

## **POLICY GUIDE SHEET**

### **July 2020**

#### **Board Policy 3555 - Nutrition Program Compliance**

Policy updated to reflect **NEW STATE REGULATIONS** (Register 2020, No. 21) which provide that complaints regarding meal counting and claiming, reimbursable meals, eligibility of children or adults, or use of cafeteria funds and allowable expenses should be submitted directly to the California Department of Education (CDE), and complaints alleging discrimination on the basis of race, color, national origin, sex, age, or disability should be submitted to the U.S. Department of Agriculture (USDA). Complaints regarding other program requirements or other bases for discrimination are to be investigated and resolved at the district level. Policy also deletes the USDA nondiscrimination statement that must be included on all forms of communication regarding program availability, which is now presented in the accompanying exhibit.

#### **NEW - Exhibit 3555 - Nutrition Program Compliance**

New exhibit presents the USDA statement, formerly in BP 3555, which must be included on all forms of communication available to the public regarding the availability of child nutrition programs in order to advise the public of the district's status as an equal opportunity provider and the address of the agency with responsibility to handle complaints against the district.

#### **Administrative Regulation 4030 - Nondiscrimination in Employment**

Regulation updated to reflect **NEW FEDERAL REGULATIONS (85 Fed. Reg. 30026)** which require that allegations of sexual harassment that meet the federal definition be investigated through Title IX complaint procedures, as described in AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures, rather than the complaint procedures detailed in this regulation.

#### **Board Policy 4119.11/4219.11/4319.11 - Sexual Harassment**

Policy updated to reflect **NEW FEDERAL REGULATIONS (85 Fed. Reg. 30026)** which require that complaints of behavior that meets the federal definition of sexual harassment be addressed through new Title IX complaint procedures. Title of compliance officer changed to Title IX Coordinator pursuant to federal regulations, and responsibility assigned to Title IX Coordinator to receive complaints and determine the appropriate complaint procedure to use.

#### **Administrative Regulation 4119.11/4219.11/4319.11 - Sexual Harassment**

Regulation updated to reflect **NEW LAW (SB 778, 2019)** which (1) requires a district with five or more employees to provide two hours of sexual harassment training to supervisory employees and one hour of sexual harassment training to nonsupervisory employees by January 1, 2021 and every two years thereafter, and (2) requires new nonsupervisory employees and employees promoted to supervisory positions to receive the training within six months of hire or promotion. Regulation also reflects **NEW FEDERAL REGULATIONS (85 Fed. Reg. 30026)** which require the district to designate a Title IX Coordinator and disseminate the Coordinator's contact information.

#### **NEW - Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures**

New regulation reflects **NEW FEDERAL REGULATIONS (85 Fed. Reg. 30026)** which establish a Title IX complaint procedure for addressing complaints of behavior that meets the federal definition of sexual harassment. Regulation describes the types of behavior subject to these complaint procedures, the process for filing a complaint with the Title IX Coordinator, the requirement to offer supportive measures to the complainant, the option for the parties to participate in an informal resolution process, required notifications, the investigation process, issuance of a written decision, the right to appeal the decision, and the requirement to maintain records of sexual harassment complaints and training materials for seven years.

#### **Board Policy 5141.22 - Infectious Diseases**

Policy reflects **NEW LAW (AB 262, 2019)** which requires local health officers to notify and update districts of an outbreak, or imminent outbreak, of a communicable disease and requires districts to comply

with any orders issued by the health officers and all applicable privacy laws. Policy also clarifies that any allowable exclusions apply only to on-campus instruction and provides that the superintendent or designee will, when necessary, inform the local health official of any potential outbreak.

#### **Administrative Regulation 5141.22 - Infectious Diseases**

Regulation updated to add section on "Prevention and Mitigation Plan" reflecting general best practices based on COVID-19 guidance. Regulation also adds recommendations from CDE's Science Safety Handbook pertaining to experiments involving human blood sampling.

#### **Administrative Regulation 5145.3 - Nondiscrimination/Harassment**

Regulation updated to reflect **NEW FEDERAL REGULATIONS (85 Fed. Reg. 30026)** which require that allegations of sexual harassment that meet the federal definition be investigated through Title IX complaint procedures, as described in AR 5145.71 - Title IX Sexual Harassment Complaint Procedures, rather than the district's uniform complaint procedures.

#### **Board Policy 5145.6 - Parental Notifications**

Policy updated for gender neutrality and to update legal references based on new laws reflected in the accompanying exhibit.

#### **Exhibit 5145.6 - Parental Notifications**

Exhibit updated to reflect **NEW LAW (SB 74, 2020)** which extends the suspension of certain mandated activities through the 2020-21 school year; reflect **NEW FEDERAL REGULATION (85 Fed. Reg. 30026)** which requires notice of the contact information of the district's Title IX Coordinator; delete legal cites for the Open Enrollment Act, which is no longer operational; delete reference to BP 5141.33 which is no longer applicable to exclusions from school; reflect **NEW LAW (SB 1109, 2018)** which requires dissemination of an opioid fact sheet to parents/guardians of student athletes; reflect **NEW LAW (AB 2370, 2018)** which requires child care centers with buildings constructed before 2010 to test drinking water for lead and notify parents/guardians of the results of that test; add notice requirements for districts receiving Impact Aid for children residing on Indian lands; reflect **NEW FEDERAL REGULATION (85 Fed. Reg. 30026)** which requires notifications to the parents/guardians of a student who complains of sexual harassment regarding rights, the complaint process, and the availability of supportive measures; and move the classroom notice requirement pertaining to complaints about health and safety in California State Preschool Programs to AR/E 1312.3 - Uniform Complaint Procedures consistent with CDE's Federal Program Monitoring instrument.

#### **Board Policy 5145.7 - Sexual Harassment**

Policy updated to include examples of actions to reinforce the district's sexual harassment policy, consistent with **NEW LAW (AB 34, 2019)** which requires posting the sexual harassment policy on the district's web site and **NEW LAW (AB 543, 2019)** which requires displaying a poster and providing the sexual harassment policy in student orientations. Policy also reflects **NEW FEDERAL REGULATIONS (85 Fed. Reg. 30026)** which require that complaints of behavior that meets the federal definition of sexual harassment be addressed through new Title IX complaint procedures. Title of compliance officer changed to Title IX Coordinator throughout policy pursuant to federal regulations.

#### **Administrative Regulation 5145.7 - Sexual Harassment**

Regulation updated to reflect **NEW FEDERAL REGULATIONS (85 Fed. Reg. 30026)** which amend the process for resolving complaints of sexual harassment, including, but not limited to, requirements to designate a Title IX Coordinator and disseminate the Coordinator's contact information. Regulation also reflects **NEW LAW (AB 543, 2019)** which requires the district to create a poster notifying students of the district's sexual harassment policy and to display the poster in specified locations, and requires the district to provide a copy of the policy to students as part of any orientation program for new and continuing students. Regulation reflects **NEW LAW (AB 34, 2019)** which requires the district to post the district's sexual harassment policy and the definition of sexual harassment in a prominent location on the district's web site.

**NEW - Administrative Regulation 5145.71 - Title IX Sexual Harassment Complaint Procedures**

New regulation reflects **NEW FEDERAL REGULATIONS (85 Fed. Reg. 30026)** which establish a Title IX complaint procedure for addressing complaints of behavior that meets the federal definition of sexual harassment. Regulation describes the types of behavior subject to these complaint procedures, the process for filing a complaint with the Title IX Coordinator, the offer of supportive measures to the complainant, the option for the parties to participate in an informal resolution process, required notifications, the investigation process, issuance of a written decision, the right to appeal the decision, and the requirement to maintain records of sexual harassment complaints and training materials for seven years.

**Board Policy 6142.7 - Physical Education and Activity**

Policy updated to add statement on equal access and equal opportunities for participation in physical education regardless of gender, gender expression, sexual orientation, and mental or physical disability, as included in CDE's Federal Program Monitoring instrument. Policy also reflects U.S. Department of Health and Human Services recommendations for moderate to vigorous physical activity in children, clarifies credential requirements for teachers of physical education, and reflects the requirement that students who have been granted a permanent exemption from physical education must still be offered physical education courses of at least 400 minutes each 10 school days.

**Administrative Regulation 6142.7 - Physical Education and Activity**

Regulation updated to reflect **NEW LAW (SB 75, 2019)** which extends the use of uniform complaint procedures (UCP) to include complaints alleging noncompliance with physical education instructional minutes in grades 7-12. Regulation also reflects U.S. Department of Health and Human Services recommendations for moderate to vigorous physical activity in children and expands the list of duties of the physical fitness test coordinator as described in state regulations.

**Board Policy 6159 - Individualized Education Program**

Policy updated to include the requirement, formerly in BP/AR 0430 - Comprehensive Local Plan for Special Education, to provide a free appropriate public education (FAPE) to students who have been suspended or expelled from school or who are placed by the district in a nonpublic, nonsectarian school. Policy adds the requirement to provide FAPE to individuals age 18-21 who are incarcerated in an adult correctional facility if they had been identified as students with disabilities or had an individualized education program (IEP) in their prior educational placement. Paragraph on the rights of foster parents moved to AR.

**Administrative Regulation 6159 - Individualized Education Program**

Regulation updates the section on "Contents of the IEP" to consolidate lists of IEP requirements for clarity. Regulation reflects **NEW LAW (SB 98, 2020)** which requires the IEP to describe the means by which the IEP will be provided under emergency conditions in which instruction and/or services cannot be provided to the student at school or in person for more than 10 school days. Regulation also reflects **NEW LAW (AB 947, 2019)** which (1) authorizes districts to consider elements of the "expanded core curriculum," as defined, when developing an IEP for a student who is blind, has low vision, or is visually impaired, and (2) establishes requirements for orientation and mobility evaluations conducted for such students. Regulation also reflects **NEW LAW (AB 605, 2019)** which requires districts to provide assistive technology devices for use in a student's home or other setting when required by the student's IEP, and requires that such students be given continued access to assistive technology devices for up to two months after transferring out of the district. Section on "Parent/Guardian Consent for Provision of Special Education and Services" revised to more directly reflect law.

**Board Policy 6159.1 - Procedural Safeguards for Special Education**

Policy updated to encourage early, informal resolution of any dispute regarding special education services. Policy also reflects **NEW STATE REGULATIONS (Register 2020, No. 21)** which establish a complaint process, separate from UCP, for complaints alleging noncompliance with federal or state laws related to the provision of FAPE to students with disabilities, such as the district's violation of the federal Individuals with Disabilities in Education Act or state law on special education, violation of a settlement agreement, failure to implement a due process hearing order, or physical safety concerns that interfere with the provision of FAPE.

#### **Administrative Regulation 6159.1 - Procedural Safeguards for Special Education**

Regulation updated to clarify that due process complaints should be filed with the state Office of Administrative Hearings and that such complaints must generally be filed within two years of the date the parent/guardian or district knew or should have known about the alleged violation. Regulation also adds new section on "State Compliance Complaints" reflecting **NEW STATE REGULATIONS (Register 2020, No. 21)** which establish a complaint process, separate from UCP, for complaints alleging noncompliance with federal or state laws related to the provision of FAPE to students with disabilities, such as the district's violation of the federal Individuals with Disabilities Education Act or state law on special education, violation of a settlement agreement, failure to implement a due process hearing order, or physical safety concerns that interfere with the provision of FAPE.

#### **Board Policy 6159.2 - Nonpublic, Nonsectarian School and Agency Services for Special Education**

Policy updated to include the provision of nonpublic, nonsectarian school and agency (NPS/A) services in the comprehensive local plan of the Special Education Local Plan Area. Policy reflects **NEW LAW (AB 1172, 2019)** which requires districts to verify that the NPS/A provides staff training in the use of practices and interventions specific to the unique behavioral needs of the student population at the NPS/A. Policy also reflects the requirement for the district to pay the full amount of the school's tuition or, as amended by AB 1172, the fees for the agency. Legal cite for Education Code 56366.3 deleted as it has been repealed.

#### **Administrative Regulation 6159.2 - Nonpublic, Nonsectarian School and Agency Services for Special Education**

Regulation updated to include the maximum term of the master contract between the district and NPS/A, expand the components of the contract in accordance with state law and regulations, and include the ability to terminate the contract for cause with 20 days' notice. Regulation also provides more detail regarding the annual IEP review focused on NPS/A students. New section on "On-Site Visits" reflects **NEW LAW (AB 1172, 2019)** which (1) requires the district to conduct an on-site visit of an NPS/A the first time the district places a student at that NPS/A, and (2) requires the district to annually conduct an on-site monitoring visit to review the services provided to the student, the facilities, and the student's progress.