

MEDIA RELATIONS

The Governing Board respects the public's desire for and right to information and recognizes that the media significantly influence the community's understanding of school programs, student achievement, and school safety. In order to develop and maintain positive media relations, the Board and Superintendent shall reasonably accommodate media requests for information and provide accurate, reliable, and timely information.

In conjunction with the Superintendent or designee, the Board shall periodically establish priorities and key messages for proactively communicating with the media regarding current district issues, activities, or needs.

(cf. 0400 - Comprehensive Plans)
(cf. 0450 - Comprehensive Safety Plan)
(cf. 0460 - Local Control and Accountability Plan)
(cf. 0510 - School Accountability Report Card)
(cf. 1100 - Communication with the Public)
(cf. 1160 - Political Processes)

Media representatives are welcome at all public Board meetings and shall receive meeting agendas upon request in accordance with Board policy.

(cf. 9321 - Closed Session)
(cf. 9322 - Agenda/Meeting Materials)

Media representatives, like all other visitors, shall register immediately upon entering any school building or grounds when school is in session.

(cf. 1250 - Visitors/Outsiders)
(cf. 3515.2 - Disruptions)

Staff may provide the media with student directory information, as identified in AR 5125.1 - Release of Directory Information, unless the student's parent/guardian has submitted a written request that such information not be disclosed. The district shall not release other student records or personally identifiable student information that is private or confidential as required by law, Board policy, or administrative regulation.

(cf. 1340 - Access to District Records)
(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 5125 - Student Records)
(cf. 5125.1 - Release of Directory Information)
(cf. 9010 - Public Statements)
(cf. 9324 - Minutes and Recordings)

Interviewing and Photographing Students

The district shall not impose restraints on students' right to speak freely with media representatives. However, interviewing and photographing students shall not create

MEDIA RELATIONS (continued)

substantial disruption to the orderly operation of the school or impinge on the rights or safety of students. Therefore, the district shall encourage media representatives who wish to interview or photograph students at school to make prior arrangements with the principal.

(cf. 5145.2 - Freedom of Speech/Expression)

Media Contacts/Spokespersons

The Superintendent or designee shall identify the district's and/or site's primary media contact to whom all media inquiries shall be routed. Spokespersons designated to speak to the media on behalf of the district include the Board president, Superintendent, public information officer, or district communications director. Other Board members and/or staff may be asked by the Superintendent or designee to speak to the media on a case-by-case basis, depending on their expertise on an issue or appropriateness given a particular situation.

The Superintendent or designee shall provide training on effective media relations to all designated spokespersons.

(cf. 9240 - Board Training)

Crisis Communications Plan

This crisis plan may be incorporated into other safety plans such as the district's comprehensive safety plan.

The Superintendent or designee shall develop strategies for working with the media to provide timely and accurate information to students, parents/guardians, and the community during a crisis or natural disaster. The crisis communications plan may include, but not be limited to, identification of a media center, strategies for press conference logistics, and development and integration of both internal and external notification systems, including public address systems, social media, web site postings, and text alerts.

(cf. 0450 - Comprehensive Safety Plan)

(cf. 1113 - District and School Web Sites)

(cf. 1114 - District-Sponsored Social Media)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

The Superintendent or designee shall include local law enforcement, media representatives, and district technology personnel in the crisis planning process.

Legal Reference: (see next page)

MEDIA RELATIONS (continued)

Legal Reference:

EDUCATION CODE

32210-32212 *Willful disturbance of public school or meeting*

35144 *Special meetings*

35145 *Public meetings*

35160 *Authority of governing boards*

35172 *Promotional activities*

48907 *Freedom of speech and press*

48950 *Prohibition against disciplinary action for first amendment speech*

49061 *Definition of directory information*

49073 *Directory information*

EVIDENCE CODE

1070 *Refusal to disclose news source*

PENAL CODE

627-627.10 *Access to school premises*

UNITED STATES CODE, TITLE 20

1232g *Family educational and privacy rights*

CODE OF FEDERAL REGULATIONS, TITLE 34

99.3 *Definition of directory information*

COURT DECISIONS

Lopez v. Tulare Joint Union High School District, (1995) 34 Cal.App.4th 1302

ATTORNEY GENERAL OPINIONS

79 *Ops. Cal. Atty. Gen.* 58 (1996)

Management Resources:

WEB SITES

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

CLAIMS AND ACTIONS AGAINST THE DISTRICT

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)

(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

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.

CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)

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)

CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)

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)

CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)

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)

FOOD SERVICE OPERATIONS/CAFETERIA FUND

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

(cf. 3100 - Budget)

(cf. 3300 - Expenditures and Purchases)

(cf. 3311 - Bids)

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

(cf. 3552 - Summer Meal Program)

(cf. 5030 - Student Wellness)

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

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

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

Meal Sales

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

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

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

(cf. 3553 - Free and Reduced Price Meals)

The Superintendent or designee shall establish strategies and procedures for the collection of meal payments, including delinquent meal payments. Such procedures shall conform with BP/AR 3553 - Free and Reduced Price Meals, 2 CFR 200.426, and any applicable CDE

FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)

guidance. The Superintendent or designee shall clearly communicate these procedures to students and parents/guardians, and shall make this policy and the accompanying administrative regulation available to the public pursuant to Education Code 49557.5.

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

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

(cf. 0415 - Equity)

Cafeteria Fund

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

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

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

(cf. 3230 - Federal Grant Funds)

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

(cf. 3460 - Financial Reports and Accountability)

Contracts with Outside Services

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

(cf. 3312 - Contracts)

(cf. 3600 - Consultants)

FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)

Procurement of Foods, Equipment and Supplies

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

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

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

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

Program Monitoring and Evaluation

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

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

(cf. 3555 - Nutrition Program Compliance)

Legal Reference: (see next page)

FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)

Legal Reference:

EDUCATION CODE

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

FOOD AND AGRICULTURE CODE

58595 Preference for California-grown agricultural products

HEALTH AND SAFETY CODE

113700-114437 California Retail Food Code

PUBLIC CONTRACT CODE

2000-2002 Responsive bidders

20111 Contracts

CODE OF REGULATIONS, TITLE 5

15550-15565 School lunch and breakfast programs

UNITED STATES CODE, TITLE 42

1751-1769j School lunch programs

1771-1791 Child nutrition, including:

1773 School breakfast program

CODE OF FEDERAL REGULATIONS, TITLE 2

200.56 Indirect costs, definition

200.317-200.326 Procurement standards

200.400-200.475 Cost principles

200 Appendix VII Indirect cost proposals

CODE OF FEDERAL REGULATIONS, TITLE 7

210.1-210.31 National School Lunch Program

220.1-220.21 National School Breakfast Program

250.1-250.70 USDA foods

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

California School Accounting Manual

Food Distribution Program Administrative Manual

Professional Standards in the SNP and New Hiring Flexibility, NSD Management Bulletin, SNP-10-2019, April 2019

Paid Lunch Equity Requirement and Calculation Tool, NSD Management Bulletin, SNP-12-2018, May 2018

Clarification for the Use of Alternate Meals in the National School Lunch and School Breakfast Programs, and Additional Guidance on the Handling of Unpaid Meal Charges, NSD Management Bulletin, SNP-03-2018, February 2018

Management Resources continued: (see next page)

FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)

Management Resources: (continued)

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS (continued)

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

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

Procuring and Monitoring of Food Service Management Contracts, NSD Management Bulletin, SNP-13-2015

Cafeteria Funds--Allowable Uses, NSD Management Bulletin, NSD-SNP-07-2013, May 2013

Adult and Sibling Meals in the National School Lunch and School Breakfast Programs, NSD Management Bulletin, 00-111, July 2000

U.S. DEPARTMENT OF AGRICULTURE PUBLICATIONS

FAQs About School Meals

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

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

Unpaid Meal Charges: Guidance and Q&A, SP 23-2017, March 2017

Indirect Costs: Guidance for State Agencies and School Food Authorities SP 60-2016, September 2016

Unpaid Meal Charges: Local Meal Charge Policies, SP 46-2016, July 2016

Discretionary Elimination of Reduced Price Charges in the School Meal Programs, SP 17-2014, January 2014

WEB SITES

California Department of Education, Nutrition Services Division: <http://www.cde.ca.gov/ls/nu>

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

U.S. Department of Agriculture, Food and Nutrition Service: <http://www.fns.usda.gov/cnd>

FOOD SERVICE OPERATIONS/CAFETERIA FUND

Payments for Meals

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

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

(cf. 3552 - Summer Meal Program)

(cf. 3553 - Free and Reduced Price Meals)

(cf. 3555 - Nutrition Program Compliance)

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

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

(cf. 1113 - District and School Web Sites)

(cf. 5145.6 - Parental Notifications)

In any school that uses a system of meal tickets or other similar medium of exchange rather than an electronic point-of-sale system, the Superintendent or designee shall develop a process for providing replacement tickets to any student who reports a ticket as lost or stolen. However, whenever any student reports an excessive number of lost or stolen tickets, the Superintendent or designee shall notify the parent/guardian and may provide an alternative method of tracking meal usage for that student.

In order to avoid potential misuse of a student's food service account by someone other than the student in whose name the account has been established, the Superintendent or designee

FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)

shall verify a student's identity when setting up the account and when charging any meal to the account. The Superintendent or designee shall investigate any claim that a bill does not belong to a student or is inaccurate, and shall open a new account as appropriate for a student whose account appears to have been misused.

(cf. 1340 - Access to District Records)

(cf. 3580 - District Records)

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

Unpaid and Delinquent Meal Charges

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

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

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

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

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

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

FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)

Reimbursement Claims

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

Donation of Leftover Food

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

(cf. 3510 - Green School Operations)

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

Cafeteria Fund

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

(cf. 3100 - Budget)

(cf. 3300 - Expenditures and Purchases)

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

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

(cf. 3110 - Transfer of Funds)

FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)

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

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

U.S. Department of Agriculture Foods

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

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

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

Contracts with Outside Services

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

Any contract for management of the food service operation shall be approved by CDE and comply with the conditions in Education Code 49554 and 7 CFR 210.16 as applicable. The district shall retain control of the quality, extent, and general nature of its food services, including prices to be charged to students for meals, and shall monitor the food service

FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)

operation through periodic on-site visits. The district shall not enter into a contract with a food service company to provide a la carte food services only, unless the company agrees to offer free, reduced-price, and full-price reimbursable meals to all eligible students. (Education Code 49554; 42 USC 1758; 7 CFR 210.16)

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

(cf. 3312 - Contracts)

(cf. 3515.6 - Criminal Background Checks for Contractors)

(cf. 3600 - Consultants)

(cf. 4112.4/4212.4/4312.4 - Health Examinations)

(cf. 4212 - Appointments and Conditions of Employment)

EMPLOYMENT STATUS REPORTS

The Superintendent shall report to the Commission on Teacher Credentialing (CTC) any change in the employment status of a certificated employee who, while working in a position requiring a credential and as a result of an allegation of misconduct or while an allegation of misconduct is pending: (Education Code 44030.5, 44242.5; 5 CCR 80303)

1. Is dismissed or nonreelected

(cf. 4116 - Probationary/Permanent Status)

(cf. 4117.6 - Decision Not to Rehire)

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

2. Resigns

(cf. 4117.2/4217.2/4317.2 - Resignation)

3. Is suspended or placed on unpaid administrative leave for more than 10 days as a final adverse employment action

4. Retires

5. Is otherwise terminated by a decision not to employ or reemploy

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

(cf. 5141.4 - Child Abuse Prevention and Reporting)

This report is not required when the change in employment status is due solely to unsatisfactory performance pursuant to Education Code 44932 or a reduction in force pursuant to Education Code 44955-44958. (Education Code 44030.5, 44242.5; 5 CCR 80303)

(cf. 4115 - Evaluation/Supervision)

(cf. 4117.3 - Personnel Reduction)

When required, the report of a change in employment status shall be submitted not later than 30 days after the employment action. The report shall be made using a form provided by CTC and shall include all known information about each alleged act of misconduct by the employee. The report shall contain the name and current address of the certificated employee, name of the district, last school or district assignment, an explanation of the allegation of misconduct or pending allegation of misconduct, current contact information for all persons who may have information relating to the alleged misconduct, and any and all documentation related to the case. (Education Code 44030.5; 5 CCR 80303)

Upon a change in employment status as a result of alleged misconduct or while an allegation of misconduct is pending, the Superintendent shall, in writing, inform the employee of the contents of 5 CCR 80303. (5 CCR 80303)

EMPLOYMENT STATUS REPORTS (continued)

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

Additional Reports of Employee Misconduct

The Superintendent or designee shall submit a report to CTC, using a form provided by CTC and attaching all relevant documents, whenever:

1. An employee, by complaint, information, or indictment filed in court, is charged with a "mandatory leave of absence offense," defined as a sex or drug offense specified in Education Code 44940 or violation or attempted violation of Penal Code 187 (murder). (Education Code 44242.5, 44940, 44940.5)

Not later than 10 days after receipt of such a complaint, information, or indictment regarding an employee, the Superintendent or designee shall forward a copy of the received documents to CTC. In addition, the Superintendent or designee shall report to CTC any action taken in connection with extending the employee's mandatory leave beyond the initial period. (Education Code 44940, 44940.5)

If the offense results in a change in employment status, the Superintendent shall submit an employment status report in addition to the report of the mandatory leave of absence offense.

2. An employee refuses, without good cause, to fulfill a valid employment contract, or departs from district service without the consent of the Superintendent or Governing Board. (Education Code 44242.5, 44420)

As appropriate, the Superintendent or designee also shall notify CTC of any of the following:

1. A complaint filed with the district regarding a certificated employee's alleged sexual misconduct (Education Code 44242.5)

(cf. 4119.24/4219.24/4319.24 - Maintaining Appropriate Adult-Student Interactions)

The notice to CTC shall contain all of the following information: (5 CCR 80304)

- a. Name of the employee alleged to have engaged in the sexual misconduct
- b. Name, age, and address of each victim of the alleged sexual misconduct
- c. A summary of all information known to the district regarding the alleged sexual misconduct

EMPLOYMENT STATUS REPORTS (continued)

- d. A summary of the action, if any, taken at the district level in response to the complaint of sexual misconduct

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

(cf. 5145.7 - Sexual Harassment)

2. An employee's knowing and willful use of school records of student data in connection with, or in implicit or explicit attempts to recruit a student to be a customer for, any business owned by the certificated employee or in which the certificated employee is an employee (Education Code 44242.5, 44421.1)

(cf. 5125 - Student Records)

3. An employee's knowing and willful reporting of false fiscal expenditure data relative to the conduct of any educational program (Education Code 44242.5, 44421.5)
4. An employee's subversion or attempt to subvert any licensing examination or the administration of an examination (Education Code 44242.5, 44439)

Legal Reference:

EDUCATION CODE

44009 Conviction of specified crimes

44010 Sex offense, definitions

44011 Controlled substance offense, definitions

44030.5 Employment status reports

44225 Powers and duties of CTC

44242.5 Reports and review of alleged misconduct

44420-44440 Adverse actions by CTC against credential holder

44932 Causes for dismissal

44940 Sex offenses and narcotic offenses; compulsory leave of absence

44940.5 Compulsory leave of absence

44955-44958 Reduction in force

PENAL CODE

187 Murder

CODE OF REGULATIONS, TITLE 5

80303 Reports of change in employment status, alleged misconduct

80304 Notice of sexual misconduct

Management Resources: (see next page)

EMPLOYMENT STATUS REPORTS (continued)

Management Resources:

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

California's Laws and Rules Pertaining to the Discipline of Professional Certificated Personnel, 2019

WEB SITES

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

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

DISMISSAL/SUSPENSION/DISCIPLINARY ACTION

Causes for Disciplinary Action

A permanent classified employee may be subject to suspension, demotion, involuntary reassignment, or dismissal for one or more of the following causes:

1. Immoral conduct, including, but not limited to, egregious misconduct that is the basis for a sex offense as defined in Education Code 44010, a controlled substance offense as defined in Education Code 44011, or child abuse and neglect as described in Penal Code 11165.2-11165.6

(cf. 4112.5/4212.5/4312.5 - Criminal Record Check)

(cf. 4119.24/4219.24/4319.24 - Maintaining Appropriate Adult-Student Interactions)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

2. Conduct that constitutes a violent or serious felony as defined in Penal Code 667.5(c) or 1192.7(c)

3. Unlawful discrimination, including harassment, against any student or other employee

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

4. Violation of or refusal to obey state or federal law or regulation, Board policy, or district or school procedure

5. Falsification of any information supplied to the district, including, but not limited to, information supplied on application forms, employment records, or any other school district records

6. Unsatisfactory performance

7. Unprofessional conduct

8. Dishonesty

9. Neglect of duty or absence without leave

10. Insubordination

11. Use of alcohol or a controlled substance while on duty or in such close time proximity thereto as to affect the employee's performance

DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (continued)

(cf. 4020 - Drug and Alcohol-Free Workplace)
(cf. 4112.41/4212.41/4312.41 - Employee Drug Testing)
(cf. 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers)
(cf. 4159/4259/4359 - Employee Assistance Program)

12. Destruction or misuse of district property

(cf. 4040 - Employee Use of Technology)

13. Failure to fulfill any ongoing condition of employment including, but not limited to, maintenance of any license, certificate, or other similar requirement specified in the employee's class specification or otherwise necessary for the employee to perform the duties of the position

(cf. 4112.4/4212.4/4312.4 - Health Examinations)
(cf. 4212 - Appointment and Conditions of Employment)

14. A physical or mental condition which precludes the employee from the proper performance of duties and responsibilities as determined by competent medical authority, except as otherwise provided by a contract or by law

(cf. 4030 - Nondiscrimination in Employment)
(cf. 4032 - Reasonable Accommodation)

15. Retaliation against any person who, in good faith, reports, discloses, divulges, or otherwise brings to the attention of any appropriate authority any information relative to an actual or suspected violation of state or federal law occurring on or directly related to the job

(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)

16. Violation of Education Code 45303 or Government Code 1028 (advocacy of communism)

17. Any other misconduct which is of such nature that it causes discredit or injury to the district or the employee's position

An employee shall not be suspended, disciplined, reassigned, transferred, dismissed, or otherwise retaliated against solely for acting to protect a student, or for refusing to infringe on a student's protected conduct, when that student is exercising free speech or press rights pursuant to Education Code 48907 or 48950. (Education Code 48907, 48950)

(cf. 5145.2 - Freedom of Speech/Expression)

DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (continued)

No disciplinary action shall be taken for any cause which arose before the employee became permanent, nor for any cause which arose more than two years before the date of the filing of the notice of cause unless this cause was concealed or not disclosed by the employee when it could be reasonably assumed that the employee would have disclosed the facts to the district. (Education Code 45113)

(cf. 4216 - Probationary/Permanent Status)

Initiation and Notification of Charges

The Superintendent or designee shall file any recommendation for a disciplinary action in writing with the Governing Board. A copy of the recommendation shall be served upon the employee either personally or by registered or certified mail, return receipt requested, at the employee's last known address.

The notice shall, in ordinary and concise language, inform the employee of the specific charge(s) or cause(s) for the disciplinary action, the specific acts and omissions upon which the action is based, and, if applicable, the district rule or regulation that the employee has allegedly violated. In addition, the notice shall include the employee's right to a hearing on those charges, the time within which the hearing may be requested which shall be not less than five days after service of the notice to the employee, and a card or paper which the employee may sign and file to deny the charges and request a hearing. (Education Code 45113, 45116)

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

Request for Hearing

Within the time specified in the notice of the recommendation of disciplinary action, the employee may request a hearing on the charges by signing and filing the card or paper included with the notice. (Education Code 45113)

Any other written document signed and appropriately filed within the specified time limit by the employee shall constitute a sufficient notice of the request for a hearing. The request shall be delivered to the office of the Superintendent or designee during normal work hours of that office. If mailed to the office of the Superintendent or designee, it must be received or postmarked no later than the time limit specified by the district. In cases where an order of suspension without pay has been issued in conjunction with a recommendation of dismissal, any request for a hearing on the dismissal shall also constitute a request to hear the suspension order, and the necessity of the suspension order shall be an issue in the hearing.

DISMISSAL/SUSPENSION/DISCIPLINARY ACTION (continued)**Employment Status Pending a Hearing**

A classified employee against whom a recommendation of disciplinary action has been issued shall remain on active duty status pending any hearing on the charges, unless the Superintendent or designee determines that the employee's continuance in active duty would present an unreasonable risk of harm to students, staff, or property. The Superintendent or designee may, in writing, order the employee immediately suspended from duty without pay and shall state the reasons that the suspension is deemed necessary. The suspension order shall be served upon the employee either personally or by registered or certified mail, return receipt requested, immediately after issuance.

Compulsory Leave of Absence

Upon being informed by law enforcement that a classified employee has been charged with a "mandatory leave of absence offense," the Superintendent or designee shall immediately place the employee on a leave of absence. A mandatory leave of absence offense includes:

1. Any sex offense as defined in Education Code 44010
2. Violation or attempted violation of Penal Code 187 (murder or attempted murder)
3. Any offense involving the unlawful sale, use, or exchange to minors of controlled substances as listed in Health and Safety Code 11054, 11055, and 11056

The Superintendent or designee may place on an immediate compulsory leave of absence a classified employee who is charged with an "optional leave of absence offense," defined as a controlled substance offense specified in Education Code 44011 and Health and Safety Code 11357-11361, 11363, 11364, and 11370.1 except as it relates to marijuana, mescaline, peyote, or tetrahydrocannabinols.

An employee's compulsory leave for a mandatory or optional leave of absence offense may extend for not more than 10 days after the entry of judgment in the criminal proceedings. However, the compulsory leave may be extended if the Board gives notice, within 10 days after the entry of judgment in the proceedings, that the employee will be dismissed within 30 days from the date of service of the notice unless the employee demands a hearing on the dismissal.

PROMOTION/ACCELERATION/RETENTION

The Governing Board expects students to progress through each grade level within one school year. Toward this end, instruction shall be designed to accommodate the variety of ways that students learn and provide strategies for addressing academic deficiencies as needed.

Students shall progress through the grade levels by demonstrating growth in learning and meeting grade-level standards of expected student achievement.

(cf. 6011 - Academic Standards)

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6146.5 - Elementary/Middle School Graduation Requirements)

(cf. 6170.1 - Transitional Kindergarten)

When high academic achievement is evident, the teacher may recommend a student for acceleration to a higher grade level. The student's maturity level shall be taken into consideration in making a determination to accelerate a student.

Teachers shall identify students who should be retained or who are at risk of being retained at their current grade level as early as possible in the school year and as early in their school careers as practicable. Such students shall be identified at the following grade levels: (Education Code 48070.5)

1. Between grades 2 and 3
2. Between grades 3 and 4
3. Between grades 4 and 5
4. Between the end of the intermediate grades and the beginning of the middle school grades
5. Between the end of the middle school grades and the beginning of the high school grades

Students shall be identified for retention on the basis of failure to meet minimum levels of proficiency, as indicated by grades and the following additional indicators of academic achievement:

State of district assessments, portfolios, attendance

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

PROMOTION/ACCELERATION/RETENTION (continued)

Students between grades 2 and 3 and grades 3 and 4 shall be identified primarily on the basis of their level of proficiency in reading. Proficiency in reading, English language arts, and mathematics shall be the basis for identifying students between grades 4 and 5, between intermediate and middle school grades, and between middle school grades and high school grades. (Education Code 48070.5)

(cf. 6142.91 - Reading/Language Arts Instruction)

(cf. 6142.92 - Mathematics Instruction)

If a student does not have a single regular classroom teacher, the Superintendent or designee shall specify the teacher(s) responsible for the decision to promote or retain the student. (Education Code 48070.5)

The teacher's decision to promote or retain a student may be appealed in accordance with AR 5123 - Promotion/Acceleration/Retention.

When any student in grades 2-9 is recommended for retention or is identified as being at risk for retention, the Superintendent or designee shall offer an appropriate program of remedial instruction to assist the student in meeting grade-level expectations. (Education Code 48070.5)

(cf. 6176 - Weekend/Saturday Classes)

(cf. 6177 - Summer Learning Programs)

(cf. 6179 - Supplemental Instruction)

Legal Reference: (see next page)

PROMOTION/ACCELERATION/RETENTION (continued)

Legal Reference:

EDUCATION CODE

46300 *Method of computing average daily attendance*

48010 *Admittance to first grade*

48011 *Promotion/retention following one year of kindergarten*

48070-48070.5 *Promotion and retention*

56345 *Elements of individualized education program*

60640-60649 *California Assessment of Student Performance and Progress*

CODE OF REGULATIONS, TITLE 5

200-202 *Admission and exclusion of students*

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

FAQs Promotion, Retention, and Grading (students with disabilities)

FAQs Pupil Promotion and Retention

Kindergarten Continuance Form

WEB SITES

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

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

GANGS

The Governing Board desires to keep district schools free from the threats or harmful influence of any groups who exhibit behavior disruptive to the school environment and/or the safety and well-being of students. The Board additionally desires to provide support and intervention to students who are members of gangs to enable them to successfully disengage from gang involvement and be successful in school.

(cf. 0450 - Comprehensive Safety Plan)
(cf. 3513.4 - Drug and Alcohol Free Schools)
(cf. 5131.4 - Student Disturbances)
(cf. 5131.6 - Alcohol and Other Drugs)
(cf. 5131.7 - Weapons and Dangerous Instruments)
(cf. 5137 - Positive School Climate)

The Superintendent or designee shall develop strategies for gang prevention that address the reasons that students may become involved in gangs, including the identity, recognition, or status achieved as being part of a gang, protection from gang violence in the community, the need for companionship and an extended family, intimidation to join a gang, desire to join a gang to be in a position to intimidate others, and/or connection with criminal activity.

Gang violence prevention shall start as early as possible and include, but not be limited to, age-appropriate education that focuses on developing emotional and social competence, increasing prosocial peer bonds, strengthening attachment and commitment to school, and enhancing cooperative learning skills. Prevention shall also include improving parent/guardian involvement in and support for their children's academic progress, as well as ongoing gang awareness education for parents/guardians, including gang identifiers.

(cf. 5020 - Parent Involvement)
(cf. 6164.2 - Guidance/Counseling Services)

The Superintendent or designee shall take steps to deter gang activity on school campuses, including threats and intimidation of students and staff, recruitment or intimidation of students to join gangs, bullying, fighting, criminal activities, and confrontations between members of different gangs.

(cf. 5131.2 - Bullying)

The Superintendent or designee shall ensure that school rules of conduct and any school dress code prohibiting gang-related apparel are enforced consistently. If a student exhibits signs of gang affiliation, staff shall so inform the principal or designee and the student's parent/guardian.

(cf. 5132 - Dress and Grooming)

The Superintendent or designee shall provide in-service training which helps staff to identify gangs and gang symbols, recognize early manifestations of disruptive activities, and respond

GANGS (continued)

appropriately to gang behavior. Staff shall be informed about conflict management techniques and alerted to intervention measures and community resources. The Superintendent or designee shall also provide staff development on social and emotional learning, classroom management, interactive teaching, and cooperative learning skills.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

The Superintendent or designee may consider gang activity prevention and intervention when developing programs outside of the school day.

(cf. 5148 - Child Care and Development)

(cf. 5148.2 - Preschool/Early Childhood Education)

(cf. 5148.3 - Before/After School Programs)

(cf. 6145 - Extracurricular and Cocurricular Activities)

(cf. 6145.2 - Athletic Competition)

The Superintendent or designee shall collaborate with child welfare services, mental health agencies, social services, and local law enforcement authorities in the prevention and intervention of gang activity.

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

Legal Reference:

EDUCATION CODE

32282 School safety plans

35183 Gang-related apparel

48907 Student exercise of free expression

48950 Student freedom of speech

51264 Educational in-service training; CDE guidelines

51265 Gang violence and drug and alcohol abuse prevention in-service training

51266-51266.5 Model gang and substance abuse prevention curriculum

PENAL CODE

186.22 Participation in criminal street gang

13826-13826.7 Gang violence suppression

UNITED STATES CODE, TITLE 20

7101-7122 Student Support and Academic Enrichment Grants

Management Resources: (see next page)

GANGS (continued)

Management Resources:

LOS ANGELES POLICE DEPARTMENT PUBLICATIONS

Why Young People Join Gangs

NATIONAL GANG CENTER PUBLICATIONS

Strategic Planning Tool

Gangs in Schools, March 2019

Parents' Guide to Gangs, July 2015

WEB SITES

California Cities Gang Prevention Network: <http://www.ccgpn.org>

California Department of Education: <https://www.cde.ca.gov/ls/ss/sa>

Gang Resistance Education and Training: <https://www.great-online.org/GREAT-Home>

Los Angeles Police Department, Gangs:

http://www.lapdonline.org/get_informed/content_basic_view/1396

Homeboy Industries: <https://homeboyindustries.org>

National Gang Center: <https://www.nationalgangcenter.gov>

GANGS

Prevention, Intervention, and Suppression Measures

The Superintendent or designee shall become informed of the gang history in the district and community, conduct assessments of current gang activity at the school sites, and document and follow up on gang-related incidents.

In order to discourage the influence of gangs, the following measures shall be implemented:

1. Any student suspected of gang affiliation based on the display of behavior, gestures, apparel, or paraphernalia shall be referred to the principal or designee, and the following actions taken, as appropriate:
 - a. The student's parent/guardian shall be contacted and may be asked to meet with school staff in order to proactively address the concern and be included as part of the solution.
 - b. The student may be sent home to change clothes if necessary.

(cf. 5132 - Dress and Grooming)

- c. The student's behaviors and progress in school shall be documented, including attendance and grades.

(cf. 5113 - Absences and Excuses)

(cf. 5113.1 - Chronic Absence and Truancy)

(cf. 5113.11 - Attendance Supervision)

(cf. 5113.12 - District School Attendance Review Board)

(cf. 6164.2 - Guidance/Counseling Services)

- d. Intervention techniques such as mentoring, academic support, and a system of wraparound support service shall be implemented to help the student disengage from gang involvement.
 - e. Consistent and graduated discipline and accountability shall be implemented when appropriate and combined with positive support using conflict-resolution strategies and other restorative justice practices demonstrated to be effective with gang-involved youth.
 - f. Students shall be offered help in rejecting gang associations, including possible referral to community-based gang suppression and prevention organizations.
 - g. Law enforcement shall be notified if the student is suspected of being involved in gangs.

GANGS (continued)

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

2. Any graffiti on school premises shall be removed, washed down, or painted over as soon as discovered. Graffiti shall be documented and photographed before it is removed. These photographs shall be shared with local law enforcement authorities and used in future disciplinary or criminal action against the offenders. This information can also be used to determine whether a threat or incident is imminent.

(cf. 3515 - Campus Security)

(cf. 5131.5 - Vandalism and Graffiti)

3. Classroom and after-school programs may include gang prevention lessons that are taught jointly by teachers, counselors, law enforcement, and/or other organizations that are knowledgeable about gang prevention and shall:
 - a. Provide social and emotional learning designed to enhance individual self-esteem, provide positive reinforcement for acceptable behavior, and foster interest in a variety of constructive activities
 - b. Explain the dangers of gang membership
 - c. Provide counseling for targeted at-risk students
 - d. Include lessons or role-playing workshops in gang avoidance skills and nonviolent conflict resolution, including communication skills, anti-bullying, anger management, acceptance, and mediation skills

(cf. 5131.2 - Bullying)

- e. Assign individual gang members to cooperative learning groups in which they may work toward common goals with students who are not members of their gang
 - f. Provide school-to-career instruction
 - g. Provide positive interaction with local law enforcement

(cf. 5137 - Positive School Climate)

4. Staff shall actively promote membership in authorized school clubs and student organizations, sports and cultural activities and affiliations with the local community, and community service projects which can provide students companionship, safety, and a sense of purpose and belonging.

GANGS (continued)

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

(cf. 6145 - Extracurricular and Cocurricular Activities)

(cf. 6145.2 - Athletic Competition)

Parent/Guardian and Community Outreach

The Superintendent or designee may offer gang prevention classes or counseling for parents/guardians which may address the following topics:

1. The reasons students join gangs
2. The dangers and consequences of gang membership
3. Warning signs which may indicate that students are at risk of becoming involved with gangs, including the use of social media for gang communication and promotion
4. The nature of local gang apparel and graffiti
5. Effective parenting techniques and planning family time
6. Conflict resolution techniques

In addition, the Superintendent or designee may offer community programs that address the scope and nature of local gang problems and strategies by which each segment of the community may alleviate gang problems.

ATHLETIC COMPETITION

Nondiscrimination and Equivalent Opportunities in the Athletic Program

No student shall be excluded from participation in, be denied the benefits of, be denied equivalent opportunity in, or otherwise be discriminated against in interscholastic, intramural, or club athletics on the basis of any actual or perceived characteristic specified in law and BP 0410 - Nondiscrimination in District Programs and Activities. (Education Code 220, 221.5, 230 5 CCR 4920, 34 CFR 106.41)

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

(cf. 5145.3 - Nondiscrimination/Harassment)

The Superintendent or designee may provide single-sex teams when selection for the teams is based on competitive skills. (5 CCR 4921; 34 CFR 106.41)

Each student shall be allowed to participate in any single-sex athletic program or activity consistent with the student's gender identity, irrespective of the gender listed on the student's records, for which the student is otherwise eligible to participate. (Education Code 221.5)

(cf. 5125 - Student Records)

When a school provides only one team in a particular sport for members of one sex, but provides no team in the same sport for members of the other sex, and athletic opportunities in the total program for that sex have been previously limited, members of the excluded sex shall be allowed to try out and compete with the team. The same standards for eligibility shall be applied to every student trying out for the team, regardless of sex, sexual orientation, gender, gender identity, gender expression, or other protected group status. (5 CCR 4921; 34 CFR 106.41)

The Superintendent or designee shall ensure that equivalent opportunities are available to both sexes in athletic programs by considering, among other factors: (5 CCR 4922; 34 CFR 106.41)

1. Whether the offered selection of sports and levels of competition effectively accommodate the interests and abilities of both sexes

The athletic program may be found to effectively accommodate the interests and abilities of both sexes using any one of the following tests: (Education Code 230)

- a. Whether the interscholastic-level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments
- b. Where the members of one sex have been and are underrepresented among interscholastic athletes, whether the district can show a history and a continuing practice of program expansion that is demonstrably responsive to the developing interests and abilities of the members of that sex

ATHLETIC COMPETITION (continued)

- c. Where the members of one sex are underrepresented among interscholastic athletes and the district cannot show a history and continuing practice of program expansion as required in item #1b above, whether the district can demonstrate that the interests and abilities of the members of that sex have been fully and effectively accommodated by the present program
2. The provision and maintenance of equipment and supplies
3. Scheduling of games and practice times, selection of the season for a sport, and location of the games and practices
4. Travel and per diem allowances
5. Opportunities to receive coaching and academic tutoring
6. Assignment and compensation of coaches and tutors
7. Provision of locker rooms, practice facilities, and competitive facilities
8. Provision of medical and training facilities and services
9. Provision of housing and dining facilities and services
10. Publicity
11. Provision of necessary funds

Each school that offers competitive athletics shall, at the end of the school year, post on its school web site, or on the district web site if the school does not have a web site, the following information: (Education Code 221.9)

1. The total enrollment of the school, classified by gender
2. The number of students enrolled at the school who participate in competitive athletics, classified by gender
3. The number of boys' and girls' teams, classified by sport and by competition level

(cf. 1113 - District and School Web Sites)

The data reported for items #1-3 above shall reflect the total number of players on a team roster on the official first day of competition. The materials used to compile this information

ATHLETIC COMPETITION (continued)

shall be retained by the school for at least three years after the information is posted on the web site. (Education Code 221.9)

(cf. 3580 - District Records)

Concussions and Head Injuries

The Superintendent or designee shall annually distribute to student athletes and their parents/guardians an information sheet on concussions and head injuries. The student and parent/guardian shall sign and return the information sheet before the student initiates practice or competition. (Education Code 49475)

(cf. 5145.6 - Parental Notifications)

The Superintendent or designee shall provide training to coaches and/or athletic trainers regarding concussion symptoms, prevention, and appropriate response. (Education Code 35179.1, 49032)

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

If a student athlete is suspected of sustaining a concussion or head injury in an athletic activity, the student shall be immediately removed from the activity for the remainder of the day. The student shall not be permitted to return to the activity until the student is evaluated by a licensed health care provider trained in the management of concussions and receives the health care provider's written clearance to return to the activity. If the health care provider determines that the student sustained a concussion or a head injury, the student shall also complete a graduated return-to-play protocol of no less than seven days in duration under the supervision of a licensed health care provider. (Education Code 49475)

A middle school or high school football team shall not hold a full-contact practice during the off-season and shall not conduct more than two full-contact practices per week during the preseason and regular season (from 30 days before the commencement of the regular season until the completion of the final interscholastic football game of that season). In addition, the full-contact portion of a practice shall not exceed 90 minutes in any single day. For these purposes, *full-contact practice* means a practice where drills or live action is conducted that involves collisions at game speed, where players execute tackles and other activity that is typical of an actual tackle football game. (Education Code 35179.5)

Heat Illness

The Superintendent or designee shall provide training to coaches and/or athletic trainers regarding the signs and symptoms of, and the appropriate response to, heat illness, including heat cramps, heat syncope, heat exhaustion, and exertional heat stroke. (Education Code 35179.1, 49032)

ATHLETIC COMPETITION (continued)

To assist in the prevention of heat illness, coaches and/or athletic trainers shall gradually increase the intensity and duration of exercise to acclimate student athletes to practice in the heat, provide adequate rest breaks, make water available during all athletic activities, and alter practice plans in extreme environmental conditions.

Sudden Cardiac Arrest

The Superintendent or designee shall distribute the California Interscholastic Federation (CIF) information sheet on sudden cardiac arrest to all student athletes who will be participating in a CIF-governed athletic activity and to their parents/guardians. The student and parent/guardian shall sign and return the information sheet prior to the student's participation in the athletic activity. If an athletic activity is not covered by CIF, the student and parent/guardian shall, prior to the student's participation in the athletic activity, sign and return an acknowledgement that they have received and reviewed the sudden cardiac arrest information posted on the California Department of Education's web site. (Education Code 33479.2, 33479.3)

The Superintendent or designee shall provide training to coaches and/or athletic trainers regarding the nature and warning signs of sudden cardiac arrest. (Education Code 33479.6, 33479.7, 35179.1, 49032)

If a student athlete passes out or faints, or is known to have passed out or fainted, while participating in or immediately following participation in an athletic activity, the student shall be removed from participation at that time. If a student exhibits any other symptoms of sudden cardiac arrest, including seizures during exercise, unexplained shortness of breath, chest pains, dizziness, racing heart rate, or extreme fatigue, the student may be removed from participation by a coach or other employee who observes these symptoms. If any such symptoms are observed, notification shall be given to the student's parent/guardian so that the parent/guardian can determine the treatment, if any, the student should seek. A student who has been removed from participation shall not be permitted to return until the student is evaluated and given written clearance to return to participation by a health care provider. (Education Code 33479.2, 33479.5)

Automated External Defibrillators

The Superintendent or designee shall acquire at least one automated external defibrillator (AED) for each district school and shall make the AED(s) available to coaches, athletic trainers, and/or other authorized persons at athletic activities or events for the purpose of providing emergency care or treatment to students, spectators, and other individuals in attendance at athletic activities and events. (Education Code 35179.6)

(cf. 5141 - Health Care and Emergencies)

ATHLETIC COMPETITION (continued)

The district shall comply with all requirements of Health and Safety Code 1797.196 pertaining to any AED acquired by the district, including, but not limited to, regular maintenance and testing of the AED and the provision and posting of information regarding the proper use of the AED. (Education Code 35179.6; Health and Safety Code 1797.196)

Additional Notifications

Before students participate in practice or competition as part of interscholastic athletic activities, the Superintendent or designee shall, in addition to providing the students and their parents/guardians with the notices described above, send a notice to the students and their parents/guardians which:

1. Contains information about the procedures for filing a discrimination complaint that arises out of an interscholastic athletic activity, including the name of the district's Title IX Coordinator

(cf. 1312.3 - Uniform Complaint Procedures)

2. Includes a copy of students' Title IX rights pursuant to Education Code 221.8
3. Explains that there is an element of risk associated with all athletic competitions and that the district cannot guarantee that students will not be injured, despite a commitment to every participant's health and welfare

(cf. 3530 - Risk Management/Insurance)

4. Provides information about insurance protection pursuant to Education Code 32221.5

(cf. 5143 - Insurance)

5. Requests parental permission for the student to participate in the program and, if appropriate, to be transported by the district to and from competitions

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

6. States the district's expectation that students adhere strictly to all safety rules, regulations, and instructions, as well as rules and guidelines related to conduct and sportsmanship

(cf. 5144 - Discipline)

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

7. Includes a copy of the local CIF league rules

ATHLETIC COMPETITION (continued)

8. Includes information about the CIF bylaw and district policy requiring any student athlete and the student's parent/guardian to sign a statement that the student will not use steroids, unless prescribed by a licensed health care practitioner, and will not use prohibited dietary supplements that include substances banned by the U.S. Anti-Doping Agency

(cf. 5131.63 - Steroids)

9. Includes the opioid fact sheet published by the Centers for Disease Control and Prevention in accordance with Education Code 49476. The district shall provide this fact sheet annually to each student athlete and shall require the student and the student's parent/guardian to sign a document acknowledging receipt of the fact sheet.

EDUCATION FOR ENGLISH LEARNERS

The Governing Board intends to provide English learners with challenging curriculum and instruction that maximize the attainment of high levels of proficiency in English, advance multilingual capabilities, and facilitate student achievement in the district's regular course of study.

English learners shall be provided differentiated English language development instruction which is targeted to their English proficiency level. Such instruction shall be based on sound instructional theory, be aligned with state content standards, emphasize inquiry-based learning and critical thinking skills, and be integrated across all subject areas.

(cf. 6011 - Academic Standards)

(cf. 6141 - Curriculum Development and Evaluation)

(cf. 6161.1 - Selection and Evaluation of Instructional Materials)

(cf. 6161.11 - Supplementary Instructional Materials)

(cf. 6171 - Title I Programs)

No middle or high school student who is an English learner shall be denied enrollment in any of the following: (Education Code 60811.8)

1. Courses in the core curriculum areas of reading/language arts, mathematics, science, and history-social science, courses required to meet state and local high school graduation requirements, or courses required for middle school grade promotion

However, an English learner may be denied participation in any such course if the student has been enrolled in a school in the United States for less than 12 months or is enrolled in a program designed to develop the basic English skills of newly arrived immigrant students, and the course of study provided to the student is designed to remedy academic deficits incurred during participation and to enable the student to attain parity of participation in the standard instructional program within a reasonable length of time after the student enters the school system.

2. A full course load of courses specified in item #1 above
3. Other courses that meet the "a-g" course requirements for college admission or are advanced courses such as honors or Advanced Placement courses, on the sole basis of the student's classification as an English learner

(cf. 0415 - Equity)

(cf. 6141.4 - International Baccalaureate Program)

(cf. 6141.5 - Advanced Placement)

The district shall identify in its local control and accountability plan (LCAP) goals and specific actions and services to enhance student engagement, academic achievement, and other outcomes for English learners.

EDUCATION FOR ENGLISH LEARNERS (continued)

(cf. 0460 - Local Control and Accountability Plan)
(cf. 3100 - Budget)

The Superintendent or designee shall encourage parent/guardian and community involvement in the development and evaluation of programs for English learners. The Superintendent or designee may also provide an English development literacy training program for parents/guardians and community members so that they may better support students' English language development.

(cf. 0420 - School Plans/Site Councils)
(cf. 1220 - Citizen Advisory Committees)
(cf. 6020 - Parent Involvement)

Staff Qualifications and Training

The Superintendent or designee shall ensure that all staff employed to teach English learners possess the appropriate authorization from the Commission on Teacher Credentialing.

(cf. 4112.22 - Staff Teaching English Learners)

The district shall provide effective professional development to teachers (including teachers in classroom settings that are not the settings of language instruction educational programs), administrators, and other school or community-based organization personnel to improve the instruction and assessment of English learners and enhance staff's ability to understand and development shall be of sufficient intensity and duration to produce a positive and lasting impact on teachers' performance in the classroom. (20 USC 6825)

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

Staff development shall also address the sociocultural needs of English learners and provide opportunities for teachers to engage in supportive, collaborative learning communities.

Identification and Assessment

The Superintendent or designee shall maintain procedures for the early identification of English learners and an assessment of their proficiency using the state's English Language Proficiency Assessments for California (ELPAC). To oversee test administration, the Superintendent or designee shall annually designate a district ELPAC coordinator and a site coordinator for each test site in accordance with 5 CCR 11518.40-11518.45.

Once identified as an English learner, a student shall be annually assessed for language proficiency until the student is reclassified based on criteria specified in the accompanying administrative regulation.

EDUCATION FOR ENGLISH LEARNERS (continued)

In addition, English learners' academic achievement in English language arts, mathematics, science, and any additional subject required by law shall be assessed using the California Assessment of Student Performance and Progress. As necessary, the test shall be administered with testing variations in accordance with 5 CCR 854.1-854.3. English learners who are in their first 12 months of attending a school in the United States shall be exempted from taking the English language arts assessment to the extent allowed by federal law. (Education Code 60603, 60640; 5 CCR 854.1-854.3)

(cf. 6162.51 - State Academic Achievement Tests)

Formative assessments may be utilized to analyze student performance and appropriately adapt teaching methodologies and instructions.

(cf. 6162.5 - Student Assessment)

Language Acquisition Programs

The district shall offer research-based language acquisition programs that are designed to ensure English acquisition as rapidly and as effectively as possible and that provide instruction to students on the state-adopted academic content standards, including the English language development standards. (Education Code 306; 5 CCR 11300)

At a minimum, the district shall offer a structured English immersion program which includes designated and integrated English language development. In the structured English immersion program, nearly all of the classroom instruction shall be provided in English, but with the curriculum and presentation designed for students who are learning English. (Education Code 305-306; 5 CCR 11309)

For the purpose of determining the amount of instruction to be conducted in English in the structured English immersion program, "nearly all" means that all classroom instruction shall be conducted in English except for clarification, explanation, and support as needed.

In addition, language acquisition programs offered by the district may include, but are not limited to, the following: (Education Code 305-306)

1. A dual-language immersion program that provides integrated language learning and academic instruction for native speakers of English and native speakers of another language, with the goals of high academic achievement, first and second language proficiency, and cross-cultural understanding

(cf. 6142.2 - World Language Instruction)

EDUCATION FOR ENGLISH LEARNERS (continued)

2. A transitional or developmental program for English learners that provides literacy and academic instruction in English and a student's native language and that enables an English learner to achieve English proficiency and academic mastery of subject matter content and higher order thinking skills, including critical thinking, in order to meet state academic content standards

The district's language acquisition programs for grades K-3 shall comply with class size requirements specified in Education Code 42238.02. (Education Code 310)

(cf. 6151 - Class Size)

In establishing the district's language acquisition programs, the Superintendent or designee shall consult with parents/guardians and the community during the LCAP development process. The Superintendent or designee shall also consult with administrators, teachers, and other personnel with appropriate authorizations and experience in establishing a language acquisition program. (Education Code 305)

At the beginning of each school year or upon a student's enrollment, parents/guardians shall be provided information on the types of language acquisition programs available to students enrolled in the district, including, but not limited to, a description of each program, the process to be followed in making a program selection, identification of any language to be taught in addition to English when the program includes instruction in another language, and the process to request establishment of a language acquisition program. (Education Code 310; 5 CCR 11310)

(cf. 5145.6 - Parental Notifications)

Whenever a student is identified as an English learner based on the results of the ELPAC, the student's parents/guardians may choose a language acquisition program that best suits their child. To the extent possible, any language acquisition program requested by the parents/guardians of 30 or more students at the school or by the parents/guardians of 20 or more students at any grade level shall be offered by the school. (Education Code 310; 5 CCR 11311)

Reclassification

When an English learner is determined based on state and district reclassification criteria to have acquired a reasonable level of English proficiency pursuant to Education Code 313 and 52164.6, or upon request by the student's parent/guardian, the student shall be transferred from a language acquisition program into an English language mainstream classroom.

EDUCATION FOR ENGLISH LEARNERS (continued)

Program Evaluation

To evaluate the effectiveness of the district's educational program for English learners, the Superintendent or designee shall report to the Board, at least annually, regarding:

1. Progress of English learners towards proficiency in English
2. The number and percentage of English learners reclassified as fluent English proficient
3. The number and percentage of English learners who are or are at risk of being classified as long-term English learners in accordance with Education Code 313.1
4. The achievement of English learners on standards-based tests in core curricular areas
5. For any language acquisition program that includes instruction in a language other than English, student achievement in the non-English language in accordance with 5 CCR 11309
6. Progress toward any other goals for English learners identified in the district's LCAP
7. A comparison of current data with data from at least the previous year in regard to items #1-6 above
8. A comparison of data between the different language acquisition programs offered by the district

The Superintendent or designee shall also provide the Board with regular reports from any district or schoolwide English learner advisory committees.

Legal Reference: (see next page)

EDUCATION FOR ENGLISH LEARNERS (continued)

Legal Reference:

EDUCATION CODE

300-340 *English language education, especially:*
305-310 *Language acquisition programs*
313-313.5 *Assessment of English proficiency*
430-446 *English Learner and Immigrant Pupil Federal Conformity Act*
33050 *State Board of Education waiver authority*
42238.02-42238.03 *Local control funding formula*
44253.1-44253.11 *Qualifications for teaching English learners*
48980 *Parental notifications*
48985 *Notices to parents in language other than English*
52052 *Accountability; numerically significant student subgroups*
52060-52077 *Local control and accountability plan*
52160-52178 *Bilingual Bicultural Act*
56305 *CDE manual on English learners with disabilities*
60603 *Definition, recently arrived English learner*
60640 *California Assessment of Student Performance and Progress*
60811-60812 *Assessment of English language development*
62002.5 *Continuation of advisory committee after program sunsets*

CODE OF REGULATIONS, TITLE 5

854.1-854.3 *CAASPP and universal tools, designated supports, and accommodations*
854.9 *CASSPP and unlisted resources for students with disabilities*
11300-11316 *English learner education*
11517.6-11519.5 *English Language Proficiency Assessments for California*

UNITED STATES CODE, TITLE 20

1412 *Individuals with Disabilities Education Act; state eligibility*
1701-1705 *Equal Educational Opportunities Act*
6311 *Title I state plan*
6312 *Title I local education agency plans*
6801-7014 *Title III, language instruction for English learners and immigrant students*
7801 *Definitions*

CODE OF FEDERAL REGULATIONS, TITLE 34

100.3 *Discrimination prohibited*
200.16 *Assessment of English learners*

COURT DECISIONS

Valeria O. v. Davis, (2002) 307 F.3d 1036
California Teachers Association v. State Board of Education et al., (9th Circuit, 2001) 271 F.3d 1141
McLaughlin v. State Board of Education, (1999) 75 Cal.App.4th 196
Teresa P. et al v. Berkeley Unified School District et al., (1989) 724 F.Supp. 698

ATTORNEY GENERAL OPINIONS

83 *Ops.Cal.Atty.Gen.* 40 (2000)

Management Resources:

CSBA PUBLICATIONS

English Learners in Focus: The English Learner Roadmap: Providing Direction for English Learner Success, Governance Brief, February 2018
English Learners in Focus, Issue 4: Expanding Bilingual Education in California after Proposition 58, Governance Brief, March 2017

Management Resources continued: (see next page)

EDUCATION FOR ENGLISH LEARNERS (continued)

Management Resources: (continued)

CSBA PUBLICATIONS (continued)

English Learners in Focus, Issue 1: Updated Demographic and Achievement Profile of California's English Learners, Governance Brief, rev. September 2016

English Learners in Focus, Issue 3: Ensuring High-Quality Staff for English Learners, Governance Brief, July 2016

English Learners in Focus, Issue 2: The Promise of Two-Way Immersion Programs, Governance Brief, September 2014

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

California Practitioners' Guide for Educating English Learners with Disabilities, 2019

California English Learner Roadmap: Strengthening Comprehensive Educational Policies, Programs and Practices for English Learners, 2018

Matrix One: Universal Tools, Designated Supports, and Accommodations for the California Assessment of Student Performance and Progress for 2017-18, rev. August 2017

Reclassification Guidance for 2017-18, CDE Correspondence, April 28, 2017

Integrating the CA ELD Standards into K-12 Mathematics and Science Teaching and Learning, December 2015

Next Generation Science Standards for California Public Schools, Kindergarten through Grade Twelve, rev. March 2015

English Language Arts/English Language Development Framework for California Public Schools: Transitional Kindergarten Through Grade Twelve, 2014

Common Core State Standards for Mathematics, rev. 2013

English Language Development Standards for California Public Schools: Kindergarten Through Grade Twelve, 2012

THE EDUCATION TRUST- WEST PUBLICATIONS

Unlocking Learning II: Math as a Lever for English Learner Equity, March 2018

Unlocking Learning: Science as a Lever for English Learner Equity, January 2017

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Accountability for English Learners Under the ESEA, Non-Regulatory Guidance, January 2017

Innovative Solutions for Including Recently Arrived English Learners in State Accountability Systems: A Guide for States, January 2017

English Learner Tool Kit for State and Local Educational Agencies (SEAs and LEAs), rev. November 2016

English Learners and Title III of the Elementary and Secondary Education Act (ESEA), as Amended by the Every Student Succeeds Act (ESSA), Non-Regulatory Guidance, September 23, 2016

Dear Colleague Letter: English Learner Students and Limited English Proficient Parents, January 7, 2015

WEB SITES

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

California Association for Bilingual Education: <http://www.gocabe.org>

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

National Clearinghouse for English Language Acquisition: <http://www.ncela.us>

The Education Trust-West: <https://west.edtrust.org>

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

EDUCATION FOR ENGLISH LEARNERS**Definitions**

English learner means a student who is age 3-21 years, who is enrolled or is preparing to enroll in an elementary or secondary school, and whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the student the ability to meet state academic standards, the ability to successfully achieve in classrooms where the language of instruction is English, or the opportunity to participate fully in society. An English learner may include a student who was not born in the United States or whose native language is a language other than English; a student who is Native American or Alaska Native, or a native resident of the outlying areas, who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or a student who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant. (Education Code 306; 20 USC 7801)

Designated English language development means instruction provided during a time set aside in the regular school day for focused instruction on the state-adopted English language development standards to assist English learners to develop critical English language skills necessary for academic content learning in English. (5 CCR 11300)

Integrated English language development means instruction in which the state-adopted English language development standards are used in tandem with the state-adopted academic content standards. Integrated English language development includes specially designed academic instruction in English. (5 CCR 11300)

Native speaker of English means a student who has learned and used English at home from early childhood and English has been the primary means of concept formation and communication. (Education Code 306)

Identification and Assessments

Upon enrollment in the district, each student's primary language shall be determined through the use of a home language survey. (Education Code 52164.1; 5 CCR 11307)

Any student who is identified as having a primary language other than English as determined by the home language survey, and who has not previously been identified as an English learner by a California public school or for whom there is no record of results from an administration of an English language proficiency test, shall be initially assessed for English proficiency using the English Language Proficiency Assessments for California (ELPAC). (Education Code 313, 52164.1; 5 CCR 11518.5)

EDUCATION FOR ENGLISH LEARNERS (continued)

Each year after a student is identified as an English learner and until the student is redesignated as English proficient, the summative assessment of the ELPAC shall be administered to the student during a four-month period after January 1 as determined by the California Department of Education. (Education Code 313)

Administration of the ELPAC, including the use of variations and accommodations in test administration when authorized, shall be conducted in accordance with test publisher instructions and 5 CCR 11518.5-11518.35.

(cf. 6159 - Individualized Education Program)

(cf. 6162.51 - State Academic Achievement Tests)

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

The Superintendent or designee shall notify parents/guardians of their child's results on the ELPAC within 30 calendar days following receipt of the results from the test contractor or, if the results are received from the test contractor after the last day of instruction for the school year, within 15 working days of the start of the next school year. (Education Code 52164.1; 5 CCR 11518.15)

(cf. 5145.6 - Parental Notifications)

The parent/guardian of a student participating in, or identified for participation in, a language instruction program supported by federal Title I or Title III funds shall receive notification of the assessment of the student's English proficiency. Such notice shall be provided not later than 30 calendar days after the beginning of the school year or, if the student is identified for program participation during the school year, within two weeks of the student's placement in the program. The notice shall include all of the following: (Education Code 313.2, 440; 20 USC 6312)

1. The reason for the identification of the student as an English learner and the need for placement in a language acquisition program
2. The level of English proficiency, how the level was assessed, and the status of the student's academic achievement
3. A description of the language acquisition program in which the student is, or will be, participating, including a description of all of the following:
 - a. The methods of instruction used in the program and in other available programs, including how such programs differ in content, instructional goals, and the use of English and a native language in instruction
 - b. The manner in which the program will meet the educational strengths and needs of the student

EDUCATION FOR ENGLISH LEARNERS (continued)

- c. The manner in which the program will help the student develop English proficiency and meet age-appropriate academic standards for grade promotion and graduation
 - d. The specific exit requirements for the program, the expected rate of transition from the program into classes not tailored for English learners, and the expected rate of graduation from secondary school if applicable
 - e. Where the student has been identified for special education, the manner in which the program meets the requirements of the student's IEP
4. As applicable, the identification of a student as a long-term English learner or at risk of becoming a long-term English learner, as defined in Education Code 313.1, and the manner in which the program for English language development instruction will meet the educational strengths and needs of such students and help such students develop English proficiency and meet age-appropriate academic standards
5. Information about the parent/guardian's right to have the student immediately removed from a program upon the parent/guardian's request
6. Information regarding a parent/guardian's option to decline to enroll the student in the program or to choose another program or method of instruction, if available
7. Information designed to assist a parent/guardian in selecting among available programs, if more than one program or method is offered

Language Acquisition Programs

Whenever parents/guardians of enrolled students, and those enrolled for attendance in the next school year, request that the district establish a specific language acquisition program in accordance with Education Code 310, such requests shall be addressed through the following process: (5 CCR 11311)

1. The school shall make a written record of each request, including any request submitted verbally, that includes the date of the request, the names of the parent/guardian and student making the request, a general description of the request, and the student's grade level on the date of the request. As needed, the school shall assist the parent/guardian in clarifying the request. All requests shall be maintained for at least three years from the date of the request.
2. The school shall monitor requests on a regular basis and notify the Superintendent or designee when the parents/guardians of at least 30 students enrolled in the school, or

EDUCATION FOR ENGLISH LEARNERS (continued)

- at least 20 students in the same grade level, request the same or a substantially similar type of language acquisition program. If the requests are for a multilingual program model, the district shall consider requests from parents/guardians of students enrolled in the school who are native English speakers in determining whether this threshold is reached.
3. If the number of parents/guardians described in item #2 is attained, the Superintendent or designee shall:
 - a. Within 10 days of reaching the threshold, notify the parents/guardians of students attending the school, the school's teachers, administrators, and the district's English learner parent advisory committee and parent advisory committee, in writing, of the requests for a language acquisition program
 - b. Identify costs and resources necessary to implement any new language acquisition program, including, but not limited to, certificated teachers with the appropriate authorizations, necessary instructional materials, pertinent professional development for the proposed program, and opportunities for parent/guardian and community engagement to support the proposed program goals
 - c. Within 60 calendar days of reaching the threshold number of parents/guardians described in item #2 above, determine whether it is possible to implement the requested language acquisition program and provide written notice of the determination to parents/guardians of students attending the school, the school's teachers, and administrators
 - d. If a determination is made to implement the language acquisition program, create and publish a reasonable timeline of actions necessary to implement the program. If a determination is made that it is not possible to implement the program, provide a written explanation of the reason(s) the program cannot be provided.

The district shall notify parents/guardians at the beginning of each school year or upon the student's enrollment regarding the process to request a language acquisition program, including a dual-language immersion program, for their child. The notice shall also include the following: (5 CCR 11309, 11310)

1. A description of the programs provided, including structured English immersion
2. Identification of any language to be taught in addition to English when the program includes instruction in a language other than English

EDUCATION FOR ENGLISH LEARNERS (continued)

3. The manner in which the program is designed using evidence-based research and includes both designated and integrated English language development
4. The manner in which the district has allocated sufficient resources to effectively implement the program, including, but not limited to, certificated teachers with the appropriate authorizations, necessary instructional materials, pertinent professional development, and opportunities for parent/guardian and community engagement to support the program goals
5. The manner in which the program will, within a reasonable period of time, lead to language proficiency and achievement of the state-adopted content standards in English and, when the program includes instruction in another language, in that other language
6. The process to request establishment of a language acquisition program not offered at the school
7. For any dual-language immersion program offered, the specific languages to be taught. The notice also may include the program goals, methodology used, and evidence of the proposed program's effectiveness.

Reclassification/Redesignation

The district shall continue to provide additional and appropriate educational services to English learners for the purposes of overcoming language barriers until they: (5 CCR 11302)

1. Demonstrate English language proficiency comparable to that of the district's average native English language speakers
2. Recoup any academic deficits which may have been incurred in other areas of the core curriculum as a result of language barriers

English learners shall be reclassified as fluent English proficient when they are able to comprehend, speak, read, and write English well enough to receive instruction in an English language mainstream classroom and make academic progress at a level substantially equivalent to that of students of the same age or grade whose primary language is English and who are in the regular course of study. (Education Code 52164.6)

The procedures used to determine whether an English learner shall be reclassified as fluent English proficient shall include, but not be limited to: (Education Code 313, 52164.6; 5 CCR 11303)

EDUCATION FOR ENGLISH LEARNERS (continued)

1. Assessment of English language proficiency using an objective assessment instrument, including, but not limited to, the ELPAC
2. Participation of the student's classroom teacher and any other certificated staff with direct responsibility for teaching or placement decisions related to the student
3. Parent/guardian involvement, including:
 - a. Notice to parents/guardians of language reclassification and placement, including a description of the reclassification process and the parent/guardian's opportunity to participate
 - b. Encouragement of parent/guardian participation in the district's reclassification procedure, including seeking parent/guardian opinion and consultation during the reclassification process
4. Student performance on an objective assessment of basic skills in English that shows whether the student is performing at or near grade level

The Superintendent or designee shall monitor the progress of reclassified students to ensure their correct classification and placement. (5 CCR 11304)

The Superintendent or designee shall monitor students for at least two years following their reclassification to determine whether any additional academic support is needed.

Advisory Committee

A parent/guardian advisory committee shall be established at the district level when there are more than 50 English learners in the district and at the school level when there are more than 20 English learners at the school. Parents/guardians of English learners shall constitute committee membership in at least the same percentage as English learners represent of the total number of students in the school. (Education Code 52176; 5 CCR 11308)

The district's English language advisory committee shall advise the Governing Board on at least the following tasks: (5 CCR 11308)

1. The development of a plan for education programs and services for English learners, taking into consideration the school site plans for English learners
2. The districtwide needs assessment on a school-by-school basis
3. Establishment of a district program, goals, and objectives for programs and services for English learners

EDUCATION FOR ENGLISH LEARNERS (continued)

4. Development of a plan to ensure compliance with applicable teacher or aide requirements
5. Administration of the annual language census
6. Review of and comment on the district's reclassification procedures

(cf. 0420 - School Plans/Site Councils)

(cf. 1220 - Citizen Advisory Committees)

(cf. 5020 - Parent Rights and Responsibilities)

(cf. 6020 - Parent Involvement)

In order to assist the advisory committee in carrying out its responsibilities, the Superintendent or designee shall ensure that committee members receive appropriate training and materials. This training shall be planned in full consultation with the members. (5 CCR 11308)

LCAP Advisory Committee

When there are at least 15 percent English learners in the district, with at least 50 students who are English learners, a district-level English learner parent advisory committee shall be established to review and comment on the district's local control and accountability plan (LCAP) in accordance with BP 0460 - Local Control and Accountability Plan. The committee shall be composed of a majority of parents/guardians of English learners. (Education Code 52063; 5 CCR 11301, 15495)

(cf. 0460 - Local Control and Accountability Plan)

The advisory committee established pursuant to 5 CCR 11308, as described in the section "Advisory Committee" above, could serve as the LCAP English learner advisory committee if its composition includes a majority of parents/guardians of English learners.

SUPPLEMENTAL INSTRUCTION

The Governing Board recognizes that high-quality supplemental instruction can motivate and support students to attain grade-level academic standards, overcome academic deficiencies, and/or acquire critical skills. The district shall offer programs of direct, systematic, and intensive supplemental instruction to meet student needs. Supplemental instruction shall be offered in accordance with law and may be used to assist the district in meeting its goals for student achievement.

(cf. 0460 - Local Control and Accountability Plan)
(cf. 5113.1 - Chronic Absence and Truancy)
(cf. 5147 - Dropout Prevention)
(cf. 6011 - Academic Standards)
(cf. 6146.1 - High School Graduation Requirements)
(cf. 6146.5 - Elementary/Middle School Graduation Requirements)
(cf. 6164.5 - Student Success Teams)

Supplemental instruction may be offered during and outside the regular school day, including during the summer, before school, after school, on Saturday, and/or during intersessions. When supplemental instruction is offered during the regular school day, it shall not supplant the student's instruction in the core curriculum areas or physical education.

(cf. 5148.2 - Before/After School Programs)
(cf. 6111 - School Calendar)
(cf. 6112 - School Day)
(cf. 6142.7 - Physical Education and Activity)
(cf. 6176 - Weekend/Saturday Classes)
(cf. 6177 - Summer Learning Programs)

As appropriate, supplemental instruction may be provided through a classroom setting, individual or small group instruction, technology-based instruction, and/or an arrangement with a community or other external service provider.

When determined to be necessary by the principal or designee and when written parent/guardian consent is obtained for the student's participation, a student may be required to participate in supplemental instruction outside the regular school day.

Supplemental instruction shall be offered to students who are recommended for retention, or are identified as being at risk for retention, at their current grade level. (Education Code 48070.5)

(cf. 5121 - Grades/Evaluation of Student Achievement)
(cf. 5123 - Promotion/Acceleration/Retention)
(cf. 6162.51 - State Academic Achievement Tests)

In addition, supplemental instruction may be offered to:

1. Students who demonstrate academic deficiencies that may jeopardize their attainment of academic standards

SUPPLEMENTAL INSTRUCTION (continued)

(cf. 6142.6 - *Visual and Performing Arts Education*)
(cf. 6142.7 - *Physical Education and Activity*)
(cf. 6142.91 - *Reading/Language Arts Instruction*)
(cf. 6142.92 - *Mathematics Instruction*)
(cf. 6142.93 - *Science Instruction*)
(cf. 6142.94 - *History-Social Science Instruction*)

Legal Reference:

EDUCATION CODE

37200-37202 *School calendar*
37223 *Weekend classes*
42238.01-42238.5 *Local control funding formula*
46100 *Length of school day*
48070-48070.6 *Promotion and retention*
48200 *Compulsory education*
48985 *Translation of notices*
51210-51212 *Courses of study, elementary schools*
51220-51228 *Courses of study, secondary schools*
52060-52077 *Local control and accountability plan*
60603 *Definitions, core curriculum areas*
60640-60649 *California Assessment of Student Performance and Progress*
CODE OF REGULATIONS, TITLE 5
11470-11472 *Summer school*
UNITED STATES CODE, TITLE 20
6311 *State plan*

Management Resources:

WEB SITES

CSBA: <http://www.csba.org>
California Department of Education: <http://www.cde.ca.gov>
U.S. Department of Education: <http://www.ed.gov>

CLOSED SESSION

The Governing Board is committed to complying with state open meeting laws and modeling transparency in its conduct of district business. The Board shall hold a closed session during a regular, special, or emergency meeting only for purposes authorized by law.

Each agenda shall contain a general description of each closed session item to be discussed at the meeting, as required by law and specified below. (Government Code 54954.2)

(cf. 9320 - Meetings and Notices)

(cf. 9322 - Agenda/Meeting Materials)

In the open session preceding the closed session, the Board shall disclose the items to be discussed in closed session. In the closed session, the Board may consider only those matters covered in its statement. (Government Code 54957.7)

After the closed session, the Board shall reconvene in open session before adjourning the meeting and, when applicable, shall publicly disclose any action taken in the closed session, the votes or abstentions thereon, and other disclosures specified below that are applicable to the matter being addressed. Such reports may be made in writing or orally at the location announced in the agenda for the closed session. (Education Code 32281; Government Code 54957.1, 54957.7)

When an action taken during a closed session involves final approval or adoption of a document such as a contract or settlement agreement, the Superintendent or designee shall provide a copy of the document to any person present at the conclusion of the closed session who submitted a written request. If the action taken results in one or more substantive amendments, the Superintendent or designee shall make the document available the next business day or when the necessary retyping is completed. Whenever copies of an approved agreement will not be immediately released due to an amendment, the Board president shall orally summarize the substance of the amendment for those present at the end of the closed session. (Government Code 54957.1)

Confidentiality

A Board member shall not disclose confidential information received in closed session unless the Board authorizes the disclosure of that information. (Government Code 54963)

(cf. 9011 - Disclosure of Confidential/Privileged Information)

The Board shall not disclose any information that is protected by state or federal law. In addition, no victim or alleged victim of tortious sexual conduct or child abuse shall be identified in any Board agenda, notice, announcement, or report required by the Brown Act, unless the identity of the person has previously been publicly disclosed. (Government Code 54957.7, 54961)

(cf. 1340 - Access to District Records)

CLOSED SESSION (continued)

Personnel Matters

The Board may hold a closed session under the "personnel exception" to consider the appointment, employment, performance evaluation, discipline, or dismissal of an employee. Such a closed session shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline. (Government Code 54957)

(cf. 2140 - Evaluation of the Superintendent)
(cf. 4115 - Evaluation/Supervision)
(cf. 4118 - Dismissal/Suspension/Disciplinary Action)
(cf. 4215 - Evaluation/Supervision)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
(cf. 4315 - Evaluation/Supervision)

The Board may also hold a closed session to hear complaints or charges brought against an employee by another person or employee, unless the employee who is the subject of the complaint requests an open session. Before the Board holds a closed session on specific complaints or charges brought against an employee, the employee shall receive written notice of the right to have the complaints or charges heard in open session if desired. This notice shall be delivered personally or by mail at least 24 hours before the time of the session. (Government Code 54957)

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

The Board may hold a closed session to discuss an employee's application for early withdrawal of funds in a deferred compensation plan when the application is based on financial hardship arising from an unforeseeable emergency due to illness, accident, casualty, or other extraordinary event, as specified in the deferred compensation plan. (Government Code 54957.10)

Agenda items related to district employee appointments and employment shall describe the position to be filled. Agenda items related to performance evaluations shall specify the title of the employee being reviewed. Agenda items related to employee discipline, dismissal, or release require no additional information. (Government Code 54954.5)

After the closed session, the Board shall report any action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a district employee and shall identify the title of the affected position. The report shall be given at the public meeting during which the closed session is held, except that the report of a dismissal or nonrenewal of an employment contract shall be deferred until the first public meeting after administrative remedies, if any, have been exhausted. (Government Code 54957.1)

(cf. 4117.7/4317.7 - Employment Status Reports)

CLOSED SESSION (continued)

Negotiations/Collective Bargaining

Unless otherwise agreed upon by the parties involved, the following shall not be subject to the open meeting requirements of Brown Act: (Government Code 3549.1)

1. Any meeting and negotiating discussion between the district and a recognized or certified employee organization
2. Any meeting of a mediator with either party or both parties to the meeting and negotiating process
3. Any hearing, meeting, or investigation conducted by a factfinder or arbitrator
4. Any executive (closed) session of the district or between the district and its designated representative for the purpose of discussing its position regarding any matter within the scope of representation and instructing its designated representatives

(cf. 4140/4240/4340 - Bargaining Units)

(cf. 4143/4243 - Negotiations/Consultation)

(cf. 4143.1/4243.1 - Public Notice - Personnel Negotiations)

The Board may meet in closed session, prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees, to review the Board's position and/or instruct its designated representative(s) regarding salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation. Prior to the closed session, the Board shall identify its designated representative in open session. Any closed session held for this purpose may include discussions of the district's available funds and funding priorities, but only insofar as they relate to providing instructions to the Board's designated representative. Final action on the proposed compensation of one or more unrepresented employees shall not be taken in closed session. (Government Code 54957.6)

(cf. 2121 - Superintendent's Contract)

The Board also may meet in closed session with a state conciliator who has intervened in proceedings regarding any of the purposes enumerated in Government Code 54957.6.

Agenda items related to negotiations shall specify the name(s) of the district's designated representative(s) attending the closed session. If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the

CLOSED SESSION (continued)

absent representative as long as the name of the agent or designee is announced at an open session held prior to the closed session. The agenda shall also specify the name of the organization representing the employee(s) or the position title of the unrepresented employee who is the subject of the negotiations. (Government Code 54954.5)

Approval of an agreement regarding labor negotiations with represented employees pursuant to Government Code 54957.6 shall be reported after the agreement is final and has been accepted or ratified by the other party. This report shall identify the item approved and the other party or parties to the negotiation. (Government Code 54957.1)

Matters Related to Students

If a public hearing would lead to the disclosure of confidential student information, the Board shall meet in closed session to consider a suspension, disciplinary action, any other action against a student except expulsion, or a challenge to a student record. If a written request for open session is received from the parent/guardian or adult student, the meeting shall be public, except that any discussion at that meeting which may be in conflict with the right to privacy of any student other than the student requesting the public meeting shall be in closed session. (Education Code 35146, 48912, 49070)

(cf. 5117 - Interdistrict Attendance)
(cf. 5119 - Students Expelled from Other Districts)
(cf. 5125.3 - Challenging Student Records)
(cf. 5144 - Discipline)

The Board shall meet in closed session to consider the expulsion of a student, unless the student submits a written request at least five days before the date of the hearing that the hearing be held in open session. Regardless of whether the expulsion hearing is conducted in open or closed session, the Board may meet in closed session for the purpose of deliberating and determining whether the student should be expelled. (Education Code 48918)

(cf. 5144.1 - Suspension and Expulsion/Due Process)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

Agenda items related to student matters shall briefly describe the reason for the closed session, such as "student expulsion hearing" or "grade change appeal," without violating the confidentiality rights of individual students. The student shall not be named on the agenda, but a number may be assigned to the student in order to facilitate record keeping. The agenda shall also state that the Education Code requires closed sessions in these cases in order to prevent the disclosure of confidential student record information.

Final action on a student matter deliberated in closed session shall be taken in open session and shall be a matter of public record. (Education Code 35146, 48918)

CLOSED SESSION (continued)

(cf. 5125 - Student Records)

However, in taking final action, the Board shall not release any information in violation of student privacy rights provided in 20 USC 1232g or other applicable laws. In an expulsion or other disciplinary action, the cause for the disciplinary action shall be disclosed in open session, but the Board shall refer to the student number or other identifier and shall not disclose the student's name.

Security Matters

The Board may meet in closed session with the Governor, Attorney General, district attorney, district legal counsel, sheriff or chief of police, or their respective deputies, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings; to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service, and electric service; or to the public's right of access to public services or public facilities. Such discussions may be held in closed session during an emergency meeting called pursuant to Government Code 54956.5 if agreed to by a two-thirds vote of the Board members present, or, if less than two-thirds of the members are present, by a unanimous vote of the members present. (Government Code 54956.5, 54957)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3515 - Campus Security)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

(cf. 9323.2 - Actions by the Board)

Agenda items related to these security matters shall specify the name of the law enforcement agency and the title of the officer, or name of applicable agency representative and title, with whom the Board will consult. (Government Code 54954.5)

The Board may meet in closed session to consult with law enforcement officials on the development of a plan for tactical responses to criminal incidents and to approve the plan. Following the closed session, the Board shall report any action taken to approve the plan, but need not disclose the district's plan for tactical responses. (Education Code 32281)

Real Property Negotiations

The Board may meet in closed session with its real property negotiator prior to the purchase, sale, exchange, or lease of real property by or for the district in order to grant its negotiator authority regarding the price and terms of payment for the property. (Government Code 54956.8)

CLOSED SESSION (continued)

Before holding the closed session, the Board shall hold an open and public session to identify its negotiator(s), the property under negotiation, and the person(s) with whom the negotiator may negotiate. For purposes of real property transactions, negotiators may include members of the Board. (Government Code 54956.8)

Agenda items related to real property negotiations shall specify the district negotiator attending the closed session. If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator as long as the name of the agent or designee is announced at an open session held prior to the closed session. The agenda shall also specify the name of the negotiating parties and the street address of the real property under negotiation. If there is no street address, the agenda item shall specify the parcel number or another unique reference of the property. The agenda item shall also specify whether instruction to the negotiator will concern price, terms of payment, or both. (Government Code 54954.5)

When the Board approves a final agreement concluding real estate negotiations pursuant to Government Code 54956.8, it shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held. If final approval rests with the other party to the negotiations, the Superintendent or designee shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the district of its approval. (Government Code 54957.1)

Pending Litigation

Based on the advice of its legal counsel, the Board may hold a closed session to confer with or receive advice from its legal counsel regarding pending litigation when discussion of the matter in open session would prejudice the district's position in the litigation. For this purpose, "litigation" means any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator. (Government Code 54956.9)

Litigation is considered "pending" in any of the following circumstances: (Government Code 54956.9)

1. Litigation to which the district is a "party" has been initiated formally. (Government Code 54956.9(d)(1))
2. A point has been reached where, in the Board's opinion based on the advice of its legal counsel regarding the "existing facts and circumstances," there is a "significant exposure to litigation" against the district, or the Board is meeting solely to determine whether, based on existing facts or circumstances, a closed session is authorized. (Government Code 54956.9(d)(2), (3))

CLOSED SESSION (continued)

Existing facts and circumstances for these purposes are limited to the following:
(Government Code 54956.9)

- a. Facts and circumstances that might result in litigation against the district but which the district believes are not yet known to potential plaintiff(s) and which do not need to be disclosed.
- b. Facts and circumstances including, but not limited to, an accident, disaster, incident, or transactional occurrence which might result in litigation against the district, which are already known to potential plaintiff(s) and which must be publicly disclosed before the closed session or specified on the agenda.
- c. The receipt of a claim pursuant to the Government Claims Act or a written threat of litigation from a potential plaintiff. The claim or written communication must be available for public inspection.

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

- d. A threat of litigation made by a person in an open meeting on a specific matter within the responsibility of the Board.
 - e. A threat of litigation made by a person outside of an open meeting on a specific matter within the responsibility of the Board, provided that the district official or employee receiving knowledge of the threat made a record of the statement before the meeting and the record is available for public inspection. Such record does not need to identify an alleged victim of tortious sexual conduct or anyone making a threat of litigation on the victim's behalf or identify an employee who is the alleged perpetrator of any unlawful or tortious conduct, unless the identity of this person has been publicly disclosed.
3. Based on existing facts and circumstances, the Board has decided to initiate or is deciding whether to initiate litigation. (Government Code 54956.9(d)(4))

Before holding a closed session pursuant to the pending litigation exception, the Board shall state on the agenda or publicly announce the subdivision of Government Code 54956.9 under which the closed session is being held. If authority is based on Government Code 54956.9 (d)(1), the Board shall either state the title or specifically identify the litigation to be discussed or state that doing so would jeopardize the district's ability to effectuate service of process upon unserved parties or to conclude existing settlement negotiations to its advantage. (Government Code 54956.9)

CLOSED SESSION (continued)

Agenda items related to pending litigation shall be described as a conference with legal counsel regarding either "existing litigation" or "anticipated litigation." (Government Code 54954.5)

"Existing litigation" items shall identify the name of the case specified by either the claimant's name, names of parties, or case or claim number, unless the Board states that to identify the case would jeopardize service of process or existing settlement negotiations. (Government Code 54954.5)

"Anticipated litigation" items shall state that there is significant exposure to litigation pursuant to Government Code 54956.9(d)(2) or (3) and shall specify the potential number of cases. When the district expects to initiate a suit, items related to anticipated litigation shall state that the discussion relates to the initiation of litigation pursuant to Government Code 54956.9(d)(4) and shall specify the potential number of cases. The agenda or an oral statement before the closed session may be required to provide additional information regarding existing facts and circumstances described in item #2 b-e above. (Government Code 54954.5)

Following the closed session, the Board shall publicly report, as applicable: (Government Code 54957.1)

1. Approval to legal counsel to defend, appeal or not appeal, or otherwise appear in litigation. This report shall identify the adverse parties, if known, and the substance of the litigation.
2. Approval to legal counsel to initiate or intervene in a lawsuit. This report shall state that directions to initiate or intervene in the action have been given and that the action, defendants, and other details will be disclosed to inquiring parties after the lawsuit is commenced unless doing so would jeopardize the district's ability to serve process on unserved parties or its ability to conclude existing settlement negotiations to its advantage.
3. Acceptance of a signed offer from the other party or parties which finalizes the settlement of pending litigation. This report shall state the substance of the agreement.

If approval is given to legal counsel to settle pending litigation but final approval rests with the other party or with the court, the district shall report the fact of approval and the substance of the agreement thereon to persons who inquire once the settlement is final. (Government Code 54957.1)

CLOSED SESSION (continued)

Joint Powers Agency Issues

The Board may meet in closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by a joint powers agency (JPA) formed for the purpose of insurance pooling or self-insurance authority of which the district is a member. (Government Code 54956.95)

Closed session agenda items related to liability claims shall specify the claimant's name and the name of the agency against which the claim is made. (Government Code 54954.5)

(cf. 3530 - Risk Management/Insurance)

Following the closed session, the Board shall publicly report the disposition of joint powers agency or self-insurance claims, including the name of the claimant(s), the name of the agency claimed against, the substance of the claim, and the monetary settlement agreed upon by the claimant. (Government Code 54957.1)

When the board of the JPA has so authorized and upon advice of district legal counsel, the Board may also meet in closed session in order to receive, discuss, and take action concerning information obtained in a closed session of the JPA that has direct financial or liability implications for the district. During the Board's closed session, a Board member serving on the JPA board may disclose confidential information acquired during a closed session of the JPA to fellow Board members. (Government Code 54956.96)

Closed session agenda items related to conferences involving a JPA shall specify the name of the JPA, the closed session description used by the JPA, and the name of the Board member representing the district on the JPA board. Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives shall also be included. (Government Code 54954.5)

Review of Audit Report from California State Auditor's Office

Upon receipt of a confidential final draft audit report from the California State Auditor's Office, the Board may meet in closed session to discuss its response to that report. After public release of the report from the California State Auditor's Office, any Board meeting to discuss the report must be conducted in open session, unless exempted from that requirement by some other provision of law. (Government Code 54956.75)

Closed session agenda items related to an audit by the California State Auditor's Office shall state "Audit by California State Auditor's Office." (Government Code 54954.5)

CLOSED SESSION (continued)

Following the closed session, the Board shall publicly confirm that the report was reviewed and a response was prepared.

Review of Assessment Instruments

The Board may meet in closed session to review the contents of any student assessment instrument approved or adopted for the statewide testing system. Before any such meeting, the Board shall agree by resolution to accept any terms or conditions established by the State Board of Education for this review. (Education Code 60617)

(cf. 6162.51 - State Academic Achievement Tests)

Agenda items related to the review of student assessment instruments shall state that the Board is reviewing the contents of an assessment instrument approved or adopted for the statewide testing program and that Education Code 60617 authorizes a closed session for this purpose in order to maintain the confidentiality of the assessment under review.

Following the closed session, the Board shall confirm that the assessment instruments were reviewed. Any actions related to the review shall be taken in open session without revealing any proprietary or confidential information and shall be a matter of public record.

Legal Reference:

EDUCATION CODE

32281 School safety plans

35145 Public meetings

35146 Closed session for student suspension or disciplinary action

44929.21 Districts with ADA of 250 or more

48912 Governing board suspension of student

48918 Rules governing expulsion procedures; hearings and notice

49070 Challenging content of student records

49073-49079 Privacy of student records

60617 Closed session (re review of contents of statewide assessment)

GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act

6252-6270 California Public Records Act

54950-54963 The Ralph M. Brown Act

CALIFORNIA CONSTITUTION

Article 1, Section 3 Public right to access information

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act

Legal Reference continued: (see next page)

CLOSED SESSION (continued)

Legal Reference: (continued)

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.8 Family Educational Rights and Privacy

COURT DECISIONS

Moreno v. City of King, (2005) 127 Cal.App.4th 17

Morrison v. Housing Authority of the City of Los Angeles Board of Commissioners, (2003) 107 Cal.App.4th 860

Rim of the World Unified School District v. San Bernardino County Superior Court, (2002) 104 Cal.App.4th 1393

Bell v. Vista Unified School District, (2000) 82 Cal.App. 4th 672

Fischer v. Los Angeles Unified School District, (1999) 70 Cal.App. 4th 87

Kleitman v. Superior Court of Santa Clara County, (1999) 87 Cal Rptr. 2d

Furtado v. Sierra Community College District, (1998) 68 Cal.App. 4th 876

Roberts v. City of Palmdale, (1993) 5 Cal. 4th 363

San Diego Union v. City Council, (1983) 146 Cal.App.3d 947

Sacramento Newspaper Guild v. Sacramento County Board of Supervisors, (1968) 263 Cal.App. 2d 41

ATTORNEY GENERAL OPINIONS

94 Ops.Cal.Atty.Gen. 82 (2011)

89 Ops.Cal.Atty.Gen. 110 (2006)

86 Ops.Cal.Atty.Gen. 210 (2003)

78 Ops.Cal.Atty.Gen. 218 (1995)

59 Ops.Cal.Atty.Gen. 532 (1976)

57 Ops.Cal.Atty.Gen. 209 (1974)

Management Resources:

CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws, rev. 2014

CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for Legislative Bodies, 2003

LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

Open and Public IV: A Guide to the Ralph M. Brown Act, rev. July 2010

WEB SITES

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

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

League of California Cities: <http://www.cacities.org>