded by this Agreement, including without limitation injunctive or declaratory relief, and attorneys' fees and costs.

f. **Other Remedies.** The parties acknowledge and agree that any actual or threatened misappropriation or infringement of intellectual property or breach of the confidentiality provisions of this Agreement will cause irreparable harm for which there is no adequate remedy at law, and accordingly, in addition to any other available remedies, a party may seek to enforce its rights with respect to the protection of confidential information or intellectual property hereunder through injunctive relief in any court of competent jurisdiction. In the event that any party is required to commence an action or arbitration to interpret or enforce any of the terms of this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs.

g. Force Majeure. Neither party shall be liable for any delay or failure to perform its obligations hereunder (except for any obligation to pay fees) resulting from any cause beyond its reasonable control, including but not limited to acts of God, terrorism, weather, fire, explosions, floods, strikes, work stoppages, slowdowns, industrial disputes, accidents, riots, civil disturbances, or acts of government.

h. Entire Agreement; Amendment. This Agreement, the online Software License Agreement, and Paradigm's Website Policies constitute the entire agreement between Client and Paradigm, superseding all prior and contemporaneous proposals, negotiations, communications and agreements, written or oral concerning the subject matter hereof. The provisions of these agreements shall be construed to give effect to all provisions therein to the greatest extent possible. In the event of any conflict between the agreements, they shall take precedence over one another in the following order, with each agreement listed taking precedence over all listed after it: this Agreement; the online Software License Agreement; and the Website Policies. This Agreement may be amended only by an instrument in writing duly approved and signed by both parties.

i. Assignment. Neither party shall assign or transfer this Agreement without the consent of the other party, which shall not be unreasonably withheld or delayed. Any assignment or transfer in violation hereof shall be null and void.

j. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors, assignees, and legal representatives. It creates no rights in any third parties including any individual in connection with which reimbursement is sought by Client.

k. Counterparts. This Agreement may be executed in any number of faxed, scanned, or original counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed by duly authorized persons to be effective as set forth herein.

PARADIGM:
PARADIGM HEALTHCARE SERVICES, LLC

DocuSigned by:
By: Constance Laflamme
E54C9820251A43B...

Print Name: Constance Laflamme

Title: CEO/Owner

Date: 4/13/2021

500 Sansome Street, Suite 500

San Francisco, California 94111

Phone: (415) 616-0920

Fax: (415) 616-0910

CLIENT:
SAN YSIDRO ELEMENTARY SCHOOL DISTRICT

By: _____

Print Name: Marilyn Adrianzen

Title: Chief Business Official

Date: _____

Email: marilyn.adrianzen@sysdschools.org

Board approved: _____

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Appendix A - Fees for LEA Billing Services

			Paradigm's Fees		
		Interim $s @ 50% FMAP	Rate 1	Rate 2	Rate 3
Service Provider	Svc Category				
Associate Marriage and Family Therapist	Treatment	*$17.32*	$2.34	$2.08	$1.73
Audiologist	Assessment	*$106.20*	$14.34	$12.74	$10.62
Audiologist	Treatment	*$48.67*	$6.57	$5.84	$4.87
Counselor	Treatment	*$10.75*	$1.45	$1.29	$1.08
Licensed Physical Therapist	Assessment	*$126.14*	$17.03	$15.14	$12.61
Licensed Physical Therapist	Treatment	*$35.04*	$4.73	$4.20	$3.50
Licensed PhysicianAssistant	Assessment	*$10.75*	$1.45	$1.29	$1.08
Licensed PhysicianAssistant	Treatment	*$39.41*	$5.32	$4.73	$3.94
Licensed Respiratory CarePractitioner	Assessment	*$10.75*	$1.45	$1.29	$1.08
Licensed Respiratory CarePractitioner	Treatment	*$10.75*	$1.45	$1.29	$1.08
Licensed Vocational Nurse	Treatment	*$10.75*	$1.45	$1.29	$1.08
RN, Public Health Nurse, Certitied Nurse Practitioner	Treatment	*$10.75*	$1.45	$1.29	$1.08
Occupational Therapist	Assessment	*$122.61*	$16.55	$14.71	$12.26
Occupational Therapist	Treatment	*$40.45*	$5.46	$4.85	$4.04
Occupational Therapist Assistant (licensed)	Treatment	*$17.95*	$2.42	$2.15	$1.79
Orientation and Mobility Specialist	Assessment	*$10.98*	$1.48	$1.32	$1.10
Orientation and Mobility Specialist	Treatment	*$10.98*	$1.48	$1.32	$1.10
Physical Therapist	Assessment	*$126.14*	$17.03	$15.14	$12.61
Physical Therapist	Treatment	*$35.04*	$4.73	$4.20	$3.50
Physical Therapist Assistant(licensed)	Treatment	*$15.11*	$2.04	$1.81	$1.51
Physician (licensed)	Treatment	*$10.75*	$1.45	$1.29	$1.08
Program Specialist	Treatment	*$10.75*	$1.45	$1.29	$1.08
Psychologist, MFT, Social Worker (licensed and credentiale	Assessment	*$267.94*	$36.17	$32.15	$26.79
Psychologist, MFT, Social Worker (licensed and credentiale	Treatment	*$40.94*	$5.53	$4.91	$4.09
Registered Associate Clinical Social Worker	Treatment	*$17.32*	$2.34	$2.08	$1.73
Registered Credentialed School Nurse	Assessment	*$72.97*	$9.85	$8.76	$7.30
Registered Credentialed School Nurse	Treatment	*$10.43*	$1.41	$1.25	$1.04
Registered Dietician	Assessment	*$10.75*	$1.45	$1.29	$1.08
Registered Dietician	Treatment	*$10.75*	$1.45	$1.29	$1.08
Speech-Language Pathology Assistant	Treatment	*$15.92*	$2.15	$1.91	$1.59
Speech-Language Therapist (licensed and credentialed)	Assessment	*$58.19*	$7.86	$6.98	$5.82
Speech-Language Therapist (licensed and credentialed)	Treatment	*$36.74*	$4.96	$4.41	$3.67
Trained Health Care Aide	Treatment	*$4.73*	$0.64	$0.57	$0.47
Transportation	Transportation	*$9.27*	$1.25	$1.11	$0.93
The reduced Paradigm fee schedule will apply prospectively to Interim Approved Claims after (and in the same Fiscal Year) a threshold is reached. The thresholds triggering a decrease in Paradigm fees are to the right.			Rate 1 the first $500,000	Rate 2 $500,001 to $1M	Rate 3 above $1M

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Special Education Department
Oscar Madera, Director

☐ Informational
☒ Action

AGENDA ITEM: NATIONAL FOUNDATION FOR AUTISM (NFAR) TEACHER'S GRANT FUNDING AGREEMENT 2020-21 SCHOOL YEAR

BACKGROUND INFORMATION:
The National Foundation for Autism (NFAR) has agree to provide funding for the products, equipment and/or materials as specified in the grant proposal "Adapted Physical Education Equipment" to assist in the teaching of students with autism during the 2020-21 school year. Grant No. P-20-T-329 is in the amount of $500.00 was awarded to Mr. Mark Kircher, one of the District's Adaptive Physical Education specialists.

RECOMMENDATION:
Approve the Grant Funding Agreement with National Foundation for Autism Research Teacher's and acceptance of Grant No. P-20T-329 in the amount of $500.00 for school year 2020-2021.

LCAP GOAL AND ACTION/SERVICE:

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications? ☐ Yes ☒ No

Are funds for this item available in the 2020-2021 Budget? ☐ Yes ☐ No

Requisition #

GRANT AMOUNT
$500.00
(Amount)

NFAR Grant
(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

NFAR
NATIONAL FOUNDATION FOR AUTISM RESEARCH

WWW.NFAR.ORG

NFAR TEACHER'S GRANT FUNDING AGREEMENT 2020/2021

Terms and Conditions: Grant Reference Number P-20-T-329, Funding Amt: $ 500

The National Foundation for Autism Research (NFAR) has agreed to provide funding for the purchase the products, equipment and/ or materials as specified in the grant proposal entitled "Adapted Physical Education Equipment" to take place during the 2020/2021 school year.

The Recipient of this Grant, **Mark Kircher, San Ysidro School District**, agrees to follow-through with the activities as specified in the grant. In the event of the following, NFAR will be given prior notification:

(1) If there is any change in the items requested or change in scope of project.

(2) Change in school, agency or classroom by the recipient of the grant funding within the current school year.

In addition, NFAR would love to get a picture of you, and/or your class and materials purchased before September 1, 2021.

It is the intent of NFAR to assist you in the teaching of your students with autism. If you elect to leave your profession, we request that the materials remain with the school program/agency for the purposes of continuing to be of use in the education of students with special learning needs.

By signing below, you agree to abide by these Terms and Conditions,

Mark Kircher		5/6/2021
Teacher (Print)	**Teacher Signature**	**Date**
Drew C. Madera		5/6/2021
Principal (Print)	**Principal Signature**	**Date**

P.O. BOX 502177, SAN DIEGO, CA 92150 • TEL 858-679-8800 • FAX 858-486-7951

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
San Ysidro Middle School
Maria Rodriguez, Principal

☐ Informational
☒ Action

AGENDA ITEM: LICENSE AGREEMENT WITH NEARPOD FOR THE IMPLEMENTATION AND TRAINING PACKAGE OF THE NEARPOD PROGRAM AT SAN YSIDRO MIDDLE SCHOOL

BACKGROUND INFORMATION:

Nearpod is an online student engagement platform that is a great resource that teachers can use in class to help students learn, as it allows the teacher to give students questions like open-ended ones where they type the response, or the answers can be published in drawings to show their work if they need to. Nearpod allows all the students to come together in one classroom, and each one is in their own personal space where the teacher can give them feedback on their answers.

The Principal at San Ysidro Middle School is requesting approval to enter into a license agreement with Nearpod for the implementation and teacher training package for the Nearpod program. The term of this license is one (1) year.

RECOMMENDATION:

Approve the license agreement with Nearpod for the implementation and training package of the Nearpod program at San Ysidro Middle during the 2021-22 school year at the total cost of $6,150.00 from the Title I fund.

LCAP GOAL AND ACTION/SERVICE:

Goal 1: Student Achievement ~ Actions 1.10 and 1.19: Continue to provide supplemental programs and resources (i.e., Reading Renaissance, math manipulatives, etc.) to support student achievement in core content areas. +
Action 1.14: Provide professional development opportunities to improve teaching and learning in the areas of English Language Arts (ELA), English Language Development (ELD), Mathematics, Science, and Social Studies. Professional development includes training specifically designed to address the achievement gap for students with disabilities.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	6074

$6,150.00	Title I Fund
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

Transforming Teaching. **Together.**

Proposal for

SAN YSIDRO MIDDLE SCHOOL

Prepared By

Spencer Stooksberry

Midwest SSR

April 19, 2021

Mayura Vongsavath
SAN YSIDRO MIDDLE SCHOOL
4345 OTAY MESA RD
SAN YSIDRO, California 92173
UNITED STATES

Re: Nearpod Proposal

Dear Mayura,

Thank you for the opportunity to submit our proposal for Nearpod for SAN YSIDRO MIDDLE SCHOOL.

In 2012, Nearpod was founded on a bold mission: **to empower educators to use technology that engages and inspires millions of students around the world.** Today, Nearpod has evolved into an educational ecosystem reaching over 50 million students. Compatible with any device, operating system, LMS or web browser, Nearpod integrates easily into your technology landscape. We are always looking towards positive outcomes, merging intuitive instructional software and digitally native lessons backed by research-based design to support all teachers and administrators. Our digital solutions are tied together by our common commitment to ***transforming teaching. Together*.**

We have been **honored to partner with schools and districts worldwide to support their technology and curriculum needs.** From providing access to our library of 7,000+ ready-to-teach lessons to supporting school/districts initiatives around digital citizenship and college & career readiness; we have been a trusted partner.

I am excited about the opportunity to work with you!

Sincerely,
Spencer Stooksberry
Midwest SSR
Nearpod

Nearpod Company Profile

Nearpod's mission is to empower educators to use technology that engages and inspires millions of students around the world. We work with schools and districts to maximize and streamline their technology investments while ensuring every learner is using that technology in active, creative ways. Nearpod is utilized in 3 out of 5 school districts in more than 29,000 schools worldwide reaching upwards of 50 million students. Founded in 2012, Nearpod is a venture-backed company headquartered in Miami, FL. Visit www.nearpod.com for more information.

The Purpose of this Proposal

The purpose of this proposal is to provide you with an outline showing how Nearpod can work with SAN YSIDRO MIDDLE SCHOOL, to increase engagement & participation of **every learner**, make digital accessible for **all teachers**, easily integrate into your **technology landscape** and **close the opportunity gap** with current, relevant supplemental curriculum.

Customized Solution for SAN YSIDRO MIDDLE SCHOOL

For SAN YSIDRO MIDDLE SCHOOL, we recommend the following solution components. In conjunction with Nearpod's professional services and your dedicated Customer Success Manager, we're confident this plan will meet (and exceed) your expectations.

Solution Components

Nearpod Instructional Software:
Nearpod's award-winning instructional software is designed to modernize traditional instruction and engage students. It is compatible on any device, operating system, LMS or web browser to easily integrate into your technology landscape. Software features allow teachers to present content by synchronizing with student devices, engage students by integrating rich multimedia within lessons and assess students in real-time through formative assessments. Additionally, our intuitive instructional software provides administrative reporting tools and shared school/district libraries to support school/district-wide initiatives, foster collaboration, and ensure oversight.

Nearpod Lesson Library:
Nearpod offers **7,000+ customizable, standards-aligned lessons** for all subject areas and grade levels. Designed in partnership with respected publishers and built on research-based instructional models, the Nearpod store saves teachers time with ready-to-run content and provides exemplars on how teachers can transform their own content.

- Drive deeper learning with rigorous content from well-known publishers in all academic areas.
- Support all learners with research-based instructional models such as Gradual Release of Responsibility, BCSC's 5e Model and Universal Design for Learning.
- Search by standards, resource type, and grade level to align with your instructional needs.

Digital Citizenship and Literacy:
Nearpod's Digital Citizenship & Literacy (DCL) program is a four-part series that offers a comprehensive K-12 curriculum that is standards-aligned, using research-based instructional models to support a district-wide implementation. As students navigate the modern world, DCL is your central resource to teach **Digital Citizenship, Media Literacy, Technology Applications,** and **Coding.**Featuring our partnerships with *Common Sense Education* and *Codemonkey*, over 250 ready-to-run, customizable lessons cover topics such as cyberbullying, evaluating popular social media sites, creative productivity apps, computational thinking, programming, and more.

- Access to the newest digitally-enhanced content from the nation's leading digital citizenship curriculum from Common Sense Education.

- Assess and apply knowledge with authentic practices and applications that drive meaningful discussions including PBLs.
- Access to a library of up-to-date content that grows as quickly as the digital landscape evolves.
- K-12 comprehensive resource to ensure all students become digital and media literate.

College and Career Exploration

Nearpod's College & Career Exploration (CCE) program is a five-part series that offers a comprehensive K-12 curriculum that is standards-aligned, using research-based instructional models to support a district-wide implementation. Close the soft skills gap and prepare students for life beyond high school with this central resource to teach **Social & Emotional Learning, Habits of Mind, Lifelong Learning Strategies, Career Exploration,** and **College Exploration & Preparation**. Over 300 ready-to-run, customizable lessons cover topics such as responsible decision-making, growth mindset, time management, career-fit analysis and personal financial literacy.

- Ensure students think critically and prepare for life decisions through lessons that create interactive collaborative opportunities.
- Inspire students to investigate and evaluate college and career readiness using Nearpod VR.
- Foster the skills that create lifelong learners, productive citizens, and successful contributors to work environments.
- Access to a growing library of content to meet the needs of diverse student populations that have varying interests and distinct college and career goals.

Nearpod for EL

Nearpod EL lessons have built-in scaffolds to address all English Language Proficiency levels and are aligned to state standards. Over **700 ready-to-run, customizable lessons** use virtual reality, 3D images, audio, and more to create a truly inclusive and active learning experience that engages students in all modalities. Nearpod EL addresses ESSA's focus on Academic Achievement and the need for ELP standards to be aligned with academic standards.

- Support english learners with research-based instructional models such as CALLA, MALP, and SIOP
- Access hundreds of lessons that include Academic Vocabulary, Building Background, Content Connectors, Newcomer Phrases and VR Tours for English learners
- Backed by recognized expert partners including Dr. Kate Kinsella, Dr. Robert Marzano and Dr. Diane S. Fenner

Nearpod Learning Labs

The Learning Labs team partners with top thought-leaders in education and curates their content into collective inquiry experiences delivered on Nearpod. School and District leaders facilitate these 1-hour professional development workshops with their staff. With a variety of topics, such as **Social Emotional Learning, Restorative Practices, Unpacking Standards,** and **Balanced Literacy**, these lessons provide everything an educator needs to present.

- PD sessions are powered by recognized experts such as People Rocket, New Teacher Center, and National Equity Project.
- PD sessions can be run in isolation or stacked together and used multiple times in multiple locations for: all staff meetings, District breakout sessions, grade-level team meetings, retreat and weekly PLCs.

See the following page for your pricing summary.

Pricing Summary

Date: April 19, 2021
This proposal is valid until 05/07/2021.

Service Start: 7/1/2021 **Service End:** 6/30/2022

San Ysidro MS Nearpod & SEL 21-22				
Description	**Quantity**	**Volume List Price**	**Discount**	**Total Price**
Nearpod Premium Plus - School: Nearpod Premium Plus, including unlimited access to: - Nearpod's lesson, video, and activity creation and delivery platform with 20+ formative assessment and media features - Nearpod Lesson Library with 7,500+ standards-aligned, interactive lessons for all K-12 subject areas, featuring favorite educational brands - Nearpod Video & Activity Library with 5,000+ standards-aligned interactive videos and activities for all K-12 subject areas, featuring favorite educational brands, that can be used on their own, or added to Nearpod slides lessons - School features including larger class sizes, unlimited storage, shared School Library, LMS integration, and more - Premium Plus lesson delivery features, including Live Teacher Annotation and Co-Teaching Social & Emotional Learning: A K-12 solution built from CASEL's leading framework to facilitate student development of SEL competencies, featuring resources from Calm and Common Sense Education.	650 - Students	$6,650.00	($665.00)	$5,985.00
Online Training:	1	$450.00	($0.00)	$450.00

Webinar: Up to 2-hour session with a Nearpod Trainer for up to 50 participants.				
			Total	$6,435.00 (USD)

San Ysidro MS Nearpod 21-22				
Description	**Quantity**	**Volume List Price**	**Discount**	**Total Price**
Nearpod Premium Plus - School: Nearpod Premium Plus, including unlimited access to: - Nearpod's lesson, video, and activity creation and delivery platform with 20+ formative assessment and media features - Nearpod Lesson Library with 7,500+ standards-aligned, interactive lessons for all K-12 subject areas, featuring favorite educational brands - Nearpod Video & Activity Library with 5,000+ standards-aligned interactive videos and activities for all K-12 subject areas, featuring favorite educational brands, that can be used on their own, or added to Nearpod slides lessons - School features including larger class sizes, unlimited storage, shared School Library, LMS integration, and more - Premium Plus lesson delivery features, including Live Teacher Annotation and Co-Teaching	650 - Students	$5,700.00	($0.00)	$5,700.00
Online Training: Webinar: Up to 2-hour session with a Nearpod Trainer for up to 50 participants.	1	$450.00	($0.00)	$450.00
			Total	$6,150.00 (USD)

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board **BOARD MEETING DATE:** May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business Services
Marilyn Adrianzen, Chief Business Official

☐ Informational
☒ Action

AGENDA ITEM: AGREEMENT WITH GLORIA GONZALEZ PHOTOGRAPHY

BACKGROUND INFORMATION:
Gloria Gonzalez Photography has been providing school portraits and other specialty items for students and staff for several years. Services are provided based on principal's choice to participate.

Gonzalez Photography is available to take pictures of each student during the promotion ceremonies that will take place districtwide from June 7th to June 11th, 2021. Pictures will be taken as students receive their certificate. This will prevent parents from getting up from their seats to take pictures helping the event stay as organized as possible. Students will receive one 5x7 printed photograph at no cost to them. The District will pay the $5.00 per picture fee for the approximate 1,183 students that will be promoting.

School	# Students	School	# Students
Smythe	96	Ocean View Hills	160
La Mirada	40	Vista Del Mar Middle	150
Sunset	96	San Ysidro Middle	350
Willow	128	Preschool & CDC	163

RECOMMENDATION:
Approve the agreement with Gloria Gonzalez Photography to provide school portraits during the 2020-21 promotion ceremonies at an estimated cost of $6,000.00 from the General fund. Students will receive a free picture of them receiving their certificate during this special event.

LCAP GOAL AND ACTION/SERVICE (please indicate):

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications? ☒ Yes ☐ No

Are funds for this item available in the 2020-2021 Budget? ☒ Yes ☐ No

Requisition #

$6,000.00 (Amount)

General Fund (Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

SAN YSIDRO SCHOOL DISTRICT

4350 Otay Mesa Road, San Ysidro, CA 92173

PROFESSIONAL SERVICES AGREEMENT

This agreement is made and entered into this 14th day of May 2021, by and between the San Ysidro School District, hereinafter called the "District", and

Gloria Gonzalez Photography Company/Consultant	(619) 409-2027 Telephone Number
5317 Vista Santa Margarita, San Diego, CA 92154 Address	fotografiagloria@gmail.com Email

hereinafter referred to as "Consultant."

1 SCOPE AND TERMS

1.1 SCOPE OF SERVICES

Scope of Services. In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services specified in the Consultant Services Documentation ("attached documents") attached hereto as ***Exhibit "A"*** and incorporated herein by this reference, which services may be referred to herein as the "services" or "work" hereunder. As a material inducement to the District entering into this Agreement, Consultant represents and warrants that Consultant is a provider of first class work and services and Consultant is experienced in performing the work and services contemplated herein and, in light of such status and experience, Consultant covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials shall be of good quality, fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

(1) All photographs taken pursuant to this Agreement shall be processed and printed exclusively in the United States of America.

Compliance with Law. All services rendered hereunder shall be provided in accordance with any and all applicable ordinances, resolutions, statutes, rules, and regulations of the District, City and any Federal, State or local governmental agency having jurisdiction in effect at the time service is rendered. Each and every provision required by law to be included in this Agreement shall be deemed to be included by this reference, and this Agreement shall be read and enforced as though they were included.

Licenses, Permits, Fees and Assessments. Consultant shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Consultant shall maintain a valid and current City of San Diego Business Tax Certificate for the duration of this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant's performance of the services required by this Agreement, and shall indemnify, defend and hold harmless District against any such fees, assessments, taxes penalties or interest levied, assessed or imposed against District hereunder.

1.2 TERM

From: June 7, 2021 To: June 11, 2021

The Initial Term of this Agreement as noted, unless earlier terminated as provided herein. The Parties may mutually agree to extend this term only by written amendment. Should the Parties agree to extend the term of this Agreement; the Agreement can only be extended on a year-to-year basis with written approval unless otherwise indicated in writing and in accordance with the law.

2 FEES AND PAYMENTS

2.1 FEES
District shall pay Consultant for the specified services as reflected on ***Exhibit A*** during this contract term.

2.2 PAYMENTS
Consultant shall submit to District an itemized invoice which indicates work completed by Consultant. District shall review each invoice and/or receipts submitted to determine that the work performed and expenses incurred are in compliance with the provisions of this Agreement. District shall pay Consultant within a reasonable time and in accordance with this Agreement.

3. ADDITIONAL SERVICES.

District shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work as described herein. No such extra work may be undertaken unless a written order is first given by the District Contract Officer to the Consultant, incorporating therein any adjustment in (i) the Contract Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval or ratification of the Contract Officer. However, any increase in compensation beyond the Contract Sum, for services beyond what is contemplated in the Contract, must be approved or ratified by the Board of Education in a signed writing prior to any payment. Additionally, any other increases, extensions or renewals must be approved in writing by the Board of Education. It is expressly understood by Consultant that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services or reasonably contemplated therein. Consultant hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefore unless specifically authorized pursuant to the terms of this section.

4 RESPONSIBILITIES OF CONSULTANT

4.1 ORGANIZATION
Consultant shall assign Company Contract as Project Manager. The Project manager shall not be removed from the Project or reassigned without the prior written consent of District, which consent shall not be unreasonably withheld. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff assigned to perform the services required under this Agreement.

4.2 COORDINATION OF SERVICES
Consultant agrees to work closely with the District staff in the performance of Services and shall be available to the District staff, consultants and other staff at all reasonable times.

4.3 STANDARD OF CARE:
Consultant shall perform all Services under this Agreement in a skillful, competent and timely manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all of Consultant's employees and subconsultants shall have sufficient skill and experience to perform the Services assigned to them. Consultant further represents that it, its employees and subconsultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Any of Consultant's employees who are determined by District to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any of Consultant's employees who fail or refuse to perform the Services in a manner acceptable to District, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

4.4 INDEPENDENT CONSULTANT & ADDITIONAL PERSONNEL
Consultant is retained as an independent consultant and is not an agent or employee of the District. No employee or agent of Consultant shall by this Agreement become an agent or employee of the District. The work to be performed shall be in accordance with the work described herein, subject to such direction and amendments from District as herein provided. Consultant shall have no authority, express or implied, pursuant

to this Agreement to bind District to any obligation whatsoever, except as specifically provided in writing by District. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law.

4.5 LAWS AND REGULATIONS

Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Service. Consultant shall be liable for all violations of such laws and regulations in connection with Services.

4.6 MAINTENANCE OF ACCOUNTING RECORDS

Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of the District during normal business hours with reasonable notice to examine, audit and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of five (5) years from the date of final payment under this Agreement.

4.7 INSURANCE

(1) Time for Compliance. Consultant shall not commence Services under this Agreement until it has provided evidence satisfactory to District that it has secured all insurance required under this Section. In addition, Consultant shall not allow any Subcontractor or employee to commence work until it has provided evidence satisfactory to the District.

(2) Minimum Requirements and Limits. Consultant and Subcontractors shall, at its expense, procure and maintain for the duration of this Agreement, Public Liability and Property Damage Insurance to protect them and the District from all claims for injuries to persons, including accidental death, as well as from all claims for property damage which may arise from or in connection with the performance of the Agreement by the consultant, its agents, representatives, and employees. Such insurance shall survive after this agreement as permitted by law.

Coverage shall be at least as broad as:

1. **Commercial General Liability** (CGL): including premises, Operations, Products and Completed Operations, Contractual Liability, and Independent Contractors Liability: $1,000,000 per occurrence for bodily injury, personal injury and property damage. The General Aggregate limit shall be $2,000,000.
2. **Automobile Liability: $1,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation (Employer's Insurance):** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than $1,000,000 per accident for bodily injury or disease. Coverage shall include waiver of subrogation endorsement in favor of San Ysidro School District.
4. **Professional Liability (Errors and Omissions):** Insurance appropriates to the Consultant's profession, with limit no less than $1,000,000 per occurrence or claim, $2,000,000 aggregate. *(Any self-retained limit shall be greater than $25,000 per occurrence/event.*

If the Consultant maintains higher limits than the minimums shown above, the District requires and shall be entitled to coverage for the higher limits maintained by the Consultant.

Additional Insured Status

The District, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Consultant including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an **endorsement** to the Consultant's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

Primary Coverage

For any claims related to this contract, the **Consultant's insurance coverage shall be primary** insurance as respects the District, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the District, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

Notice of Cancellation

The Provider shall file, with the District, Certificates of Insurance indicating a thirty-day (30) cancellation notice and naming the **SAN YSIDRO SCHOOL DISTRICT** as an **additional insured with endorsements attached.**

Waiver of Subrogation

Consultant hereby grants to District a waiver of any right to subrogation which any insurer of said Consultant may acquire against the District by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the District has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the District. The District may require the Consultant to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-:VII, unless otherwise acceptable to the District.

Claims Made Policies (note – should be applicable only to professional liability, see below)
If any of the required policies provide claims-made coverage:

1. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided ***for at least five (5) years after completion of the contract of work.***
3. If coverage is canceled or non-renewed, and not replaced ***with another claims-made policy form with a Retroactive Date prior to*** the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of ***five (5)*** years after completion of work.

Verification of Coverage

Consultant shall furnish the District with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the District before work/services commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The District reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

4.8 CONFIDENTIALITY

All photographs, video, data, materials, products, technology, financial information and other documents ("Confidential Information"), either created by or provided to Consultant in connection with the performance of this Agreement, shall be held confidential by Consultant. All Confidential Information shall not, without the prior written consent of District, be used or reproduced by Consultant for any purposes other than the performance of the services performed pursuant to this Agreement. Consultant shall not disclose, cause or facilitate the

disclosure of the Confidential Information to any person or entity not connected with the performance of the services or this Agreement. Consultant shall adhere to all relevant Family Educational Rights and Privacy Act (FERPA) Regulations. Nothing furnished to Consultant that is otherwise known to Consultant or is generally known or has become known to the related industry shall be deemed confidential.

5 GENERAL PROVISIONS

5.1 DELAYS IN PERFORMANCE

(1) Neither District nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other disturbances; sabotage or judicial restraint.

(2) Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

5.2 SUSPENSION OF SERVICES

The District may, in its sole discretion, suspend all or any part of Services provided hereunder with cost to date of suspension. Consultant may not suspend its services without District's express written consent.

5.3 TERMINATION OF AGREEMENT

(1) Termination. District may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been adequately rendered to District to date of the notice of termination and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause.

(2) Consultant's Termination for Cause. This Agreement may be terminated by the Consultant upon thirty (30) days written notice to the District only when the District has substantially failed to perform its obligations under this Agreement. The written notice shall include a detailed description of the District's failure to perform, status of the work completed as of the date of termination together with a description and a cost estimate of the effort necessary to complete work in progress. In such event, the Consultant shall be compensated for services completed to the date of termination, together with compensation for such approved Additional Services performed after termination which are authorized by the District to conclude the work performed to the date of termination. Upon the District's request and authorization, Consultant shall perform any and all Additional Services necessary to wind up the work performed to the date of termination.

(3) Effect of Termination. If this Agreement is terminated as provided in this Section, District may require Consultant to provide all finished or unfinished documents, date, programming source code, reports or any other items prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such documents and other information within fifteen (15) days of the request.

(4) Terminated Services. In the event this Agreement is terminated in whole or in part as provided herein, District may procure, upon such terms and in such manner as it may determine appropriate, services similar or identical to those terminated.

5.4 OWNERSHIP OF MATERIALS AND CONFIDENTIALITY

(1) All materials and data, including but not limited to, data on electronic or magnetic media and any materials, documents and data required to be made or kept pursuant to federal, state or local laws, rules or regulations, prepared or collected by Consultant pursuant to this Agreement, shall be the sole property of the District, except that Consultant shall have the right to retain copies of all such documents and data for its records. District shall not be limited in any way in its use of such materials and data at any time, provided that any such use not within the purposes intended by this Agreement shall be at District's sole risk and provided that

Consultant shall be indemnified against any damages resulting from such use, including the release of this material to third parties for a use not intended by this Agreement.

(2) All such materials and data shall be provided to the District, or such other agency or District as directed by District or required by law, rule or regulation, as they become due during the term of this Agreement as direct by District.

(3) The District is a California public entity subject to all state and federal laws governing education, including but not limited to California Assembly Bill 1584 (AB 1584), the California Education Code, the Children's Online Privacy and Protection Act (COPPA), the Family Educational Rights and Privacy Act (FERPA), and HIPAA Privacy regulations and any other privacy laws, policies and regulations that may apply such as American Recovery and Reinvestment Act of 2009 ("ARRA") and the Health Information Technology and Economic Clinical Health Act of 2009 ("HITECH").

AB1584 requires, in part, that any agreement entered into, renewed or amended after January 1, 2015 between a local education agency (LEA) and a third-party service provider must include certain terms; and the LEA and the Service Provider desire to have this Agreement and the services provided comply with AB1584. This includes to all forms of protected health information, including paper, oral, and electronic, etc. Furthermore, only the minimum health information necessary to conduct business is to be used or shared.

- Pupil records obtained by the Consultant/Service Provider from LEA/District continue to be the property of and under the control of the District. The Consultant will obtain information regarding disciplinary and/or behavioral events for the purpose of allowing District personnel to improve and provide services to pupils. The Consultant will not be obtaining pupil-generated content.
- In the event of an unauthorized disclosure of a pupil's records, the Consultant shall report to an affected parent, legal guardian, or eligible pupil pursuant to the following procedure; written communication to the District's Superintendent, Deputy Superintendent and/or designee.
- The Consultant shall not use any information in a pupil record for any purpose other than those required or specifically permitted by this Professional Services Agreement.
- Consultant certifies that a pupil's records shall not be retained or available to the Consultant upon completion of the terms of this Professional Services Agreement.
- District agrees to work with Consultant to ensure compliance with FERPA.
- Consultant shall not use personally identifiable information in pupil records to engage in targeted advertising.
- Pupil records include any information directly related to a pupil that is maintained by the District or acquired directly from the pupil through the use of instructional software or applications assigned to the pupil by a teacher or other District employees. Pupil records does not include/not mean de-identified information (information that cannot be used to identify an individual pupil) used by the third party to (1) improve educational products for adaptive learning purposes and for customized pupil learning; De-identified information, including aggregated de-identified information. (2) Demonstrate the effectiveness of the operator's products in the marketing of those products; or for the development and improvement of educational sites, services, or applications.

5.5 SAFETY

Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed.

5.6 PROJECT STAFFING

Consultant shall provide adequate staff and resources to facilitate all Consultant activity. Should Consultant fail to adequately staff a project, the District may, at its sole discretion, retain third party consulting services and back charge Consultant for all third-party fees.

5.7 INDEMNIFICATION

Consultant agrees to protect, save, defend, indemnify and hold harmless the District, their Governing Boards and each member thereof, their officers, employees, agents and volunteers from any and all claims, liabilities, expenses or damages of any nature, including attorneys' fees, for injury or death of any person, or damage to

property, or interference with use of property, arising out of or in any way connected with the negligent acts, errors or omissions or willful misconduct by Consultant, Consultant's agents, officers, employees, sub consultants, or independent consultants hired by Consultant under this Agreement. The only exception to Consultant's responsibility to protect, save, defend and hold harmless District is where a claim, liability, expense or damage occurs due to the sole negligence, or willful misconduct of District. This hold harmless Agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Consultant.

5.8 AMENDMENTS

This Agreement may not be amended except in writing signed by both Parties.

5.9 SEVERABILITY

If any section, subsection, sentence, clause or phrases of this Agreement, or the application thereof to any of the Parties, is for any reason held invalid or unenforceable, the validity of the remainder of the Agreement shall not be affected thereby and may be enforced by the Parties to this Agreement.

5.10 GOVERNING LAW

This Agreement shall be governed by the laws of the State of California. Any action brought to enforce the terms of this Agreement shall be brought in a state or federal court located in the County of San Diego, State of California, but only after dispute resolution as provided herein.

5.11 CONFLICT OF INTEREST

For the term of this Agreement, no member, officer or employee of District, during the term of his or her service with District, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

5.12 SCHOOL SAFETY, FINGERPRINTING AND BACKGROUND INVESTIGATION REQUIREMENTS:

Consultant agrees with the provisions of Education Code Section 45125.1 regarding the submission of fingerprints to the California Department of Justice. Consultant shall not be permitted to have any contact with District pupils until such time as Consultant has verified in writing to the District that they have complied with Educational Code Section 45125.1. (**Please attach a copy of this verification.)**

Per Ed Code 49406 and Assembly Bill 1667, the District requires for Tuberculosis (TB) Clearances to be in place by anyone coming in contact with pupils. Please submit TB Clearance to the Business Services Office.

This section may be waived if the District determines that the Consultant and/or its employees will have limited contact with District pupils or if Consultant and/or its employees will be supervised at all times by District employees.

District is waiving this requirement _____.

5.13 DRUG/ALCOHOL/TOBACCO-FREE FACILITIES:

ALL DISTRICT FACILITIES ARE DRUG AND TOBACCO-FREE FACILITIES. ANY DRUG, ALCOHOL AND/OR TOBACCO USE (SMOKED OR SMOKELESS) IS PROHIBITED AT ALL TIMES ON ALL AREAS OF THE DISTRICT FACILITIES.

5.14 NOTICES / CONTACT INFORMATION

All notices or demands to be given under this Agreement by either party to the other shall be in writing and given either by: (a) personal service, (b) email or (c) by U.S. Mail, mailed certified mail with return receipt requested, addressed to the following entities.

CONSULTANT:	Gloria Gonzalez Photography
Name:	Gloria Gonzalez
Title:	Owner
Address:	5317 Vista Santa Margarita
City/State/Zip code:	San Diego, CA 92154
Telephone:	(619) 409-2027
Email:	fotografiagloria@gmail.com

DISTRICT:	**San Ysidro School District**	
Name:	Marilyn Adrianzen	
Title:	Chief Business Official	
Address:	4350 Otay Mesa Road	
City/State/Zip code:	San Ysidro, CA 92173	
Telephone:	(619) 428-4476 ext. 3003	
Email:	marilyn.adrianzen@sysdschools.org	

6 ENTIRE AGREEMENT

This Agreement represents the entire understanding of District and Consultant as to those matters contained herein, and supersedes and cancels any prior oral or written understanding, promises or representations with respect to those matters covered hereunder. To the extent that any provision or clause contained in an attachment to this Agreement conflicts with a provision or clause in the Agreement, the provision or clause in this Agreement shall control. This Agreement may not be modified or altered except in writing signed by both parties hereto. This is an integrated Agreement and includes the Coronavirus Addendum.

7 WARRANTY OF AUTHORITY:

Each of the parties signing this Agreement warrants to the other that he or she has the full authority of the District on behalf of which his or her signature is made.//

CONSULTANT	**DISTRICT**
Gloria Gonzalez Photography	**San Ysidro School District**
Firm Name	Firm Name
Signature of Authorized Agent	Signature
	Marilyn Adrianzen, Chief Business Official
Print Name, Title	Print Name, Title
Date:	Date
Phone Number	Board Approved

SAN YSIDRO SCHOOL DISTRICT

4350 Otay Mesa Road, San Ysidro, CA 92173

SCHOOL SAFETY CERTIFICATION FORM

CERTIFICATION PURSUANT TO EDUCATION CODE ECTION 45125.1
Fingerprinting and Criminal Background Investigation Requirements

The District has determined under Education Code Section 45125.1, subdivision (c) that in performing services to this contract, **Consultant's employees may have contact with pupils**. As required under Education Code Section 45125.1, subdivision (a), Consultant shall require their employees, including the employees of any sub-consultant and/or subcontractor, who will provide services pursuant to this contract to submit their fingerprints in a manner authorized by the Department of Justice in order to conduct a criminal background check to determine whether such employees have been convicted of or have charges pending for a felony as defined under Education Code Section 45122.1.

_____(*Initial*) Consultant shall not permit any employee to perform services that may come in contact with pupils under this contract until the Department of Justice has determined that the employee has not been convicted of a felony or has no criminal charges pending for a felony as defined in Section 45122.1.

_____(*Initial*) Consultant certifies that all of its employees who may come in contact with pupils have not been convicted of or have no criminal charges pending for a felony, as defined in Education Code Section 45122.1.

_____(*Initial*) Consultant shall defend, indemnify, protect and hold the District and its agents, officers and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property which arise from or are connected with or are caused or claimed to be caused by Consultant's failure to comply with all of the requirements contained in Education Code Section 45125.1, including, but not limited to, the requirements prohibiting Consultant from using employees who may have contact with pupils who have been convicted or have charges pending for a felony in Education Code Section 45122.1.

_____(*Initial*) It is understood that by signing this document, Consultant agrees that they are familiar with Education Code Section 45122.1.

_____(*Initial*) Per Ed Code 49406 and Assembly Bill 1667, the District requires for Tuberculosis (TB) Clearances to be in place by anyone coming in contact with pupils.

_____(*Initial*) Consultant's individuals/employees who may come in contact with pupils in the performance of services in this contract agree to provide fingerprint (DOJ/FBI) and TB Clearances (at their own expense) to be in compliance with the above mentioned Ed Codes before commencement of any services under this contract. The District will provide LiveScan form.

_____(*Initial*) Consultant will provide a list of their employee's names who will be assigned to work at the District's locations during the term of this agreement and who may come in contact with pupils in the performance of services in this contract.

_____(*Initial*) Consultant will notify the District of any changes (add/remove) in employees assigned to any of the District's school sites and will provide the proper clearances required before the commencement of services of the individual employee(s).

- I certify that I have read and understand the above terms and conditions and will report any changes that may affect the performance services of this contract.
- I certify that none of the individuals identified on the attached list of Consultant's employees have been convicted of a felony as defined in Education Code Section 45122.1.
- I certify that all of the individuals identified on the attached list of Consultant's employees are clear of tuberculosis (TB) as defined on Education Code Section 49406 and Assemby Bill 1667.

Consultant _____

Name/title of authorized representative *(Print)* _____

Signature _____Date _____

SAN YSIDRO SCHOOL DISTRICT

4350 Otay Mesa Road, San Ysidro, CA 92173

CORONAVIRUS ADDENDUM

In addition to the Professional Services Agreement, Consultant / Subconsultants and/or Representative enters this Coronavirus Addendum and further hold harmless Agreement incorporated as follows:

1. Including, but not limited to, the SARS-CoV-2 virus (the "Coronavirus"), the Applicant/Representative (the "FACILITY USER") agrees to strictly, and without exception, follow all local, state, and federal guidelines regarding human protection from the Coronavirus (the "Guidelines"). The Guidelines to strictly follow are located at various sites, including, but not limited to:

a. https://covid19.ca.gov/
b. https://www.cdc.gov/coronavirus/2019-ncov/index.html
c. https://www.sandiegocounty.gov/content/sdc/hhsa/programs/phs/community_epidemiology/dc/2019-nCoV.html

2. The FACILITY USER shall not hold the event and shall cancel the event if all Guidelines will not, are not, or cannot be met before, during, or after the event.

3. The FACILITY USER shall stop the event immediately and send all invitees/participants away if they are observed not to be meeting all required Guidelines.

4. The District may terminate the FACILITY USER's agreement at any time if, in the sole discretion of the District, the District determines that the FACILITY USER or their invitees/participants are not in full compliance with the Guidelines. If the District terminates the FACILITY USER's use of the District facility pursuant to this paragraph, the FACILITY USER will be not be entitled to a refund of any fees and will not be entitled to recover any consequential damages arising from such termination.

5. The District makes no representation regarding the condition of the facility in use. It shall be the FACILITY USER's sole responsibility to appropriately and thoroughly clean, disinfect, and maintain a clean, disinfected, and sanitized environment before, during, and after the event, including the use of Coronavirus products approved by the Environmental Protection Agency (EPA) and in compliance with the Healthy Schools Act (HSA).

6. Assumption of Risk. FACILITY USER recognizes that there is presently a significant element of risk of Coronavirus transmission when any group of people gathers. FACILITY USER has reviewed and understands the risks reflected in the local, state, and federal alerts and guidelines, including, but not limited to, the links above. FACILITY USER assumes all risks, known and unknown, arising from Your use and occupancy of the District facility, including risks from the Coronavirus. FACILITY USER assumes full responsibility for any sickness, hospitalization, bodily injury, death, loss of personal property, quarantines, and all related costs and expenses of any person arising from Your use and occupancy of the District facility. ("Your" is defined herein as the FACILITY USER and each of their employees, District facility invitees, participants, volunteers, students, members, and all other related persons, agents, and entities.)

7. Waiver and Release of Claims. To the fullest extent permitted by law, FACILITY USER releases the San Ysidro School District, its affiliated campuses, and their governing boards, affiliates, subsidiaries, divisions, administrators, directors, officers, employees, agents, and volunteers (collectively referred to herein as the "District"), from and against all claims and causes of action, for any injury or harm of any kind which may arise from or out of Your use and occupancy of the District facility, including the risks from Coronavirus. This release is intended to discharge the District against any and all liability arising out of or connected in any way with Your use and occupancy of the District facility, even though that liability may occur or arise out of the negligence or carelessness on the part the District. I understand that by signing this Agreement, I am releasing claims and giving up substantial rights, including my right

to sue, and acknowledge that I am doing so voluntarily. No representations, statements, or inducements, oral or written, apart from the foregoing written statement, have been made.

8. INDEMNIFICATION. TO THE FULLEST EXTENT PERMITTED BY LAW, ON BEHALF OF MYSELF AND MY ORGANIZATION, I AGREE TO IMMEDIATELY DEFEND, INDEMNIFY, AND HOLD THE DISTRICT (AS DEFINED ABOVE) FREE AND HARMLESS FROM ANY LOSS, DAMAGE, LIABILITY, OR EXPENSE THAT MAY ARISE IN WHOLE OR IN PART FROM THE APPLICATION AND AGREEMENT FOR THE USE OF FACILITIES AND THIS CORONAVIRUS ADDENDUM, INCLUDING AS IT RELATES TO ANY EXPOSURE TO THE CORONAVIRUS (AS DEFINED ABOVE). THE DEFENSE AND INDEMNITY OBLIGATIONS UNDER THIS PARAGRAPH SHALL APPLY REGARDLESS OF THE DISTRICT OR ANY OTHER PERSON OR ENTITY'S ACTIVE OR PASSIVE NEGLIGENCE.

Individual Release, Waiver Of Liability and Indemnity Agreement and Coronavirus Addendum acknowledgment: I acknowledge that I have read this Agreement and the Addendum in its entirety and agree to all of its terms and conditions and that I fully understand my responsibility to adhere to all Agreement and Coronavirus guidelines and instruction during the use of the District facility and/or equipment.

Name of Consultant / Organization: _____

Name of Authorized Representative/Agent (please print): _____

Signature of Representative: _____

Address: _____

Work Phone: (_____) _____ Other Phone: (_____) _____

Personal Email Address: _____

gloria gonzález PHOTOGRAPHY

EXHIBIT A

May 6th 2021

To whom it may concern:

I am writing to let you know about the work that we will carry out this year in the schools of the San Ysidro District.

We will cater to all promotions ceremonies at all levels, from preschool to middle school.

Due to the speed at which we must work, we will not set up a photographic studio; we will bring professional equipment such as a camera and flash to take pictures of each of the graduates.

The plan is to take a photo of each student in the same area as they receive the certificate; this will prevent parents from getting up from their seats to take pictures helping the event stay as organized as possible.

We commit to deliver one 5x7 printed photograph to each graduate at the cost of **5 dollars per photo**.

At each event, we will make ourselves available for additional photos if requested by the parents. The images taken will be available for purchase by the parents via our online gallery; this is without any commitment to the district and at no cost to parents allowing parents and students to have more photos of this important event.

The schools where we will be working this year are:

Smythe Elementary School: 96 students

Ocean View Hills: 160 students

Sunset Elementary School: 96 students

La Mirada Elementary School: 40 students

Willow Elementary School: 128 students

San Isidro Middle School: 350 students

Vista del Mar School: 150 students

Child Development Center: To be determined.

(619) 409- 2027
fotografiagloria@gmail.com
www.gloriagonzalezfotografia.com
facebook.com/fotografia.gloria

gloria gonzález
PHOTOGRAPHY

The number of students is approximate, and the days and times will be those indicated by each school principal.

Safety protocols against COVID-19: The staff is now fully vaccinated and trained to follow the CDC's guidelines. They will wear masks at all times, use hand sanitizer and keep a proper distance.

Sincerely
Gloria A. Gonzalez
Of Gloria Gonzalez Photography

(619) 409- 2027
fotografiagloria@gmail.com
www.gloriagonzalezfotografia.com
facebook.com/fotografia.gloria

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business Services
Marilyn Adrianzen, Chief Business Official

☐ Informational
☒ Action

AGENDA ITEM: AMENDMENT NO. 2 TO THE AGREEMENT WITH KEENAN & ASSOCIATES FOR PROPERTY AND CASUALTY CLAIMS ADMINISTRATION SERVICES

BACKGROUND INFORMATION:
Southern California Relief Regional Liability Excess Fund (SCR) Joint Powers Authority (JPA) is a non-profit member-owned and operated JPA providing risk management services to public schools. SCR JPA is managed by Keenan & Associates for the District's property and liability coverage.

Amendment No. 2 amends Exhibit B Compensation of the Agreement for the period from July 1, 2021 through June 30, 2022 with a slight increase in rates from the previous program year. All other terms and conditions remain the same.

RECOMMENDATION:
Approve Amendment No. 2 to the agreement with Keenan & Associates to provide Property and Casualty Claims Administration Services. Compensation for services will be paid from the General fund.

LCAP GOAL AND ACTION/SERVICE (please indicate):

☐ **Renewal** ☐ **New** ☒ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2021-2022 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	

TBD	General
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

AMENDMENT No 2 to
PROPERTY AND CASUALTY CLAIMS ADMINISTRATION SERVICES AGREEMENT

This Amendment modifies the **Property and Casualty Claims Administration Services Agreement** ("Agreement") effective on **July 1, 2019** by and between **San Ysidro School District** ("Client") and **Keenan & Associates** ("Keenan").

1. The effective date of this Amendment is **July 1, 2021**.

2. This Amendment amends **Exhibit B Compensation** of the Agreement for the period from **July 1, 2021** through **June 30, 2022** to read as outlined below. This Amendment supersedes any and all prior understanding between the Parties as to this matter.

   For the period **July 1, 2021– June 30, 2022**:

V.P./A.V.P./Claims Manager -	$ 98.40 per hour
Senior Claims Examiner -	$ 92.83 per hour
Claims Examiner -	$ 82.22 per hour
Expenses -	44% of hourly billings
Minimum per file charge	One hour

3. All other terms and conditions of the Agreement remain unchanged.

4. Each person signing this Amendment on behalf of a Party represents and warrants that he or she has the necessary authority to bind such Party and that this Amendment is binding on and enforceable against such Party.

San Ysidro School District			**Keenan & Associates**	
Signature:			**Signature:**	
By:	**Marilyn Adrianzen**		**By:**	**Eric J. Lucas, Esq.**
Title:	**CBO**		**Title:**	**Vice President**
Address:	**4350 Otay Mesa Road** **San Ysidro, CA 92173**		**Address:**	**2355 Crenshaw Blvd., Ste. 200** **Torrance, CA 90501**
Attention:	**Marilyn Adrianzen**		**Attention:**	**Greg Trapp**
Telephone:	**(619) 428-4476x3004**		**Telephone:**	**(949) 940-1760x5165**
E-mail:	**marily.adrianzen@sysdschools.org**		**E-mail:**	**gtrapp@keenan.com**

Board approved: _____

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
San Ysidro Middle School
Maria Rodriguez, Principal

☐ Informational
☒ Action

AGENDA ITEM: LICENSE AGREEMENT WITH ARDOR EDUCATION INC. FOR THE ARDOR MATH PROGRAM SUBSCRIPTION AT SAN YSIDRO MIDDLE SCHOOL

BACKGROUND INFORMATION:
Ardor Math is an adaptive mathematics application built for any electronic devise. It adapts the practice and feedback to match the student's readiness level. Ardor Math eliminates learning lag by providing real time corrective feedback. Individualized feedback adapts to a student's readiness level and alleviates student frustration and reinforces good practice habits.

The Principal at San Ysidro Middle School is requesting approval to enter into a license agreement with Ardor Education Inc. to implement the Ardor Math program. The term of this subscription is one (1) year.

RECOMMENDATION:
Approve the license agreement with Ardor Education Inc. for the implementation of the Ardor Math program subscription at San Ysidro Middle at the total cost of $1,349.95 from the Title I fund.

LCAP GOAL AND ACTION/SERVICE:
Goal 1: Student Achievement ~ Actions 1.10 and 1.19: Continue to provide supplemental programs and resources (i.e., Reading Renaissance, math manipulatives, etc.) to support student achievement in core content areas.

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	

$1,349.95	Title I Fund
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

Ardor Education Inc

Invoice

21370 SW Langer Farms PKWY Suite 142, 434
Sherwood OR 07140
United States
+1 503-863-1585
contact@ardoreducation.com

Invoice number **8BE4E042-0001**
Date of issue **Apr 19, 2021**
Date due **Jul 18, 2021**

Bill to
San Ysidro Middle School
4345 Otay Mesa Road
San Diego, California 92154
United States
araceli.felix@sysdschools.org

$1,349.95 due July 18, 2021

Ardor Math Teacher subscriptions to be applied to teacher accounts upon invoice fulfillment.

Thank you for your business.

Description	Qty	Unit price	Amount
Ardor Math Unlimited Yearly Subscription	6	$249.99	**$1,499.94**

Period of 2021-22 (July-June) with No Automatic Renewal.

SYSD Board Approval date: 05-13-21

_____
Marilyn Adrianzen, CBO

Subtotal	**$1,499.94**
ARDOR-10 (10% off)	-$149.99
Amount due	**$1,349.95**

Pay $1,349.95 with ACH or wire transfer
Bank WELLS FARGO BANK, N.A.
Routing 121000248
Account 40630130580589820
SWIFT WFBIUS6S

Pay $1,349.95 with card
Visit **https://invoice.stripe.com/i/acct_180DnJFgiQgtT9Xl/invst_JKi4ekl4hpnp41OmeFfeO7KgIIHPRMG**

Questions? Contact Ardor Education Inc at contact@ardoreducation.com or call at +1 503-863-1585.

Ardor

Terms and Conditions of Ardor Education, Inc

These Terms govern

- the use of this Website, and,
- any other related Agreement or legal relationship with the Owner

in a legally binding way. Capitalized words are defined in the relevant dedicated section of this document.

The User must read this document carefully.
Although the entire contractual relationship relating to these Products is entered into solely by the Owner and Users, Users acknowledge and agree that, where this Website has been provided to them via the Apple App Store, Apple may enforce these Terms as a third-party beneficiary.
This Website is provided by:
Ardor Education, Inc.
Owner contact email: contact@ardoreducation.com
What the User should know at a glance

- This Website uses automatic renewal for Product subscriptions. Information about the a) renewal period, b) termination details and c) termination notice can be found in the relevant section of these Terms.
- The right of withdrawal only applies to European Consumers. The right of withdrawal, also commonly called the right of cancellation in the UK, is consistently referred to as "the right of withdrawal" within this document.
- Please note that some provisions in these Terms may only apply to certain categories of Users. In particular, certain provisions may only apply to Consumers or to those Users that do not qualify as Consumers. Such limitations are always explicitly mentioned within each affected clause. In the absence of any such mention, clauses apply to all Users.

TERMS OF USE
Unless otherwise specified, the terms of use detailed in this section apply generally when using this Website.
Single or additional conditions of use or access may apply in specific scenarios and in such cases are additionally indicated within this document.
By using this Website, Users confirm to meet the following requirements:

- There are no restrictions for Users in terms of being Consumers or Business Users;
- Users aren't located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist-supporting" country;
- Users aren't listed on any U.S. Government list of prohibited or restricted parties;

Account registration
To use the Service Users must register or create a User account, providing all required data or information in a complete and truthful manner.
Failure to do so will cause unavailability of the Service.
Users are responsible for keeping their login credentials confidential and safe. For this reason, Users are also required to choose passwords that meet the highest standards of strength permitted by this Website.
By registering, Users agree to be fully responsible for all activities that occur under their username and password.
Users are required to immediately and unambiguously inform the Owner via the contact details indicated in this document, if they think their personal information, including but not limited to User accounts, access credentials or personal data, have been violated, unduly disclosed or stolen.

Account termination
Users can terminate their account and stop using the Service at any time by doing the following:

- By directly contacting the Owner at the contact details provided in this document.

Account suspension and deletion
The Owner reserves the right, at its sole discretion, to suspend or delete at any time and without notice, User accounts which it deems inappropriate, offensive or in violation of these Terms.
The suspension or deletion of User accounts shall not entitle Users to any claims for compensation, damages or reimbursement.

The suspension or deletion of accounts due to causes attributable to the User does not exempt the User from paying any applicable fees or prices.

Content on this Website
Unless where otherwise specified or clearly recognizable, all content available on this Website is owned or provided by the Owner or its licensors.
The Owner undertakes its utmost effort to ensure that the content provided on this Website infringes no applicable legal provisions or third-party rights. However, it may not always be possible to achieve such a result. In such cases, without prejudice to any legal prerogatives of Users to enforce their rights, Users are kindly asked to preferably report related complaints using the contact details provided in this document.

Rights regarding content on this Website - All rights reserved
The Owner holds and reserves all intellectual property rights for any such content.
Users may not therefore use such content in any way that is not necessary or implicit in the proper use of the Service.
In particular, but without limitation, Users may not copy, download, share (beyond the limits set forth below), modify, translate, transform, publish, transmit, sell, sublicense, edit, transfer/assign to third parties or create derivative works from the content available on this Website, nor allow any third party to do so through the User or their device, even without the User's knowledge.
Where explicitly stated on this Website, the User may download, copy and/or share some content available through this Website for its sole personal and non-commercial use and provided that the copyright attributions and all the other attributions requested by the Owner are correctly implemented.
Any applicable statutory limitation or exception to copyright shall stay unaffected.

Content provided by Users
The Owner allows Users to upload, share or provide their own content to this Website.
By providing content to this Website, Users confirm that they are legally allowed to do so and that they are not infringing any statutory provisions and/or third-party rights.
Further insights regarding acceptable content can be found inside the section of these Terms which detail the acceptable uses.

Rights regarding content provided by Users
Users acknowledge and accept that by providing their own content on this Website they grant the Owner a non-exclusive, fully paid-up and royalty-free license to process such content solely for the operation and maintenance of this Website as contractually required.
To the extent permitted by applicable law, Users waive any moral rights in connection with content they provide to this Website.
Users acknowledge, accept and confirm that all content they provide through this Website is provided subject to the same general conditions set forth for content on this Website.

Liability for provided content
Users are solely liable for any content they upload, post, share, or provide through this Website. Users acknowledge and accept that **the Owner does not filter or moderate such content**.
However, the Owner reserves the right to remove, delete, block or rectify such content at its own discretion and to, without prior notice, deny the uploading User access to this Website:

- if any complaint based on such content is received;
- if a notice of infringement of intellectual property rights is received;
- upon order of a public authority; or
- where the Owner is made aware that the content, while being accessible via this Website, may represent a risk for Users, third parties and/or the availability of the Service.

The removal, deletion, blocking or rectification of content shall not entitle Users that have provided such content or that are liable for it, to any claims for compensation, damages or reimbursement.
Users agree to hold the Owner harmless from and against any claim asserted and/or damage suffered due to content they provided to or provided through this Website.

Access to external resources
Through this Website Users may have access to external resources provided by third parties. Users acknowledge and accept that the Owner has no control over such resources and is therefore not responsible for their content and availability.

Conditions applicable to any resources provided by third parties, including those applicable to any possible grant of rights in content, result from each such third parties' terms and conditions or, in the absence of those, applicable statutory law.

Acceptable use
This Website and the Service may only be used within the scope of what they are provided for, under these Terms and applicable law.
Users are solely responsible for making sure that their use of this Website and/or the Service violates no applicable law, regulations or third-party rights.
Therefore, the Owner reserves the right to take any appropriate measure to protect its legitimate interests including by denying Users access to this Website or the Service, terminating contracts, reporting any misconduct performed through this Website or the Service to the competent authorities – such as judicial or administrative authorities - whenever Users engage or are suspected to engage in any of the following activities:

- violate laws, regulations and/or these Terms;
- infringe any third-party rights;
- considerably impair the Owner's legitimate interests;
- offend the Owner or any third party.

"Tell-a-friend"
This Website gives Users the opportunity to receive advantages if, as a result of their recommendation, any new User purchases a Product offered on this Website.
In order to take advantage of this offer, Users may invite others to purchase the Products on this Website by sending them a tell-a-friend code provided by the Owner. Such codes can only be redeemed once.
If upon purchase of the Products on this Website any of the persons invited redeems a tell-a-friend code, the inviting User shall receive the advantage or benefit (such as: a price reduction, an additional service feature, an upgrade etc.) specified on this Website.
Tell-a-friend codes may be limited to specific Products among those offered on this Website.
The Owner reserves the right to end the offer at any time at its own discretion.
While no general limitation applies to the number of persons that can be invited, the amount of advantage or benefit that each inviting User can receive, may be limited.

Software license
Any intellectual or industrial property rights, and any other exclusive rights on software or technical applications embedded in or related to this Website are held by the Owner and/or its licensors.
Subject to Users' compliance with and notwithstanding any divergent provision of these Terms, the Owner merely grants Users a revocable, non-exclusive, non-sublicensable and non-transferable license to use the software and/or any other technical means embedded in the Service within the scope and for the purposes of this Website and the Service offered.
This license does not grant Users any rights to access, usage or disclosure of the original source code. All techniques, algorithms, and procedures contained in the software and any documentation thereto related is the Owner's or its licensors' sole property.
All rights and license grants to Users shall immediately terminate upon any termination or expiration of the Agreement.

TERMS AND CONDITIONS OF SALE
Paid Products
Some of the Products provided on this Website, as part of the Service, are provided on the basis of payment.
The fees, duration and conditions applicable to the purchase of such Products are described below and in the dedicated sections of this Website.

Product description
Prices, descriptions or availability of Products are outlined in the respective sections of this Website and are subject to change without notice.
While Products on this Website are presented with the greatest accuracy technically possible, representation on this Website through any means (including, as the case may be, graphic material, images, colors, sounds) is for reference only and implies no warranty as to the characteristics of the purchased Product.
The characteristics of the chosen Product will be outlined during the purchasing process.

Purchasing process
Any steps taken from choosing a Product to order submission form part of the purchasing process.
The purchasing process includes these steps:

- Users must choose the desired Product and verify their purchase selection.
- After having reviewed the information displayed in the purchase selection, Users may place the order by submitting it.

Order submission
When the User submits an order, the following applies:

- The submission of an order determines contract conclusion and therefore creates for the User the obligation to pay the price, taxes and possible further fees and expenses, as specified on the order page.
- In case the purchased Product requires active input from the User, such as the provision of personal information or data, specifications or special wishes, the order submission creates an obligation for the User to cooperate accordingly.
- Upon submission of the order, Users will receive a receipt confirming that the order has been received.

All notifications related to the described purchasing process shall be sent to the email address provided by the User for such purposes.

Prices
Users are informed during the purchasing process and before order submission, about any fees, taxes and costs (including, if any, delivery costs) that they will be charged.
Prices on this Website are displayed:

- either exclusive or inclusive of any applicable fees, taxes and costs, depending on the section the User is browsing.

Offers and discounts
The Owner may offer discounts or provide special offers for the purchase of Products. Any such offer or discount shall always be subject to the eligibility criteria and the terms and conditions set out in the corresponding section of this Website.
Offers and discounts are always granted at the Owner's sole discretion.
Repeated or recurring offers or discounts create no claim/title or right that Users may enforce in the future.
Depending on the case, discounts or offers shall be valid for a limited time only or while stocks last. If an offer or discount is limited by time, the time indications refer to the time zone of the Owner, as indicated in the Owner's location details in this document, unless otherwise specified.

Methods of payment
Information related to accepted payment methods are made available during the purchasing process.
Some payment methods may only be available subject to additional conditions or fees. In such cases related information can be found in the dedicated section of this Website.
All payments are independently processed through third-party services. Therefore, this Website does not collect any payment information – such as credit card details – but only receives a notification once the payment has been successfully completed.
If payment through the available methods fail or is refused by the payment service provider, the Owner shall be under no obligation to fulfil the purchase order. Any possible costs or fees resulting from the failed or refused payment shall be borne by the User.

Contractual right of cancellation
The Owner grants Users a contractual right to cancel the purchase under the terms and conditions described in the relevant section of this Website within 30 days of concluding the contract.

Contract duration

Trial period
Users have the option to test this Website or selected Products during a limited and non-renewable trial period, at no cost. Some features or functions of this Website may not be available to Users during the trial period.
Further conditions applicable to the trial period, including its duration, will be specified on this Website.
The trial period shall end automatically and shall not convert into any paid Product unless the User actively purchases such paid Product.

Subscriptions
Subscriptions allow Users to receive a Product continuously or regularly over a determined period of time.
Paid subscriptions begin on the day the payment is received by the Owner.

In order to maintain subscriptions, Users must pay the required recurring fee in a timely manner. Failure to do so may cause service interruptions.

Fixed-term subscriptions
Paid fixed-term subscriptions start on the day the payment is received by the Owner and last for the subscription period chosen by the User or otherwise specified during the purchasing process.
Once the subscription period expires, the Product shall no longer be accessible, unless the User renews the subscription by paying the relevant fee.
Fixed-term subscriptions may not be terminated prematurely and shall run out upon expiration of the subscription term.

Automatic renewal
Subscriptions are automatically renewed through the payment method that the User chose during purchase, unless the User cancels the subscription within the deadlines for termination specified in the relevant section of these Terms and/or this Website.
The renewed subscription will last for a period equal to the original term.
The User shall receive a reminder of the upcoming renewal with reasonable advance, outlining the procedure to be followed in order to cancel the automatic renewal.

Termination
Recurring subscriptions may be terminated at any time by sending a clear and unambiguous termination notice to the Owner using the contact details provided in this document, or — if applicable — by using the corresponding controls inside this Website.

Termination notice
If the notice of termination is received by the Owner before the subscription renews, the termination shall take effect as soon as the current period is completed.

User rights

Right of withdrawal
Unless exceptions apply, the User may be eligible to withdraw from the contract within the period specified below (generally 14 days), for any reason and without justification. Users can learn more about the withdrawal conditions within this section.

Who the right of withdrawal applies to
Unless any applicable exception is mentioned below, Users who are European Consumers are granted a statutory cancellation right under EU rules, to withdraw from contracts entered into online (distance contracts) within the specified period applicable to their case, for any reason and without justification.
Users that do not fit this qualification, cannot benefit from the rights described in this section.

Exercising the right of withdrawal
To exercise their right of withdrawal, Users must send to the Owner an unequivocal statement of their intention to withdraw from the contract.
To this end, Users may use the model withdrawal form available from within the "definitions" section of this document. Users are, however, free to express their intention to withdraw from the contract by making an unequivocal statement in any other suitable way. In order to meet the deadline within which they can exercise such right, Users must send the withdrawal notice before the withdrawal period expires.
When does the withdrawal period expire?

- **Regarding the purchase of goods**, the withdrawal period expires 14 days after the day on which the User or a third party – other than the carrier and designated by the User – takes physical possession of the goods.
- **Regarding the purchase of several goods ordered together** but delivered separately or in case of purchase of a single good consisting of multiple lots or pieces delivered separately, the withdrawal period expires 14 days after the day on which the User or a third party – other than the carrier and designated by the User – acquires physical possession of the last good, lot or piece.

Effects of withdrawal
Users who correctly withdraw from a contract will be reimbursed by the Owner for all payments made to the Owner, including, if any, those covering the costs of delivery.

However, any additional costs resulting from the choice of a particular delivery method other than the least expensive type of standard delivery offered by the Owner, will not be reimbursed.
Such reimbursement shall be made without undue delay and, in any event, no later than 14 days from the day on which the Owner is informed of the User's decision to withdraw from the contract. Unless otherwise agreed with the User, reimbursements will be made using the same means of payment as used to process the initial transaction. In any event, the User shall not incur any costs or fees as a result of such reimbursement.

...on the purchase of physical goods
Unless the Owner has offered to collect the goods, Users shall send back the goods or hand them over to the Owner, or to a person authorized by the latter to receive the goods, without undue delay and in any event within 14 days from the day on which they communicated their decision to withdraw from the contract.
The deadline is met if the goods are handed to the carrier, or otherwise returned as indicated above, before the expiration of the 14-days-period for returning the goods. The reimbursement may be withheld until reception of the goods, or until Users have supplied evidence of having returned the goods, whichever is the earliest.
Users shall only be liable for any diminished value of the goods resulting from the handling of the goods outside of that which is necessary to establish their nature, characteristics and functioning.

The costs of returning the goods are borne by the User.
Liability and indemnification
Australian Users

Limitation of liability
Nothing in these Terms excludes, restricts or modifies any guarantee, condition, warranty, right or remedy which the User may have under the Competition and Consumer Act 2010 (Cth) or any similar State and Territory legislation and which cannot be excluded, restricted or modified (non-excludable right). To the fullest extent permitted by law, our liability to the User, including liability for a breach of a non-excludable right and liability which is not otherwise excluded under these Terms of Use, is limited, at the Owner's sole discretion, to the re-performance of the services or the payment of the cost of having the services supplied again.

US Users
Disclaimer of Warranties
This Website is provided strictly on an "as is" and "as available" basis. Use of the Service is at Users' own risk. To the maximum extent permitted by applicable law, the Owner expressly disclaims all conditions, representations, and warranties — whether express, implied, statutory or otherwise, including, but not limited to, any implied warranty of merchantability, fitness for a particular purpose, or non-infringement of third-party rights. No advice or information, whether oral or written, obtained by user from owner or through the Service will create any warranty not expressly stated herein.
Without limiting the foregoing, the Owner, its subsidiaries, affiliates, licensors, officers, directors, agents, co-branders, partners, suppliers and employees do not warrant that the content is accurate, reliable or correct; that the Service will meet Users' requirements; that the Service will be available at any particular time or location, uninterrupted or secure; that any defects or errors will be corrected; or that the Service is free of viruses or other harmful components. Any content downloaded or otherwise obtained through the use of the Service is downloaded at users own risk and users shall be solely responsible for any damage to Users' computer system or mobile device or loss of data that results from such download or Users' use of the Service.
The Owner does not warrant, endorse, guarantee, or assume responsibility for any product or service advertised or offered by a third party through the Service or any hyperlinked website or service, and the Owner shall not be a party to or in any way monitor any transaction between Users and third-party providers of products or services.
The Service may become inaccessible or it may not function properly with Users' web browser, mobile device, and/or operating system. The owner cannot be held liable for any perceived or actual damages arising from Service content, operation, or use of this Service.
Federal law, some states, and other jurisdictions, do not allow the exclusion and limitations of certain implied warranties. The above exclusions may not apply to Users. This Agreement gives Users specific legal rights, and Users may also have other rights which vary from state to state. The disclaimers and exclusions under this agreement shall not apply to the extent prohibited by applicable law.
Limitations of liability

To the maximum extent permitted by applicable law, in no event shall the Owner, and its subsidiaries, affiliates, officers, directors, agents, co-branders, partners, suppliers and employees be liable for

- **any indirect, punitive, incidental, special, consequential or exemplary damages, including without limitation damages for loss of profits, goodwill, use, data or other intangible losses, arising out of or relating to the use of, or inability to use, the Service; and**
- **any damage, loss or injury resulting from hacking, tampering or other unauthorized access or use of the Service or User account or the information contained therein;**
- **any errors, mistakes, or inaccuracies of content;**
- **personal injury or property damage, of any nature whatsoever, resulting from User access to or use of the Service;**
- **any unauthorized access to or use of the Owner's secure servers and/or any and all personal information stored therein;**
- **any interruption or cessation of transmission to or from the Service;**
- **any bugs, viruses, trojan horses, or the like that may be transmitted to or through the Service;**
- **any errors or omissions in any content or for any loss or damage incurred as a result of the use of any content posted, emailed, transmitted, or otherwise made available through the Service; and/or**
- **the defamatory, offensive, or illegal conduct of any User or third party. In no event shall the Owner, and its subsidiaries, affiliates, officers, directors, agents, co-branders, partners, suppliers and employees be liable for any claims, proceedings, liabilities, obligations, damages, losses or costs in an amount exceeding the amount paid by User to the Owner hereunder in the preceding 12 months, or the period of duration of this agreement between the Owner and User, whichever is shorter.**

This limitation of liability section shall apply to the fullest extent permitted by law in the applicable jurisdiction whether the alleged liability is based on contract, tort, negligence, strict liability, or any other basis, even if company has been advised of the possibility of such damage. Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, therefore the above limitations or exclusions may not apply to User. The terms give User specific legal rights, and User may also have other rights which vary from jurisdiction to jurisdiction. The disclaimers, exclusions, and limitations of liability under the terms shall not apply to the extent prohibited by applicable law.

Indemnification

The User agrees to defend, indemnify and hold the Owner and its subsidiaries, affiliates, officers, directors, agents, co-branders, partners, suppliers and employees harmless from and against any and all claims or demands, damages, obligations, losses, liabilities, costs or debt, and expenses, including, but not limited to, legal fees and expenses, arising from

- **User's use of and access to the Service, including any data or content transmitted or received by User;**
- **User's violation of these terms, including, but not limited to, User's breach of any of the representations and warranties set forth in these terms;**
- **User's violation of any third-party rights, including, but not limited to, any right of privacy or intellectual property rights;**
- **User's violation of any statutory law, rule, or regulation;**
- **any content that is submitted from User's account, including third party access with User's unique username, password or other security measure, if applicable, including, but not limited to, misleading, false, or inaccurate information;**
- **User's willful misconduct; or**
- **statutory provision by User or its affiliates, officers, directors, agents, co-branders, partners, suppliers and employees to the extent allowed by applicable law.**

Common provisions

No Waiver

The Owner's failure to assert any right or provision under these Terms shall not constitute a waiver of any such right or provision. No waiver shall be considered a further or continuing waiver of such term or any other term.

Service interruption
To ensure the best possible service level, the Owner reserves the right to interrupt the Service for maintenance, system updates or any other changes, informing the Users appropriately.
Within the limits of law, the Owner may also decide to suspend or terminate the Service altogether. If the Service is terminated, the Owner will cooperate with Users to enable them to withdraw Personal Data or information in accordance with applicable law.
Additionally, the Service might not be available due to reasons outside the Owner's reasonable control, such as "force majeure" (eg. labor actions, infrastructural breakdowns or blackouts etc).

Service reselling
Users may not reproduce, duplicate, copy, sell, resell or exploit any portion of this Website and of its Service without the Owner's express prior written permission, granted either directly or through a legitimate reselling program.

Privacy policy
To learn more about the use of their Personal Data, Users may refer to the privacy policy of this Website.

Intellectual property rights
Without prejudice to any more specific provision of these Terms, any intellectual property rights, such as copyrights, trademark rights, patent rights and design rights related to this Website are the exclusive property of the Owner or its licensors and are subject to the protection granted by applicable laws or international treaties relating to intellectual property.
All trademarks — nominal or figurative — and all other marks, trade names, service marks, word marks, illustrations, images, or logos appearing in connection with this Website are, and remain, the exclusive property of the Owner or its licensors and are subject to the protection granted by applicable laws or international treaties related to intellectual property.

Changes to these Terms
The Owner reserves the right to amend or otherwise modify these Terms at any time. In such cases, the Owner will appropriately inform the User of these changes.
Such changes will only affect the relationship with the User for the future.
The continued use of the Service will signify the User's acceptance of the revised Terms. If Users do not wish to be bound by the changes, they must stop using the Service. Failure to accept the revised Terms, may entitle either party to terminate the Agreement.
The applicable previous version will govern the relationship prior to the User's acceptance. The User can obtain any previous version from the Owner.
If required by applicable law, the Owner will specify the date by which the modified Terms will enter into force.

Assignment of contract
The Owner reserves the right to transfer, assign, dispose of by novation, or subcontract any or all rights or obligations under these Terms, taking the User's legitimate interests into account. Provisions regarding changes of these Terms will apply accordingly.
Users may not assign or transfer their rights or obligations under these Terms in any way, without the written permission of the Owner.

Contacts
All communications relating to the use of this Website must be sent using the contact information stated in this document.

Severability
Should any provision of these Terms be deemed or become invalid or unenforceable under applicable law, the invalidity or unenforceability of such provision shall not affect the validity of the remaining provisions, which shall remain in full force and effect.

US Users
Any such invalid or unenforceable provision will be interpreted, construed and reformed to the extent reasonably required to render it valid, enforceable and consistent with its original intent. These Terms constitute the entire Agreement between Users and the Owner with respect to the subject matter hereof, and supersede all other communications, including but not limited to all prior agreements, between the parties with respect to such subject matter. These Terms will be enforced to the fullest extent permitted by law.

EU Users
Should any provision of these Terms be or be deemed void, invalid or unenforceable, the parties shall do their best to find, in an amicable way, an agreement on valid and enforceable provisions thereby substituting the void, invalid or unenforceable parts.
In case of failure to do so, the void, invalid or unenforceable provisions shall be replaced by the applicable statutory provisions, if so permitted or stated under the applicable law.
Without prejudice to the above, the nullity, invalidity or the impossibility to enforce a particular provision of these Terms shall not nullify the entire Agreement, unless the severed provisions are essential to the Agreement, or of such importance that the parties would not have entered into the contract if they had known that the provision would not be valid, or in cases where the remaining provisions would translate into an unacceptable hardship on any of the parties.

Governing law
These Terms are governed by the law of the place where the Owner is based, as disclosed in the relevant section of this document, without regard to conflict of laws principles.

Exception for European Consumers
However, regardless of the above, if the User qualifies as a European Consumer and has their habitual residence in a country where the law provides for a higher consumer protection standard, such higher standards shall prevail.

Venue of jurisdiction
The exclusive competence to decide on any controversy resulting from or connected to these Terms lies with the courts of the place where the Owner is based, as displayed in the relevant section of this document.

Exception for European Consumers
The above does not apply to any Users that qualify as European Consumers, nor to Consumers based in Switzerland, Norway or Iceland.

Dispute resolution

Amicable dispute resolution
Users may bring any disputes to the Owner who will try to resolve them amicably.
While Users' right to take legal action shall always remain unaffected, in the event of any controversy regarding the use of this Website or the Service, Users are kindly asked to contact the Owner at the contact details provided in this document.
The User may submit the complaint including a brief description and if applicable, the details of the related order, purchase, or account, to the Owner's email address specified in this document.
The Owner will process the complaint without undue delay and within 21 days of receiving it.

Online dispute resolution for Consumers
The European Commission has established an online platform for alternative dispute resolutions that facilitates an out-of-court method for solving any dispute related to and stemming from online sale and service contracts. As a result, any European Consumer can use such platform for resolving any dispute stemming from contracts which have been entered into online. The platform is available at the following link.

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: May 13, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business Services
Marilyn Adrianzen, Chief Business Official

☒ Informational
☐ Action

AGENDA ITEM: CASBO ORGANIZATIONAL MEMBERSHIP FOR 2021-2022

BACKGROUND INFORMATION:
The California Association of School Business Officials (CASBO) provides a very rich menu of learning experiences allowing staff to take advance of gaining knowledge in many areas in a concentrated period of time. More than 160 workshops are conducted to provide insights and training on the most compelling and current issues. Areas of budgeting, financing, facility, maintenance, child nutrition and transportation are covered.

The District would like to empower its employees with the capacity-building tools needed for day-to-day business practices. The District will benefit by attending professional development workshops and leadership opportunities at a discounted cost

RECOMMENDATION:
Approve the District's Organizational Membership to the California Association of School Business Officials (CASBO) for fiscal year 2021-22 at a cost of $3,500.00 from the General fund.

LCAP GOAL AND ACTION/SERVICE (please indicate):

☐ **Renewal** ☒ **New** ☐ **Amendment** ☐ **Ratify** ☐ **Other**

Financial Implications?	Are funds for this item available in the 2020-2021 Budget?	Requisition #
☒ Yes ☐ No	☒ Yes ☐ No	

$3,500.00	General Fund
(Amount)	(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No

CASBO
Smart business. Smart schools.™

Renewal Invoice

Invoice #	Invoice Date	Due Date	Order #	PO #
635712	04/26/2021	7/1/2021	502065	

Bill To:
San Ysidro SD
ATTN: ACCOUNTS PAYABLE
4350 Otay Mesa Rd
San Ysidro, CA 92173-1617

Ship To:
San Ysidro SD
4350 Otay Mesa Rd
San Ysidro, CA 92173-1617

Date	Description	Quantity	Unit Price	Amount
04/26/2021	Organizational Subscription FY 2021-2022	1		3,500.00

Total Invoice:	3,500.00
Total Adjustments:	0.00
Sales Tax:	0.00
Shipping:	0.00
Payments:	0.00
Balance:	3,500.00

Please reference invoice number and remit payment to:
California Association of School Business Officials
1001 K Street, 5th Floor
Sacramento, CA 95814
Phone: (916) 447-3783 Fax: (916) 447-3794