

DATE: October 17, 2019
TO: Board of Trustees
SUBJECT: CSBA Board Policy Revisions May and July 2019

CONSENT ITEM

That the Board adopt the proposed changes to Board Policy, which include changes to and deletion of policies as presented.

BACKGROUND

On a quarterly basis, the California School Boards Association (CSBA) sends us updated sample policies based on new case law, legislation, education code, or school district practice. Below is a complete list of the updated sample policies sent to us in May and July 2019, and attached are CSBA's summaries of their proposed revisions. Updates have been made to AR5132 and AR 5131.2 (May 2019) based on board discussion at the September 26th meeting. BP 5123 (July 2019) has been removed to allow for further review by staff. Those marked with strikeouts below are not recommended for adoption, and after the Board takes action, the District will not have those policies. Those otherwise listed and attached are recommended for adoption.

May 2019	
POLICY	TITLE
BP 0420.4	Charter School Authorization
AR 0420.4	Charter School Authorization
BP 1312.1	Complaints Concerning District Employees
AR 1312.1	Complaints Concerning District Employees
BP 3250	Transportation Fees
AR 3250	Transportation Fees
BP 3510	Green School Operations
BP 3511	Energy and Water Management
AR 3511	Energy and Water Management
AR 3514	Environmental Safety
BP 3540	Transportation
AR 3540	Transportation
BP 4119.22 4219.22 4319.22	Dress and Grooming
BP 5131.2	Bullying
AR 5131.2	Bullying

BP 5132	Dress and Grooming
AR 5132	Dress and Grooming
BP 6142.1	Sexual Health and HIV/AIDS Prevention Instruction
AR 6142.1	Sexual Health and HIV/AIDS Prevention Instruction
BP 6142.6	Visual and Performing Arts Education
BP 6146.1	High School Graduation Requirements

July 2019	
POLICY	TITLE
BP 1112	Media Relations
AR 3320	Claims and Actions Against the District
BP 3551	Food Service Operations/Cafeteria Fund
AR 3551	Food Service Operations/Cafeteria Fund
AR 4117.7 4317.7	Employment Status Reports
BP 4119.24 4219.24 4319.24	Maintaining Appropriate Adult-Student Interactions
BP 4218	Dismissal/Suspension/Disciplinary Action
AR 4218	Dismissal/Suspension/Disciplinary Action
BP 4218.1	Dismissal/Suspension/Disciplinary Action (Merit System)
AR 4218.1	Dismissal/Suspension/Disciplinary Action (Merit System)
BP 5136	Gangs
AR 5136	Gangs
BP 6142.2	World Language Instruction
AR 6142.2	World Language Instruction
AR 6145.2	Athletic Competition
BP 6145.6	International Exchange
AR 6145.6	International Exchange
BP 6174	Education for English Learners

AR 6174	Education for English Learners
BP 6179	Supplemental Instruction
BB 9321	Closed Session
E(1) 9321	Closed Session
E(2) 9321	Closed Session
BB 9321.1	Closed Session Actions and Reports

POLICY GUIDE SHEET

May 2019

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Note: Descriptions below identify revisions made to CSBA's sample board policies, administrative regulations, board bylaws, and/or exhibits. Editorial changes have also been made. Districts and county offices of education should review the sample materials and modify their own policies accordingly.

BP/AR 0420.4 - Charter School Authorization

(BP/AR revised)

Policy updated to delete the legal cite for the Parent Empowerment Act, as the criteria for that program include the Academic Performance Index which is no longer calculated, and to delete the outdated legal cite for California Department of Education (CDE) standards for the identification of academically low-achieving students. Policy also reflects **NEW LAW (SB 126, 2019)** which requires charter schools to comply with the Brown Act, California Public Records Act, and other specified state laws governing transparency and public integrity, and **NEW LAW (AB 406, 2018)** which, for any charter petition submitted on or after July 1, 2019, prohibits the charter school from operating as or by a for-profit corporation or organization. Regulation updated to reflect **NEW LAW (AB 1747, 2018)** which requires that the charter petition include provisions for the development and annual update of a school safety plan.

BP/AR 1312.1 - Complaints Concerning District Employees

(BP/AR revised)

Policy updated to reflect a court decision which held that a district cannot bar criticism of employees at public board meetings, and to add referral of complainants to the appropriate complaint procedures when concerns are expressed at a board meeting or to an individual board member outside a board meeting. Policy includes material formerly in AR regarding reports against employees for child abuse or neglect, and adds circumstances under which complaints should be addressed in accordance with BP/AR 1312.3 - Uniform Complaint Procedures or AR 4030 - Nondiscrimination in Employment. Policy also adds material related to the investigation of a complaint, including an anonymous complaint, and includes material formerly in AR regarding appeals to the board. Regulation reorganized and updated to require that complaints be made in writing and to add steps regarding the investigation of the complaint and the notification of the complainant and employee regarding the final decision.

BP/AR 3250 - Transportation Fees

(BP/AR revised)

Policy updated to reference types of transportation services, in addition to home-to-school transportation, for which fees may be charged. The basis for establishing the amount of the fee deleted in BP since it is addressed in AR. Policy also adds material formerly in AR regarding (1) criteria for determining exemption of transportation fees based on financial need and (2) board certification to the county superintendent of schools that fees have been levied in accordance with law. Regulation reorganized to describe the types of transportation services for which fees are allowed, the amount of the fee, and then exemptions from fees. Material regarding the establishment of fees revised to reflect current practice which is no longer based on the Superintendent of Public Instruction's determination of the statewide average nonsubsidized cost of providing transportation on a publicly owned or operated transit system.

BP 3510 - Green School Operations

(BP revised)

Policy expands best practices for environmental accountability in district programs and operations, including involvement of staff at all levels, use of least toxic pest management practices, compliance with green building standards in any new construction, acquisition of reduced or zero emission school buses, limitation of unnecessary idling of school buses or personal vehicles, implementation of green practices in the district's food services program, and use of green school activities as tools for student learning.

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BP/AR 3511 - Energy and Water Management

(BP/AR revised)

Policy and regulation updated to reflect recommendations in **NEW STATE GUIDANCE** from CDE, the Division of the State Architect in the Department of General Services, and the State Water Resources Control Board. Policy also deletes green school strategies duplicated in other policies, and adds coordination with local and regional entities to share expertise and resources. Section on "Storm Water Management" deletes specific requirements for "nontraditional MS4 entities" that are subject to the General Permit for Storm Water Discharges to Small Municipal Separate Storm Sewer Systems, and clarifies that districts may also be subject to the Construction General Permit and the National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Industrial Activities. Section on "Emergency Interruption of Services" contains material formerly in AR. Regulation expands components of the district's resource management program to include strategies related to outdoor spaces, drought-tolerant habitats, and equipment maintenance and repair. Regulation also adds new section on "Storm Water Management" with examples of best practices and adds new material related to the emergency interruption of services.

AR 3514 - Environmental Safety

(AR revised)

Regulation updated to reflect **NEW LAW (AB 2453, 2018)** which (1) authorizes state facilities modernization grants to be used to update air filtration systems and (2) authorizes districts and schools in communities with a high cumulative exposure to toxic air contaminants to work with air districts and to be eligible for a grant to implement air quality mitigation efforts. Regulation also reflects the July 1, 2019 deadline for completing testing for lead in the drinking water of any school constructed before January 1, 2010, and **NEW LAW (AB 2370, 2018)** which requires a licensed child care center that is located in a building constructed before January 1, 2010 to have its drinking water tested for lead contamination.

BP/AR 3540 - Transportation

(BP revised; AR deleted)

Policy updated to include material formerly in AR regarding the means of transportation, contracts for transportation services, and the option to pay parents/guardians their actual and necessary expenses in transporting the student. Policy also addresses (1) the district's authority to require families to pay a transportation fee, with specified exceptions; (2) the district's authority to transport students without parent/guardian permission when evacuation of students is necessary for their safety; and (3) the installation of a global positioning system on school buses to enhance safety and provide real-time location data. Regulation deleted and key concepts moved to BP.

BP 4119.22/4219.22/4319.22 - Dress and Grooming

(BP revised)

Policy updated to reflect laws which allow employees to appear and dress in a manner consistent with their gender identity, gender expression, or religious creed. Policy also adds material regarding the communication of the district's dress and grooming policy to employees.

BP 5131.2 - Bullying

(BP revised; AR added)

Policy updated and regulation added to reflect **NEW LAW (AB 2291, 2018)** which mandates districts to adopt, on or before December 31, 2019, procedures for preventing acts of bullying, including cyberbullying. Regulation includes material formerly in BP re: bullying prevention measures, staff development, student instruction, reporting, and corrective actions. Regulation also adds definition of bullying and examples of behaviors that may constitute bullying and cyberbullying, and reflects CDE's online training module on bullying developed pursuant to AB 2291.

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BP/AR 5132 - Dress and Grooming

(BP/AR revised)

Policy updated to address communication of the dress code to students and staff; grant enforcement authority to the principal or designee; prohibit discriminatory enforcement of the dress code, including, but not limited to, discrimination based on gender identity, gender expression, or religious or cultural observance; and address disciplinary action for repeated violations or refusal to comply with the dress code. Policy also provides that the determination of specific items of clothing defined as gang apparel shall be free from bias based on race, ethnicity, national origin, immigration status, or other protected characteristics. Regulation updated to provide general, gender-neutral guidelines for the dress code that may be revised to reflect district practice; add circumstances under which the dress code should be modified for classes, activities, or individual students; and call for collaboration with law enforcement agencies to update definitions of gang-related apparel.

BP/AR 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction

(BP/AR revised)

Policy updated to more directly reflect the goals of the California Healthy Youth Act, incorporate the legal requirement for districts whose graduation requirements include completion of a health education course to include instruction on the affirmative consent standard, and reflect **NEW LAW (SB 1104, 2018)** which requires districts offering grades 6-12 to provide information on human trafficking prevention resources to parents/guardians by January 1, 2020. Policy also adds timeline for notification to parents/guardians that they may request to excuse their child from comprehensive sexual health and HIV prevention education. Regulation updated to reflect **NEW LAW (AB 1861, 2018)** which requires that comprehensive sexual health education include specified information regarding human trafficking, and **NEW LAW (AB 1868, 2018)** which authorizes instruction regarding the potential risks and consequences of electronically sharing suggestive or sexually explicit materials. Section on "Professional Development" updated to reflect a legal requirement to provide periodic staff development regarding sexual abuse and human trafficking.

BP 6142.6 - Visual and Performing Arts Education

(BP revised)

Policy updated to reflect revised content standards for visual and performing arts, including media arts, adopted by the State Board of Education in January 2019. Policy incorporates the philosophical foundation, lifelong goals, and artistic processes upon which the state standards are based.

BP 6146.1 - High School Graduation Requirements

(BP revised)

Policy includes minor revision to clarify that immigrant students enrolled in a newcomer program in grades 11-12 may be eligible for an exemption from locally established graduation requirements, regardless of whether they transferred between schools after the completion of the second year of high school.

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Note: Descriptions below identify revisions made to CSBA's sample board policies, administrative regulations, board bylaws, and/or exhibits. Editorial changes have also been made. Districts and county offices of education should review the sample materials and modify their own policies accordingly.

BP 1112 - Media Relations

(BP revised)

Policy updated to expand the section on "Crisis Communications Plan" to apply to natural disasters, involve district technology personnel in the development of the plan, and expand the contents of the plan. Policy also updated to encourage the establishment of priorities and key messages for proactive communications with the media, clarify that media representatives can be required to register before coming on campus only if the district has adopted a policy requiring all visitors to register, and clarify that the only student directory information that may be released to the media is that information designated by the district in AR 5125.1 - Release of Directory Information.

AR 3320 - Claims and Actions Against the District

(AR revised)

Regulation updated to add statement requiring the use of district procedures for claims against the district prior to filing a lawsuit. Regulation also defines "limited civil case" as one that is for an amount of \$25,000 or less.

BP/AR 3551 - Food Service Operations/Cafeteria Fund

(BP/AR revised)

Policy updated to reflect **NEW FEDERAL REGULATION (84 Fed. Reg. 8247)** and updated California Department of Education (CDE) guidance giving districts with an average daily attendance of less than 2,500 greater flexibility in the hiring of food service directors. Policy also consolidates material on nondiscrimination toward students who have unpaid meal fees and those who participate in the free and reduced-price meal program. Regulation updated to reflect **NEW LAW (AB 3043, 2018)** which permits the use of cafeteria funds to (1) pay for the purchase of a mobile food facility and (2) supplement the cost of providing universal breakfast in districts that do not provide universal breakfast under a federal program, provided they submit the required certification to CDE. Regulation also updates section on U.S. Department of Agriculture (USDA) donated foods to reflect current requirements for the safe storage and control of the foods. In both policy and regulation, CDE and USDA guidance renumbered when superseded by newer guidance.

AR 4117.7/4317.7 - Employment Status Reports

(AR revised)

Regulation updated pursuant to Education Code 44940 to include a violation or attempted violation of Penal Code 187 (murder) in the definition of a "mandatory leave of absence offense."

BP 4119.24/4219.24/4319.24 - Maintaining Appropriate Adult-Student Interactions

(BP added)

New policy addresses the avoidance of unlawful and inappropriate interactions between staff and students, an employee's responsibility to report another employee's violation of this policy, disciplinary consequences for staff, referral to law enforcement when appropriate, the requirement to post the code of conduct on school and/or district websites, and examples of conduct that are inappropriate or can create the appearance of impropriety.

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BP/AR 4218 - Dismissal/Suspension/Disciplinary Action

(BP added; AR revised)

New policy contains material formerly in AR pertaining to board actions in disciplinary hearings for classified employees and new material consistent with BP 4118 - Dismissal/Suspension/Disciplinary Action for certificated employees. Policy also reflects **NEW LAW (AB 2234, 2018)** which requires the board to delegate its authority to an administrative law judge in cases involving allegations of egregious misconduct with a minor. Regulation updates and consolidates the causes for disciplinary action. Regulation also adds the requirement to set a timeline by which the employee may request a hearing, which must be not less than five days after serving notice upon the employee. Section on "Compulsory Leave of Absence" expanded to define "mandatory" and "optional" leave of absence offenses and reflect requirements pertaining to extension of the leave and compensation during the leave. Material pertaining to merit system districts moved to BP/AR 4218.1 - Dismissal/Suspension/Disciplinary Action (Merit System).

BP/AR 4218.1 - Dismissal/Suspension/Disciplinary Action (Merit System)

(BP/AR added)

New policy and regulation address requirements for disciplinary proceedings for classified employees in merit system districts. BP/AR contain material formerly in AR 4218 - Dismissal/Suspension/Disciplinary Action, and new material consistent with BP/AR 4218 and BP/AR 4118 - Dismissal/Suspension/Disciplinary Action for certificated employees. Policy also reflects **NEW LAW (AB 2234, 2018)** which requires the personnel commission to delegate its authority to an administrative law judge in cases involving allegations of egregious misconduct with a minor.

BP 5123 - Promotion/Acceleration/Retention

(BP revised)

Policy updated to make minor revision reflecting current law pertaining to the requirement to provide remedial instruction to students who are recommended for retention or are identified as being at risk for retention.

BP/AR 5136 - Gangs

(BP/AR revised)

Policy and regulation updated to expand material related to supports and services for students identified as gang members and reflect best practices for gang prevention, intervention, and suppression described in **NEW RESOURCE** from the National Gang Center and in publication from the Los Angeles Police Department.

BP/AR 6142.2 - World Language Instruction

(BP/AR revised)

Policy and regulation retitled to be consistent with terminology used in the Education Code pursuant to **NEW LAW (AB 2319, 2018)**. Policy and regulation updated to reflect **NEW STATE CONTENT STANDARDS** for world language instruction adopted by the State Board of Education in January 2019. Policy also reflects University of California guidance stating that American Sign Language courses may be used to satisfy world language coursework requirements for college admission, and reflects state regulations which require districts to establish a process for receiving and responding to input from parents/guardians and other stakeholders regarding the world language in which instruction will be provided in any program sufficient to produce proficiency in a world language. Regulation also reflects state regulation requiring districts to establish a process for receiving and responding to parent/guardian requests to establish a language acquisition program not currently offered at the school.

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AR 6145.2 - Athletic Competition

(AR revised)

Regulation updated to reflect **NEW LAW (SB 1109, 2018)** which requires districts to annually provide student athletes and their parents/guardians an opioid fact sheet produced by the Centers for Disease Control and Prevention.

BP/AR 6145.6 - International Exchange

(BP/AR revised)

Policy updated to clarify the scope of the policy, separate material pertaining to district students studying in another country and material pertaining to international exchange students studying in district schools, and reflect CSBA Legal Guidance. Policy also addresses student eligibility, information to obtain from the placement organization, and methods that may be used to calculate the total cost of educating an international student for the purpose of determining tuition. Regulation reflects the requirement to provide the placement organization with written acceptance of a student's enrollment, clarifies that a student's enrollment may be for one semester or one year, and adds optional language regarding the provision of a school transcript.

BP/AR 6174 Education for English Learners

(BP/AR revised)

Policy updated to reflect **NEW LAW (AB 2735, 2018)** which prohibits districts from denying English learners the opportunity to enroll in core curricular courses or courses needed for middle school promotion, high school graduation, or college admission. Policy also adds requirement to annually designate a district and site coordinator to oversee administration of the English Language Proficiency Assessments for California (ELPAC). Regulation reflects **NEW STATE REGULATION (Register 2019, No. 1)** which establishes a timeframe for notifying parents/guardians of their child's ELPAC test results when the results are received from the test contractor after the last day of instruction for the school year.

BP 6179 - Supplemental Instruction

(BP revised)

Policy updated to reflect current law requiring the provision of remedial instruction to students who are recommended for retention or are identified as being at risk for retention. Policy also deletes reference to federal Title I program improvement which is no longer operational, and clarifies that schools identified for comprehensive or targeted school improvement may, but are not required to, offer supplemental instruction.

BB/E 9321 - Closed Session

(BB revised; E(1) and E(2) added)

Bylaw retitled and updated to incorporate material formerly in BB 9321.1 - Closed Session Actions and Reports. Bylaw also adds the requirement to provide final documents approved or adopted during closed session to persons who have submitted a request. Section on "Matters Related to Students" provides that student names should not be included on the agenda or reports of expulsion hearings pursuant to court decision. Section on "Security Matters" reflects the board's authority to meet in closed session with law enforcement officials to develop a tactical response plan. Section on "Real Property Negotiations" reflects Attorney General publication stating the board's authority to approve a final real property agreement in closed session. Section on "Pending Litigation" updates legal cites. Exhibit (1) added to provide examples of agenda descriptions of closed session items. Exhibit (2) added to provide examples of reports of closed session actions that must be made when the board reconvenes in open session following the closed session.

BB 9321.1 - Closed Session Actions and Reports

COMPLAINTS CONCERNING DISTRICT EMPLOYEES

The Governing Board recognizes its accountability to the public for the quality of the district's educational program and the performance of district employees. The district shall provide a process by which a complaint submitted by any person regarding an employee can be resolved impartially, expeditiously, and with minimal disruption to district operations and the educational program.

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

The Superintendent or designee shall determine whether a complaint against any other employee should be considered a complaint against the district and/or an individual employee, and whether it should be resolved by the district's process for complaints concerning personnel and/or other district procedures. Any complaint of child abuse or neglect alleged against a district employee shall be reported to the appropriate local agencies in accordance with law and BP 5141.4 - Child Abuse Prevention and Reporting. Any complaint alleging that an employee engaged in unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) in district programs and activities shall be filed in accordance with BP/AR 1312.3 - Uniform Complaint Procedures. Any complaint by an employee, job applicant, volunteer, intern, or independent contractor alleging unlawful discrimination or harassment by an employee shall be filed in accordance with AR 4030 - Nondiscrimination in Employment.

(cf. 1312.2 - Complaints Concerning Instructional Materials)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 3555 - Nutrition Program Compliance)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4144/4244/4344 - Complaints)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

If a complainant requests confidentiality, the Superintendent or designee shall inform the complainant that the request may limit the district's ability to investigate the employee's conduct or take other necessary action. However, the Superintendent or designee shall take all reasonable steps to investigate and resolve the complaint without divulging the complainant's identity.

The Board prohibits retaliation against complainants.

Appeals

The Board's decision shall be final.

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

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

Legal Reference: (see next page)

COMPLAINTS CONCERNING DISTRICT EMPLOYEES (continued)

Legal Reference:

EDUCATION CODE

33308.1 *Guidelines on procedure for filing child abuse complaints*

35146 *Closed sessions*

44031 *Personnel file contents and inspection*

44811 *Disruption of public school activities*

44932-44949 *Resignation, dismissal and leaves of absence (rights of employee; procedures to follow)*

48987 *Child abuse guidelines*

GOVERNMENT CODE

54957 *Closed session; complaints re employees*

54957.6 *Closed session; salaries or fringe benefits*

PENAL CODE

273 *Cruelty or unjustifiable punishment of child*

11164-11174.3 *Child Abuse and Neglect Reporting Act*

WELFARE AND INSTITUTIONS CODE

300 *Minors subject to jurisdiction of juvenile court*

COURT DECISIONS

Baca v. Moreno Valley Unified School District, (1996) 936 F. Supp. 719

Business and Noninstructional Operations

TRANSPORTATION FEES

Whenever the cost of providing student transportation exceeds funding provided by the state, the Governing Board may charge fees for home-to-school student transportation and other transportation services as expressly authorized by law.

(cf. 3260 - Fees and Charges)

(cf. 3540 - Transportation)

The Superintendent or designee shall annually submit proposed transportation fee schedules for Board approval.

The transportation fee shall be waived for students with demonstrated financial need in accordance with Education Code 39807.5. Eligibility for free transportation based on financial need shall be determined in accordance with the income eligibility scales used for the free and reduced-price lunch program.

(cf. 3553 - Free and Reduced Price Meals)

In addition, no charge shall be made for any transportation of a student with a disability whose individualized education program includes transportation as a related service necessary to receive a free appropriate public education. (Education Code 39807.5)

(cf. 3541.2 - Transportation for Students with Disabilities)

(cf. 6159 - Individualized Education Program)

The Board shall certify to the County Superintendent of Schools that the district has levied fees in accordance with law and that, in the event that excess fees have been charged, the fees have been reduced and excess fee revenue eliminated. (Education Code 39809.5)

Legal Reference: (see next page)

TRANSPORTATION FEES (continued)

Legal Reference:

EDUCATION CODE

10900-10914.5 Community recreation program, especially:

10913 Fees for uses of school buses for community recreation purposes

35330 Excursions or field trips

39800-39860 Transportation, especially:

39801.5 Transportation fees for adults

39807.5 Payment of transportation cost; amount of payment

39809.5 Excess fees; adjustments

39837 Fees for summer employment transportation

41850 Home-to-school and special education transportation

49014 Public School Fair Debt Collection Act

49557-49558 Applications for free and reduced-price meals

56026 Individuals with exceptional needs

CODE OF REGULATIONS, TITLE 5

350 Fees not permitted

COURT DECISIONS

Arcadia Unified School District et al v. State Department of Education, 2 Cal. 4th 251 (1992)

Hartzell v. Connell, 35 Cal.3d 899 (1984)

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Pupil Fees, Deposits and Other Charges, Fiscal Management Advisory 17-01, July 28, 2017

WEB SITES

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

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

Business and Noninstructional Operations

TRANSPORTATION FEES

When approved by the Governing Board, the district may charge transportation fees for students traveling to and from school. (Education Code 39807.5)

(cf. 3540 - Transportation)

(cf. 3541 - Transportation Routes and Services)

With Board approval, the district may also charge transportation fees for:

1. Participants in a community recreation program offered pursuant to Education Code 10900-10914.5 (Education Code 10913, 39835)
2. Students traveling between the regular full-time schools they would attend and the regular full-time occupational classes provided by a regional occupational center or program (ROC/P) (Education Code 39807.5)

(cf. 6178.2 - Regional Occupational Center/Program)

3. Matriculated or enrolled adults traveling to and from school, or adults pursuing other educational purposes (Education Code 39801.5)
4. Students traveling to and from their places of employment during the summer in connection with a summer employment program for youth (Education Code 39837)

The total amount received by the district from the state and parent/guardian fees shall not exceed the actual operating cost of home-to-school transportation during the fiscal year. If excess fees are collected due to errors in estimated costs, fees shall be reduced in succeeding years. (Education Code 10913, 39801.5, 39809.5, 39837)

(cf. 3553 - Free and Reduced Price Meals)

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

(cf. 5125 - Student Records)

Business and Noninstructional Operations

TRANSPORTATION

The Governing Board desires to provide for the safe and efficient transportation of students to and from school as necessary to ensure student access to the educational program, promote regular attendance, and reduce tardiness. In determining the extent to which the district will provide transportation services, the Board shall weigh student and community needs against the cost of providing such services.

(cf. 3100 - Budget)
(cf. 3541 - Transportation Routes and Services)
(cf. 3541.1 - Transportation for School-Related Trips)
(cf. 3541.2 - Transportation for Students with Disabilities)
(cf. 5116.1 - Intradistrict Open Enrollment)
(cf. 5117 - Interdistrict Attendance)
(cf. 6178.2 - Regional Occupational Center/Program)

The Superintendent or designee shall recommend to the Board economical, environmentally sustainable, and appropriate means of providing transportation services.

(cf. 3510 - Green School Operations)

The Board may purchase, rent, or lease vehicles; contract with a common carrier or municipally owned transit system; contract with responsible private parties including the parent/guardian of the student being transported; and/or contract with the County Superintendent of Schools. (Education Code 35330, 39800, 39801)

In contracting for transportation services, the district shall comply with all applicable laws related to bids and contracts. (Education Code 39802-39803)

(cf. 3311 - Bids)
(cf. 3312 - Contracts)

In lieu of providing transportation in whole or in part, the district may pay the student's parents/guardians either their actual and necessary expenses in transporting the student or the cost of the student's food and lodging at a place convenient to the school. In either case, the amount of the payment shall not exceed the cost that would be incurred by the district to provide for the transportation of the student to and from school. (Education Code 39806-39807)

The Board may charge a transportation fee to parents/guardians of transported students in accordance with Education Code 39807.5 and BP/AR 3250 - Transportation Fees.

(cf. 3250 - Transportation Fees)

No student shall be required to be transported for any reason without the written permission of the student's parent/guardian, except in emergency situations involving illness or injury to the student pursuant to Education Code 35350 or the evacuation of students as necessary for their safety.

TRANSPORTATION (continued)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

The Superintendent or designee shall develop procedures to promote safety for students traveling on school buses.

(cf. 3543 - Transportation Safety and Emergencies)

(cf. 5131.1 - Bus Conduct)

The district may install a global positioning system (GPS) on school buses and/or student activity buses in order to enhance student safety and provide real-time location data to district and school administrators and parents/guardians.

The Superintendent or designee shall ensure the qualifications of bus drivers and related staff employed by the district, provide for the maintenance and operation of district-owned school buses and other equipment, and ensure adequate facilities for equipment storage and maintenance.

(cf. 3542 - School Bus Drivers)

Legal Reference:

EDUCATION CODE

35330 Excursions and field trips

35350 Authority to transport pupils

39800-39860 Transportation, especially:

39800 Powers of governing board to provide transportation for pupils to and from school; definition of "municipally owned transit system"

39801 Contract with County Superintendent of Schools to provide transportation

39802-39803 Bids and contracts for transportation services

39806 Payments to parents in lieu of transportation

39807 Food and lodging payments in lieu of transportation

39807.5 Transportation fees

39808 District transportation of private school students

41850-41854 Allowances for transportation

41860-41862 Supplemental allowances for transportation

45125.1 Criminal background checks for contractors

52311 Regional occupational centers, transportation

GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act

Legal Reference: (see next page)

TRANSPORTATION (continued)

PENAL CODE

637.7 *Electronic tracking devices*

VEHICLE CODE

2807 *School bus inspection*

CODE OF REGULATIONS, TITLE 5

14100-14103 *Use of school buses and school pupil activity buses*

15240-15343 *Allowances for student transportation, especially:*

15253-15272 *District records related to transportation*

CODE OF REGULATIONS, TITLE 13

2025 *Retrofitting of diesel school buses*

COURT DECISIONS

Arcadia Unified School District et. al. v. State Department of Education, 2 Cal. 4th 251 (1992)

All Personnel

BP 4119.22(a)

4219.22

DRESS AND GROOMING

4319.22

The Governing Board believes that appropriate dress and grooming by district employees contribute to a productive learning environment and model positive behavior. During school hours and at school activities, employees shall maintain professional standards of dress and grooming that demonstrate their high regard for education, present an image consistent with their job responsibilities and assignment, and do not endanger the health or safety of employees or students. All employees shall be held to the same standards unless their assignment provides for modified dress as approved by their supervisor.

(cf. 0415 - Equity)

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

(cf. 4112.21/4212.21/4312.21 - Professional Standards)

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

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

The district shall allow employees to appear and dress in a manner consistent with their gender identity or gender expression. (Government Code 12949)

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

(cf. 4030 - Nondiscrimination in Employment)

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

In addition, the district shall not dismiss an employee, discriminate against an employee in compensation or in terms, conditions, or privileges of employment, or refuse to hire a job applicant on the basis of religious dress or grooming practices. (Government Code 12926, 12940)

This policy shall be presented to employees upon employment, through the employee handbook or other appropriate means, and may be periodically reviewed with all employees as necessary.

Legal Reference: (see next page)

DRESS AND GROOMING (continued)

Legal Reference:

EDUCATION CODE

35160 *Authority of governing boards*

35160.1 *Broad authority of school districts*

GOVERNMENT CODE

3543.2 *Scope of representation*

12926 *Definitions*

12940 *Unfair employment practices*

12949 *Dress standards, consistency with gender identity*

COURT DECISIONS

San Mateo City School District v. PERB (1983) 33 Cal. 3d 850

Domino v. Rapides Parish School Board (5th Cir. 1982) 675 F.2d 100

East Hartford Education Assn. v. Board of Education (2d Cir. 1977) 562 F. 2d 856

Finot v. Pasadena Board of Education (1967) 250 Cal.App.2d 189

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

Santa Ana Unified School District (1998) 22 PERC P29, 136

Inglewood Unified School District (1985) 10 PERC P17, 000

Management Resources:

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING PUBLICATIONS

Transgender Rights in the Workplace

WEB SITES

California Department of Fair Employment and Housing: <https://www.dfeh.ca.gov>

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

BULLYING

The Governing Board recognizes the harmful effects of bullying on student well-being, student learning, and school attendance and desires to provide a safe school environment that protects students from physical and emotional harm. No individual or group shall, through physical, written, verbal, visual, or other means, harass, sexually harass, threaten, intimidate, cyberbully, cause bodily injury to, or commit hate violence against any student or school personnel, or retaliate against them for filing a complaint or participating in the complaint resolution process.

(cf. 5131 - Conduct)

(cf. 5136 - Gangs)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.9 - Hate-Motivated Behavior)

The Superintendent or designee shall develop strategies for addressing bullying in district schools with the involvement of students, parents/guardians, and staff. As appropriate, the Superintendent or designee may also collaborate with social services, mental health services, law enforcement, courts, and other agencies and community organizations in the development and implementation of effective strategies to promote safety in schools and the community.

(cf. 1220 - Citizen Advisory Committees)

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

(cf. 6020 - Parent Involvement)

Such strategies shall be incorporated into the comprehensive safety plan and, to the extent possible, into the local control and accountability plan and other applicable district and school plans.

(cf. 0420 - School Plans/Site Councils)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 0460 - Local Control and Accountability Plan)

Any complaint of bullying shall be investigated and, if determined to be discriminatory, resolved in accordance with law and the district's uniform complaint procedures specified in AR 1312.3. If, during the investigation, it is determined that a complaint is about nondiscriminatory bullying, the principal or designee shall inform the complainant and shall take all necessary actions to resolve the complaint.

(cf. 1312.3 - Uniform Complaint Procedures)

Any employee who permits or engages in bullying or retaliation related to bullying shall be subject to disciplinary action, up to and including dismissal.

BULLYING (continued)

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)
(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Legal Reference:

EDUCATION CODE

200-262.4 *Prohibition of discrimination*
32282 *Comprehensive safety plan*
32283.5 *Bullying; online training*
35181 *Governing board policy on responsibilities of students*
35291-35291.5 *Rules*
48900-48925 *Suspension or expulsion*
48985 *Translation of notices*
52060-52077 *Local control and accountability plan*

PENAL CODE

422.55 *Definition of hate crime*
647 *Use of camera or other instrument to invade person's privacy; misdemeanor*
647.7 *Use of camera or other instrument to invade person's privacy; punishment*
653.2 *Electronic communication devices, threats to safety*

CODE OF REGULATIONS, TITLE 5

4600-4670 *Uniform complaint procedures*

UNITED STATES CODE, TITLE 47

254 *Universal service discounts (e-rate)*

CODE OF FEDERAL REGULATIONS, TITLE 28

35.107 *Nondiscrimination on basis of disability; complaints*

CODE OF FEDERAL REGULATIONS, TITLE 34

104.7 *Designation of responsible employee for Section 504*
106.8 *Designation of responsible employee for Title IX*
110.25 *Notification of nondiscrimination on the basis of age*

COURT DECISIONS

Wynar v. Douglas County School District, (2013) 728 F.3d 1062
J.C. v. Beverly Hills Unified School District, (2010) 711 F.Supp.2d 1094
Lavine v. Blaine School District, (2002) 279 F.3d 719

Management Resources: (see next page)

BULLYING (continued)*Management Resources:*CSBA PUBLICATIONS

Final Guidance: AB 1266, Transgender and Gender Nonconforming Students, Privacy, Programs, Activities & Facilities, Legal Guidance, March 2014

Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014

Addressing the Conditions of Children: Focus on Bullying, Governance Brief, December 2012

Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011

Cyberbullying: Policy Considerations for Boards, Policy Brief, rev. July 2010

Building Healthy Communities: A School Leaders Guide to Collaboration and Community Engagement, 2009

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONSBullying Module

California's Social and Emotional Learning: Guiding Principles, 2018

Social and Emotional Learning in California: A Guide to Resources, 2018

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

Bullying at School, 2003

CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS

Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California K-12 Schools in Responding to Immigration Issues, April 2018

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

Dear Colleague Letter: Responding to Bullying of Students with Disabilities, October 2014

Guidance to America's Schools: Bullying of Students with Disabilities, October 2014

Dear Colleague Letter: Guidance on Schools' Obligations to Protect Students from Student-on-Student Harassment on the Basis of Sex; Race, Color and National Origin; and Disability, October 26, 2010

Dear Colleague Letter: Harassment and Bullying, October 2010

WEB SITES

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

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

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

Center on Great Teachers and Leaders: <https://gtlcenter.org>

Collaborative for Academic Social and Emotional Learning: <https://casel.org>

Common Sense Media: <http://www.common sense media.org>

National School Safety Center: <http://www.schoolsafety.us>

Partnership for Children and Youth: <https://www.partnerforchildren.org>

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

BULLYING**Definitions**

Bullying is an unwanted, aggressive behavior that involves a real or perceived imbalance of power between individuals with the intent to cause emotional or physical harm. Bullying can be physical, verbal, or social/relational and involves repetition or potential repetition of a deliberate act.

Cyberbullying includes the electronic creation or transmission of harassing communications, direct threats, or other harmful texts, sounds, or images. Cyberbullying also includes breaking into another person's electronic account or assuming that person's online identity in order to damage that person's reputation.

(cf. 5145.2 - *Freedom of Speech/Expression*)

(cf. 6163.4 - *Student Use of Technology*)

Measures to Prevent Bullying

The Superintendent or designee shall implement measures to prevent bullying in district schools, including, but not limited to, the following:

1. Ensuring that each school establishes clear rules for student conduct and implements strategies to promote a positive, collaborative school climate

(cf. 5131 - *Conduct*)

(cf. 5137 - *Positive School Climate*)

2. Providing to students, through student handbooks and other age-appropriate means, information about district and school rules related to bullying, mechanisms available for reporting incidents or threats, and the consequences for engaging in bullying
3. Encouraging students to notify school staff when they are being bullied or when they suspect that another student is being bullied, and providing means by which students may report threats or incidents confidentially and anonymously
4. Conducting an assessment of bullying incidents at each school and, if necessary, increasing supervision and security in areas where bullying most often occurs, such as classrooms, playgrounds, hallways, restrooms, and cafeterias
5. Annually notifying district employees that, pursuant to Education Code 234.1, any school staff who witnesses an act of bullying against a student has a responsibility to immediately intervene to stop the incident when it is safe to do so

BULLYING (continued)

Staff Development

The Superintendent or designee shall provide training to teachers and other school staff to raise their awareness about the legal obligation of the district and its employees to prevent discrimination, harassment, intimidation, and bullying of district students. Such training shall be designed to provide staff with the skills to:

1. Discuss the diversity of the student body and school community, including their varying immigration experiences
2. Discuss bullying prevention strategies with students, and teach students to recognize the behavior and characteristics of bullying perpetrators and victims
3. Identify the signs of bullying or harassing behavior
4. Take immediate corrective action when bullying is observed
5. Report incidents to the appropriate authorities, including law enforcement in instances of criminal behavior

Student Instruction

As appropriate, the district shall provide students with instruction, in the classroom or other educational settings, that promotes social-emotional learning, effective communication and conflict resolution skills, character/values education, respect for cultural and individual differences, self-esteem development, assertiveness skills, and appropriate online behavior.

(cf. 6142.8 - Comprehensive Health Education)
(cf. 6142.94 - History-Social Science Instruction)

The district shall also educate students about the negative impact of bullying, discrimination, intimidation, and harassment based on actual or perceived immigration status, religious beliefs and customs, or any other individual bias or prejudice.

Students should be taught the difference between appropriate and inappropriate behaviors, how to advocate for themselves, how to help another student who is being bullied, and when to seek assistance from a trusted adult. As role models for students, staff shall be expected to demonstrate effective problem-solving and anger management skills.

To discourage cyberbullying, teachers may advise students to be cautious about sharing passwords, personal data, or private photos online and to consider the consequences of making negative comments about others online.

BULLYING (continued)

Reporting and Filing of Complaints

Any student, parent/guardian, or other individual who believes that a student has been subjected to bullying or who has witnessed bullying may report the incident to a teacher, the principal, the Assistant Superintendent of Human Resources and Administrative Services, or any other available school employee.

A report of bullying form is first submitted to the site Administrator. The student who is the alleged victim of the bullying shall be given an opportunity to describe the incident, identify witnesses who may have relevant information, and provide other evidence of bullying. If the issue is not resolved at the school site, the parent/guardian can contact the District compliance officer for further remedy and information of the right to file a formal written complaint in accordance with AR 13123 – U.C.P.

(cf. 1312.3 - Uniform Complaint Procedures)

In addition, any school employee who observes an incident of bullying involving a student shall, within one business day, report such observation to the Site Administrator, whether or not the alleged victim files a complaint. Within two business days of receiving a report of bullying, the Site Administrator shall investigate the report.

When the circumstances involve cyberbullying, individuals with information about the activity shall be encouraged to save and print any electronic or digital messages that they feel constitute cyberbullying and to notify a teacher, the principal, or other employee so that the matter may be investigated. When a student uses a social networking site or service to bully or harass another student, the Superintendent or designee may file a request with the networking site or service to suspend the privileges of the student and to have the material removed.

Discipline/Corrective Actions

Corrective actions for a student who commits an act of bullying of any type may include counseling, behavioral intervention and education, and, if the behavior is severe or pervasive as defined in Education Code 48900, may include suspension or expulsion in accordance with district policies and regulations.

(cf. 5138 - Conflict Resolution/Peer Mediation)

(cf. 5144 - Discipline)

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

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

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

When appropriate based on the severity or pervasiveness of the bullying, the Superintendent or designee shall notify the parents/guardians of victims and perpetrators and may contact law enforcement.

BULLYING (continued)

The Superintendent, principal, or principal's designee may refer a victim, witness, perpetrator, or other student affected by an act of bullying to a school counselor, school psychologist, social worker, child welfare attendance personnel, school nurse, or other school support service personnel for case management, counseling, and/or participation in a restorative justice program as appropriate. (Education Code 48900.9)

(cf. 6164.2 - Guidance/Counseling Services)

If any student involved in bullying exhibits warning signs of suicidal thought or intention or of intent to harm another person, the Superintendent or designee shall, as appropriate, implement district intervention protocols which may include, but are not limited to, referral to district or community mental health services, other health professionals, and/or law enforcement.

(cf. 5141.52 - Suicide Prevention)

DRESS AND GROOMING

The Governing Board believes that appropriate dress and grooming contribute to a productive learning environment. The Board expects students to wear clothing that is suitable for the school activities in which they participate. Students shall not wear clothing that presents a health or safety hazard or is likely to cause a substantial disruption to the educational program.

(cf. 4119.22/4219.22/4319.22 - Dress and Grooming)

District and school rules pertaining to student attire shall be included in student handbooks, may be posted in school offices and classrooms, and may be periodically reviewed with all students as necessary.

Students shall not be prohibited from dressing in a manner consistent with their gender identity or gender expression or with their religious or cultural observance.

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

The principal or designee is authorized to enforce this policy and shall inform any student who does not reasonably conform to the dress code. The dress code shall not be enforced in a manner that discriminates against a particular viewpoint or results in a disproportionate application of the dress code based on students' gender, sexual orientation, race, ethnicity, household income, or body type or size.

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

(cf. 0415 - Equity)

(cf. 5145.2 - Freedom of Speech/Expression)

School administrators, teachers, and other staff shall be notified of appropriate and equitable enforcement of the dress code.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

When practical, students shall not be directed to correct a dress code violation during instructional time or in front of other students.

Repeated violations or refusal to comply with the district's dress code may result in disciplinary action.

(cf. 5144 - Discipline)

DRESS AND GROOMING (continued)**Gang-Related Apparel**

The principal, staff, and parents/guardians at a school may establish a reasonable dress code that prohibits students from wearing gang-related apparel when there is evidence of a gang presence that disrupts or threatens to disrupt the school's activities. Such a proposed dress code shall be presented to the Board, which shall approve the plan upon determining that it is necessary to protect the health and safety of the school environment. The dress code policy may be included in the school's comprehensive safety plan. (Education Code 35183)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 5136 - Gangs)

When determining specific items of clothing that may be defined as gang apparel, the school shall ensure that the determination is free from bias based on race, ethnicity, national origin, immigration status, or other protected characteristics.

*Legal Reference:*EDUCATION CODE

220 Nondiscrimination

32281 School safety plans

35183 School dress codes; uniforms

35183.5 Sun-protective clothing

48907 Student exercise of free expression

49066 Grades; effect of physical education class apparel

COURT DECISIONS

Jacobs v. Clark County School District, (2008) 26 F. 3d 419

Harper v. Poway Unified School District, (2006) 445 App. 3d 166

Marvin H. Jeglin et al v. San Jacinto Unified School District et al, (C.D. Cal. 1993)

827 F.Supp. 1459

Arcadia Unified School District v. California Department of Education, (1992) 2 Cal. 4th 251

Hazelwood School District v. Kuhlmeier, (1988) 108 S. Ct. 562

Hartzell v. Connell, (1984) 35 Cal. 3d 899

Tinker v. Des Moines Independent Community School District, (1969) 393 U.S. 503

DRESS AND GROOMING

In cooperation with teachers, students, and parents/guardians, the principal or designee may establish school rules governing student dress and grooming which are consistent with law, Board policy, and administrative regulations. These school dress codes shall be regularly reviewed.

(cf. 0420 - School Plans/Site Councils)

The following guidelines shall apply to all regular school activities:

1. Clothing, jewelry, and personal items shall be free of writing, pictures, or any other insignia which is vulgar, lewd, obscene, profane, or sexually suggestive or which promotes the use of alcohol, drugs, tobacco, or other illegal activity.
2. Appropriate shoes must be worn at all times.
3. Hats, caps, and other head coverings shall not be worn indoors.
4. Clothes shall be sufficient to conceal undergarments. See-through tops and bare abdomens are prohibited.

The dress code shall be modified as appropriate to accommodate a student's religious or cultural observance, health condition, or other circumstance deemed necessary by the principal or designee. In addition, the principal or designee may impose dress requirements to accommodate the needs of special school activities, physical education classes, athletic activities, and other extracurricular and cocurricular activities.

(cf. 3260 - Fees and Charges)

(cf. 6142.7 - Physical Education and Activity)

(cf. 6145 - Extracurricular and Cocurricular Activities)

(cf. 6145.2 - Athletic Competition)

No grade of a student participating in a physical education class shall be adversely affected if the student does not wear standardized physical education apparel because of circumstances beyond the student's control. (Education Code 49066)

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

Students shall be allowed to wear sun-protective clothing, including but not limited to hats, for outdoor use during the school day. (Education Code 35183.5)

(cf. 5141.7 - Sun Safety)

DRESS AND GROOMING (continued)

Gang-Related Apparel

At individual schools that have a dress code prohibiting gang-related apparel at school or school activities, the principal, staff, and parents/guardians participating in the development of the school safety plan shall define "gang-related apparel" and shall limit this definition to apparel that reasonably could be determined to threaten the health and safety of the school environment if it were worn or displayed on a school campus. (Education Code 32282)

Because gang-related symbols are constantly changing, definitions of gang-related apparel shall be reviewed at least once each semester and updated whenever related information is received. As necessary, the school shall collaborate with law enforcement agencies to update definitions of gang-related apparel.

SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION

The Governing Board desires to provide a well-planned, integrated sequence of medically accurate and inclusive instruction on comprehensive sexual health and human immunodeficiency virus (HIV) prevention. The district's educational program shall address the goals of the California Healthy Youth Act pursuant to Education Code 51930-51939, including providing students with the knowledge and skills necessary to protect them from risks presented by sexually transmitted infections, unintended pregnancy, sexual harassment, sexual assault, sexual abuse, and human trafficking and to have healthy, positive, and safe relationships and behaviors. The district's educational program shall also promote students' understanding of sexuality as a normal part of human development and their development of healthy attitudes and behaviors concerning adolescent growth and development, body image, gender, gender identity, gender expression, sexual orientation, relationships, marriage, and family.

(cf. 5030 - Student Wellness)

(cf. 5141.22 - Infectious Diseases)

(cf. 5141.25 - Availability of Condoms)

(cf. 5146 - Married/Pregnant/Parenting Students)

(cf. 6142.8 - Comprehensive Health Education)

The district shall respect the rights of parents/guardians to supervise their children's education on these subjects and to impart values regarding human sexuality to their children.

Comprehensive sexual health education and HIV prevention education shall be offered to all students in grades 7-8 at least once in junior high or middle school (Education Code 51934)

(cf. 6143 - Courses of Study)

The district's comprehensive sexual health education program shall include information on the affirmative consent standard. *Affirmative consent* is defined as affirmative, conscious, and voluntary agreement to engage in sexual activity. Teachers delivering such instruction shall consult information related to sexual harassment and violence in the state health curriculum framework. (Education Code 51225.36, 67386)

The Superintendent or designee shall identify appropriate methods for informing the school community about subjects related to the district's comprehensive sexual health and HIV prevention education. The Superintendent or designee shall use such identified methods to inform parents/guardians of students in grades 6-12 about human trafficking prevention resources, as required pursuant to Education Code 49381.

Parent/Guardian Consent

At the beginning of each school year or at the time of a student's enrollment, parents/guardians shall be notified, in the manner specified in the accompanying

SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION (continued)

administrative regulation, that they may request in writing that their child be excused from participating in comprehensive sexual health and HIV prevention education. Students so excused by their parents/guardians shall be given an alternative educational activity. (Education Code 51240, 51938, 51939)

(cf. 5022 - Student and Family Privacy Rights)

A student shall not be subject to disciplinary action, academic penalty, or other sanction if the student's parent/guardian declines to permit the student to receive the instruction. (Education Code 51939)

Legal Reference:

EDUCATION CODE

220 Prohibition of discrimination

33544 Inclusion of sexual harassment and violence in health curriculum framework

48980 Notice at beginning of term

49381 Human trafficking prevention resources

51202 Instruction in personal and public health and safety

51210.8 Health education curriculum

51225.36 Instruction in sexual harassment and violence; districts that require health education for graduation

51240 Excuse from instruction due to religious beliefs

51513 Test, questionnaire, survey, or examination containing questions about beliefs or practices

51930-51939 California Healthy Youth Act

51950 Abuse, sexual abuse, and human trafficking prevention education

67386 Student safety; affirmative consent standard

HEALTH AND SAFETY CODE

1255.7 Parents surrendering physical custody of a baby

PENAL CODE

243.4 Sexual battery

261.5 Unlawful sexual intercourse

271.5 Parents voluntarily surrendering custody of a baby

UNITED STATES CODE, TITLE 20

1232h Protection of student rights

7906 Sex education requirements and prohibited use of funds

Management Resources: (see next page)

SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION (continued)

Management Resources:

CSBA PUBLICATIONS

Promoting Healthy Relationships for Adolescents: Board Policy Considerations, Governance Brief, August 2014

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Health Education Content Standards for California Public Schools, Kindergarten Through Grade 12, 2008

Health Framework for California Public Schools: Kindergarten through Grade 12, 2003

HUMAN RIGHTS CAMPAIGN FOUNDATION PUBLICATIONS

California LGBTQ Youth Report, January 2019

WEB SITES

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

California Department of Education, Sex Education and HIV/AIDS/STD Instruction: <http://www.cde.ca.gov/ls/he/se>

California Department of Public Health: <http://www.cdph.ca.gov>

California Healthy Kids Resource Center: <http://www.californiahealthykids.org>

California Partnership to End Domestic Violence: <http://www.cpedv.org>

California Safe Schools Coalition: <http://www.casafeschools.org>

Centers for Disease Control and Prevention: <http://www.cdc.gov>

Human Rights Campaign: <https://www.hrc.org/hrc-story/hrc-foundation>

U.S. Food and Drug Administration: <http://www.fda.gov>

SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION**Definitions**

Comprehensive sexual health education means education regarding human development and sexuality, including education on pregnancy, contraception, and sexually transmitted infections. (Education Code 51931)

HIV prevention education means instruction on the nature of human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS), methods of transmission, strategies to reduce the risk of HIV infection, and social and public health issues related to HIV and AIDS. (Education Code 51931)

(cf. 6142.8 - *Comprehensive Health Education*)

(cf. 6143 - *Courses of Study*)

Age appropriate refers to topics, messages, and teaching methods suitable to particular ages or age groups of children and adolescents, based on developing cognitive, emotional, and behavioral capacity typical for the age or age group. (Education Code 51931)

Medically accurate means verified or supported by research conducted in compliance with scientific methods and published in peer-reviewed journals, where appropriate, and recognized as accurate and objective by professional organizations and agencies with expertise in the relevant field, such as the federal Centers for Disease Control and Prevention, the American Public Health Association, the American Academy of Pediatrics, and the American College of Obstetricians and Gynecologists. (Education Code 51931)

General Criteria for Instruction and Materials

The Superintendent or designee shall ensure that the district's comprehensive sexual health and HIV prevention instruction and materials: (Education Code 51933)

1. Are age appropriate
2. Are medically accurate and objective
3. Are aligned with and support the following purposes as specified in Education Code 51930:
 - a. To provide students with the knowledge and skills necessary to protect their sexual and reproductive health from HIV and other sexually transmitted infections and from unintended pregnancy
 - b. To provide students with the knowledge and skills they need to develop healthy attitudes concerning adolescent growth and development, body image, gender, sexual orientation, relationships, marriage, and family

SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION (continued)

- c. To promote understanding of sexuality as a normal part of human development
 - d. To ensure students receive integrated, comprehensive, accurate, and unbiased sexual health and HIV prevention instruction and provide educators with clear tools and guidance to accomplish that end
 - e. To provide students with the knowledge and skills necessary to have healthy, positive, and safe relationships and behaviors
4. Are appropriate for use with English learners, students with disabilities, and students of all races, genders, sexual orientations, and ethnic and cultural backgrounds

(cf. 6174 - Education for English Learners)

5. Are available on an equal basis to a student who is an English learner, consistent with the existing curriculum and alternative options for an English learner as otherwise provided in the Education Code
6. Are accessible to students with disabilities, including, but not limited to, the provision of a modified curriculum, materials, and instruction in alternative formats and auxiliary aids

(cf. 6159 - Individualized Education Program)

7. Do not reflect or promote bias against any person in protected categories of discrimination pursuant to Education Code 220

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

(cf. 1312.3 - Uniform Complaint Procedures)

8. Affirmatively recognize that people have different sexual orientations and, when discussing or providing examples of relationships and couples, shall be inclusive of same-sex relationships
9. Teach students about gender, gender expression, and gender identity, and explore the harm of negative gender stereotypes
10. Encourage students to communicate with their parents/guardians and other trusted adults about human sexuality and provide the knowledge and skills necessary to do so
11. Teach the value of and prepare students to have and maintain committed relationships such as marriage

SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION (continued)

12. Provide students with knowledge and skills they need to form healthy relationships that are based on mutual respect and affection and are free from violence, coercion, harassment, and intimidation

(cf. 5145. 3 - Nondiscrimination/Harassment)

13. Provide students with knowledge and skills for making and implementing healthy decisions about sexuality, including communication and refusal skills to assist students in overcoming peer pressure and using effective decision-making skills to avoid high-risk activities

14. Do not teach or promote religious doctrine

Components of Sexual Health and HIV Prevention Education

The district's comprehensive sexual health education and HIV prevention education for students in grades 7-12, in addition to complying with the criteria listed above in the section "General Criteria for Instruction and Materials," shall include all of the following: (Education Code 51934)

1. Information on the nature of HIV and other sexually transmitted infections and their effects on the human body
2. Information on the manner in which HIV and other sexually transmitted infections are and are not transmitted, including information on the relative risk of infection according to specific behaviors, including sexual behaviors and injection drug use
3. Information that abstinence from sexual activity and injection drug use is the only certain way to prevent HIV and other sexually transmitted infections, and that abstinence from sexual intercourse is the only certain way to prevent unintended pregnancy

The instruction shall provide information about the value of delaying sexual activity while also providing medically accurate information on other methods of preventing HIV and other sexually transmitted infections and pregnancy.

(cf. 5141.25 - Availability of Condoms)

(cf. 5146 - Married/Pregnant/Parenting Students)

4. Information about the effectiveness and safety of all federal Food and Drug Administration (FDA) approved methods that prevent or reduce the risk of contracting HIV and other sexually transmitted infections, including use of antiretroviral medication, consistent with the Centers for Disease Control and Prevention

SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION (continued)

5. Information about the effectiveness and safety of reducing the risk of HIV transmission as a result of injection drug use by decreasing needle use and needle sharing
6. Information about the treatment of HIV and other sexually transmitted infections, including how antiretroviral therapy can dramatically prolong the lives of many people living with HIV and reduce the likelihood of transmitting HIV to others
7. Discussion about social views on HIV and AIDS, including addressing unfounded stereotypes and myths regarding HIV and AIDS and people living with HIV

This instruction shall emphasize that successfully treated HIV-positive individuals have a normal life expectancy, all people are at some risk of contracting HIV, and testing is the only way to know if one is HIV-positive.

8. Information about local resources, how to access local resources, and students' legal rights to access local resources for sexual and reproductive health care such as testing and medical care for HIV and other sexually transmitted infections and pregnancy prevention and care, as well as local resources for assistance with sexual assault and intimate partner violence
9. Information about the effectiveness and safety of FDA-approved contraceptive methods in preventing pregnancy, including, but not limited to, emergency contraception. Instruction on pregnancy shall include an objective discussion of all legally available pregnancy outcomes, including, but not limited to:
 - a. Parenting, adoption, and abortion
 - b. Information on the law on surrendering physical custody of a minor child 72 hours of age or younger, pursuant to Health and Safety Code 1255.7 and Penal Code 271.5
 - c. The importance of prenatal care
10. Information about sexual harassment, sexual assault, sexual abuse, and human trafficking, including:
 - a. Information on the prevalence and nature of human trafficking, strategies to reduce the risk of human trafficking, techniques to set healthy boundaries, and how to safely seek assistance if there is a suspicion of trafficking
 - b. Information on how social media and mobile device applications are used for human trafficking

SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION (continued)

11. Information about adolescent relationship abuse and intimate partner violence, including the early warning signs of each

The district's comprehensive sexual health education and HIV prevention education shall include instruction regarding the potential risks and consequences of creating and sharing suggestive or sexually explicit materials through cell phones, social networking web sites, computer networks, or other digital media. (Education Code 51934)

Professional Development

The district's comprehensive sexual health education and HIV prevention education shall be provided by instructors trained in the appropriate courses who are knowledgeable of the most recent medically accurate research on human sexuality, healthy relationships, pregnancy, and HIV and other sexually transmitted infections. (Education Code 51931, 51934)

The Superintendent or designee shall cooperatively plan and conduct in-service training for all district personnel who provide HIV prevention education, through regional planning, joint powers agreements, or contract services. (Education Code 51935)

(cf. 4131 - Staff Development)

In developing and providing in-service training, the Superintendent or designee shall cooperate and collaborate with the teachers who provide HIV prevention education and with the California Department of Education (CDE). (Education Code 51935)

The district shall periodically conduct in-service training to enable district personnel to learn new developments in the scientific understanding of HIV. In-service training shall be voluntary for personnel who have demonstrated expertise or received in-service training from the CDE or Centers for Disease Control and Prevention. (Education Code 51935)

The Superintendent or designee may expand HIV in-service training to cover the topic of comprehensive sexual health education in order for district personnel teaching comprehensive sexual health education to learn new developments in the scientific understanding of sexual health. (Education Code 51935)

The Superintendent or designee shall periodically provide continuing education that enables district personnel to learn about new developments in the understanding of abuse, including sexual abuse, and human trafficking and current prevention efforts and methods. Such education may include early identification of abuse, including sexual abuse, and human trafficking of students and minors. (Education Code 51950)

SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION (continued)**Use of Consultants or Guest Speakers**

The Superintendent or designee may contract with outside consultants or guest speakers, including those who have developed multilingual curricula or curricula accessible to persons with disabilities, to deliver comprehensive sexual health and HIV prevention education or to provide training for district personnel. All outside consultants and guest speakers shall have expertise in comprehensive sexual health education and HIV prevention education and knowledge of the most recent medically accurate research on the relevant topic(s) covered in the instruction. The Superintendent or designee shall ensure that any instruction provided by an outside speaker or consultant complies with Board policy, administrative regulation, and Education Code 51930-51939. (Education Code 51933, 51934, 51936)

(cf. 6145.8 - Assemblies and Special Events)

Parent/Guardian Notification

At the beginning of each school year or at the time of a student's enrollment, the Superintendent or designee shall notify parents/guardians about instruction in comprehensive sexual health education and HIV prevention education, as well as research on student health behaviors and risks, planned for the coming year. The notice shall advise parents/guardians: (Education Code 48980, 51938)

1. That written and audiovisual educational materials to be used in comprehensive sexual health and HIV prevention education are available for inspection
2. That parents/guardians have a right to excuse their child from comprehensive sexual health or HIV prevention education, or research on student health behaviors and risks, provided they submit their request in writing to the district
3. That parents/guardians have a right to request a copy of Education Code 51930-51939
4. Whether the comprehensive sexual health or HIV prevention education will be taught by district personnel or outside consultants and, if the district chooses to use outside consultants or guest speakers for this purpose, the following information:
 - a. The date of the instruction
 - b. The name of the organization or affiliation of each guest speaker
 - c. Information stating the right of the parent/guardian to request a copy of Education Code 51933, 51934, and 51938

SEXUAL HEALTH AND HIV/AIDS PREVENTION INSTRUCTION (continued)

If the arrangements for instruction by outside consultants or guest speakers are made after the beginning of the school year, the Superintendent or designee shall notify parents/guardians by mail or another commonly used method of notification no fewer than 14 days before the instruction is given.

(cf. 5145.6 - Parental Notifications)

Nonapplicability to Certain Instruction or Materials

The requirements of Education Code 51930-51939 pertaining to instructional content, teacher training, and parental notification and consent shall not apply to the following: (Education Code 51932)

1. A description or illustration of human reproductive organs that may appear in a textbook, adopted pursuant to law, if the textbook does not include other elements of comprehensive sexual health education or HIV prevention education as defined in Education Code 51931

(cf. 6142.93 - Science Instruction)

2. Instruction, materials, presentations, or programming that discusses gender, gender identity, gender expression, sexual orientation, discrimination, harassment, bullying, intimidation, relationships, or family and does not discuss human reproductive organs and their functions

Instruction

VISUAL AND PERFORMING ARTS EDUCATION

The Superintendent or designee shall develop a sequential curriculum for dance, media arts, music, theatre, and visual arts which is consistent with the state curriculum framework and includes the following artistic processes:

1. Creating: conceiving and developing new artistic ideas and work
2. Performing/producing/presenting: realizing artistic ideas and work through interpretation and presentation
3. Responding: understanding and evaluating how the arts convey meaning
4. Connecting: relating artistic ideas and work with personal meaning and external content

(cf. 6141 - Curriculum Development and Evaluation)

The Board shall adopt standards-based instructional materials for visual and performing arts which may incorporate a variety of media and technologies.

(cf. 0440 - District Technology Plan)
(cf. 1312.2 - Complaints Concerning Instructional Materials)
(cf. 6161.1 - Selection and Evaluation of Instructional Materials)
(cf. 6161.11 - Supplementary Instructional Materials)
(cf. 6162.6 - Use of Copyrighted Materials)
(cf. 6163.1 - Library Media Centers)

As appropriate, the Superintendent or designee shall provide a standards-based professional development program designed to increase teachers' knowledge of and ability to teach the arts and to implement the district's arts education program.

(cf. 4131 - Staff Development)

The Superintendent or designee shall encourage the integration of community arts resources into the educational program. Such resources may include opportunities for students to attend musical and theatrical performances, observe the works of accomplished artists, and work directly with artists-in-residence and volunteers. In addition, the Superintendent or designee may collaborate with community organizations to share resources and seek grant opportunities.

(cf. 1230 - School-Connected Organizations)
(cf. 1240 - Volunteer Assistance)
(cf. 1260 - Educational Foundation)
(cf. 1700 - Relations Between Private Industry and the Schools)
(cf. 3290 - Gifts, Grants and Bequests)
(cf. 6020 - Parent Involvement)
(cf. 6153 - School-Sponsored Trips)

VISUAL AND PERFORMING ARTS EDUCATION (continued)

The Superintendent or designee shall regularly evaluate the implementation of the district's arts education program at each grade level and report to the Board regarding its effectiveness in enabling students to meet academic standards.

(cf. 0500 - Accountability)

(cf. 6162.5 - Student Assessment)

Legal Reference:

EDUCATION CODE

8950-8957 *California summer school for the arts*

32060-32066 *Toxic art supplies*

35330-35332 *Field trips*

51210 *Course of study, grades 1-6*

51220 *Course of study, grades 7-12*

51225.3 *Graduation requirements*

58800-58805 *Specialized secondary programs*

60200-60213 *Instructional materials, elementary schools*

60400-60411 *Instructional materials, high schools*

99200-99204 *Subject matter projects*

Management Resources:

CALIFORNIA ALLIANCE FOR ARTS EDUCATION PUBLICATIONS

Parents' Guide to the Visual and Performing Arts in California Public Schools

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

California Arts Framework for Public Schools, Kindergarten through Grade Twelve

California Arts Standards for Public Schools, Prekindergarten through Grade Twelve, January 2019

WEB SITES:

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

Arts Education Partnership: <http://aep-arts.org>

California Alliance for Arts Education: <http://www.artsed411.org>

California Arts Council: <http://www.cac.ca.gov>

California Art Education Association: <http://www.caea-arteducation.org>

California Association for Music Education: <http://www.actaonline.org/content/california-association-music-education>

California Dance Education Association: <http://www.cdeadance.org>

California Department of Education, Visual and Performing Arts: <http://www.cde.ca.gov/ci/vp>

California Educational Theatre Association: <http://www.cetoweb.org>

California Music Educators Association: <http://www.calmusiced.com>

The California Arts Project: <http://csmp.ucop.edu/tcap>

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)

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 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 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.

FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)

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)

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)

FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)

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

(cf. 1340 - Access to District Records)

(cf. 3580 - District Records)

FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)

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 45 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.

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. (Health and Safety Code 114079)

FOOD SERVICE OPERATIONS/CAFETERIA FUND (continued)

(cf. 3510 - Green School Operations)

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)

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)

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>

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)

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

EDUCATION FOR ENGLISH LEARNERS (continued)

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.

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

EDUCATION FOR ENGLISH LEARNERS (continued)

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:

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)

EDUCATION FOR ENGLISH LEARNERS (continued)*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

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)

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:

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)

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)

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

Legal Reference continued: (see next page)

CLOSED SESSION (continued)

Legal Reference: (continued)

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*

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>