

CSBA POLICY GUIDE SHEET

June 2021

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.

Administrative Regulation 1312.3 - Uniform Complaint Procedures

Regulation updated to correct the timeline in the "Notifications" section for submitting appeals to the California Department of Education (CDE), as specified in state regulations. Section on "Investigation of Complaint" revised to clarify that state regulations regarding the consequences of a respondent's failure to cooperate in an investigation only apply when the respondent is the district. Additional revisions, including expansion of the section "Health and Safety Complaints in License-Exempt Preschool Programs," made to more directly reflect the standards in CDE's Federal Program Monitoring instrument.

NEW - Board Policy 1313 - Civility

New policy addresses the importance of civility to the effective operation of the district, including its role in creating a positive school climate and enabling a focus on student well-being, learning, and achievement. Policy includes First Amendment free speech considerations, behavior that constitutes civil behavior, practices that promote civil behavior, and authorization to educate or provide information to students, staff, parents/guardians, and community members to assist in the recognition, development, and demonstration of civil behavior. Policy also includes material regarding behavior that is disruptive, hinders the orderly conduct of district operations or programs, or creates an unsafe learning or working environment, as well as the prohibition of, and consequences for, behavior which is discriminatory, harassing, or intimidating, including sexual harassment, bullying, and/or hate violence.

Board Policy 3511.1 - Integrated Waste Management

Policy updated to reflect current legal requirements for recycling waste which are based on specified thresholds of waste generation and are detailed in the accompanying administrative regulation, add district goal to develop strategies for recycling organic waste, and more directly link waste management to education goals.

Administrative Regulation 3511.1 - Integrated Waste Management

Regulation updated to add new section on "Recycling" which contains (1) material formerly in item #2 above, (2) new material reflecting a determination by the California Department of Resources Recycling and Recovery (CalRecycle) regarding the level of statewide disposal of organic waste which triggered a requirement for any facility generating two or more cubic yards of solid waste per week to meet specified requirements pertaining to the recycling of organic waste, and (3) new material reflecting legal requirements to provide recycling bins or containers in a facility that generates four or more cubic yards of solid waste or two or more cubic yards of organic waste per week.

Board Policy 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers

Policy updated to clarify the obligation of drivers to submit to drug and alcohol testing as required under federal law. Section on "Consequences Based on Test Results" updated to (1) add the agency responsible for reviewing and approving district requests to temporarily remove a driver from safety-sensitive functions before drug test results are verified by a certified medical review officer and (2) describe consequences that will be imposed on drivers based on findings of specific concentrations of alcohol. Policy also clarifies the requirement to ensure that a driver who is offered an opportunity to return to work following a violation first receive an evaluation by a qualified substance abuse professional and successfully comply with the evaluation recommendations.

Administrative Regulation 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers

Regulation updated to clarify that marijuana remains an illegal drug under the federal Controlled Substances Act and use of it by a driver remains a violation of federal drug testing regulations. Definition of "alcohol concentration" revised to delete information regarding consequences for drivers based on specific alcohol concentrations, now addressed in the BP. Regulation also expands the responsibilities of the designated employer representative pursuant to federal regulations, clarifies requirements pertaining to pre-employment testing including the requirement to conduct a pre-employment query using the Commercial Driver's License Drug and Alcohol Clearinghouse, and reflects additional requirements related to post-accident testing. New section reflects federal regulations which require districts to report any violation of federal drug and alcohol regulations to the Clearinghouse and conduct inquiries of the Clearinghouse's online database for all drivers employed by the district on an annual basis and before hiring any driver.

Board Policy 4141/4241 - Collective Bargaining Agreement

Revised policy reflects court decision holding that a provision in a collective bargaining agreement that directly conflicts with the Education Code cannot be enforced. Policy also adds language clarifying that, whenever a law conflicts with a provision in the collective bargaining agreement, the law will prevail.

Board Policy 4158/4258/4358 - Employee Security

Policy updated to reflect law authorizing a district to petition, on behalf of an employee, for a gun violence restraining order prohibiting a person from owning, purchasing, possessing, or receiving a firearm. Policy also reflects law requiring a district to provide reasonable accommodations, upon request, to an employee who is a victim of domestic violence, sexual assault, or stalking. Policy adds a requirement of law to inform administrators and counselors, along with teachers, regarding certain crimes and offenses committed by students.

Administrative Regulation 4158/4258/4358 - Employee Security

Regulation updated to more directly reflect law requiring a report to law enforcement of any attack, assault, or physical threat made against an employee by a student. Material in section on "Notice Regarding Student Offenses" reorganized to clarify the required notifications that must be made to staff pertaining to (1) student offenses that are grounds for suspension or expulsion and (2) any report received from a court that a student has been found to have committed a felony or misdemeanor involving specified offenses. In that section, paragraph on notifications that may be provided by a district police or security department deleted and moved into Note since its applicability is limited. New section on "Accommodations for Victims of Domestic Violence, Sexual Assault, or Stalking" reflects law requiring a district to provide reasonable accommodations, including, but not limited to, safety procedures or adjustments to a job structure, workplace facility, or work requirement, upon the request of an employee who is a victim of domestic violence, sexual assault, or stalking.

Board Policy 5141.4 - Child Abuse Prevention and Reporting

Board policy updated to clarify that districts are not required, but are authorized, to include age-appropriate and culturally sensitive child abuse prevention curriculum in the instructional program, add material regarding displaying posters on campus notifying students of the appropriate telephone number to call to report child abuse or neglect, include the requirement for student identifications cards for students in grades 7-12 to include the National Domestic Hotline telephone number, and clarify that the training regarding duties of mandated reporters be according to law and administrative regulation.

Administrative Regulation 5141.4 - Child Abuse Prevention and Reporting

Regulation updated to reflect NEW LAW (AB 1145, 2020) which amends the definition of sexual assault for purposes of mandated reporting to not include voluntary conduct in violation of Penal Code 286, 287, or 289 (sodomy, oral copulation, or sexual penetration) if there are no indicators of abuse unless such conduct is between a person who is 21 years of age or older and a minor who is under 16 years of age. Regulation also adds licensees of licensed child day care facilities to the list of mandated reporters, reflects that the California Department of Justice form is now titled BCIA 8572, clarifies that when a staff member or volunteer aide is selected by a child to be present at an interview where child abuse is being investigated that the principal or designee inform the person of specified requirements prior to the interview, and reflects NEW STATE REGULATION (Register 2020, No. 21) which authorizes parents/guardians of special

education students to file a complaint with CDE for safety concerns that interfere with the provision of a free appropriate public education pursuant to 5 CCR 3200-3205 rather than through uniform complaint procedures.

Board Policy 5141.52 - Suicide Prevention

Policy updated to expand material regarding stakeholder engagement and best practices for suicide prevention, intervention, and postvention, and for consistency with CDE's Model Youth Suicide Prevention Policy, including an enhanced list of participants for staff development, the importance of resiliency skills to student instruction, the review of materials and resources for alignment with safe and effective messaging, information to be provided to parents/guardians and caregivers, and the establishment of district and/or school site crisis intervention team(s). Policy also updated to clarify that the policy may be reviewed more frequently than the five-year review requirement of law, and that district data pertaining to reports of suicidal ideation, attempts, or death and data that reflect school climate be periodically reviewed to aid in program development.

Administrative Regulation 5141.52 - Suicide Prevention

Regulation updated to expand the section on "Staff Development" by adding to the list of participants for suicide prevention training, topics to be included in such training, and additional professional development for specified groups and to enhance the section on "Instruction" by adding to the list of topics to be taught and authorizing the development and implementation of school activities that raise awareness about mental health wellness and suicide prevention. Regulation also updated to include, for districts that have crisis intervention teams, the contact information for district and/or school site crisis intervention team members, add that school counselors may disclose a student's personal information to report child abuse and neglect as required by law, and include providing comfort to a student who has attempted or threatened to attempt suicide.

Board Policy 5145.12 - Search and Seizure

Policy updated to reflect court decision upholding a school policy that called for limited searches without individualized suspicion if students left campus and returned in the middle of the day. Policy also updated to reflect law which places restrictions on searches of electronic devices such as cellular phones, court decision regarding searches of lockers without individualized suspicion, and court decision upholding policy of random weapons screening with a handheld metal detector.

Administrative Regulation 6162.51 - State Academic Achievement Tests

Regulation updates information regarding administration of the California Assessment of Student Performance and Progress, including provisions that: (1) the district may administer the California Science Test (CAST) in any of grades 10-12, (2) the California Alternate Assessments in science should be administered to students with significant cognitive disabilities who are unable to take the CAST with accommodations, and (3) the California Spanish Test is the primary language assessment that is available to be administered to English learners. Regulation also adds optional language regarding the use of Smarter Balanced interim and formative assessments to provide timely feedback regarding students' progress and assist teachers in continually adjusting instruction to improve learning. Testing windows and testing variations updated to reflect current state regulations, as renumbered.

Board Policy 7211 - Developer Fees

Policy updated to include material formerly in the AR pertaining to responsibilities of the board with respect to levying developer fees, such as conducting a fee justification study, holding a public hearing, and adopting a board resolution. Policy also clarifies the applicability of Government Code 65997, which became operative due to the failure of state bond measure Proposition 13 in March 2020 and gives districts the flexibility to deny or refuse a legislative act involving the planning, use, or development of real property, other than requiring a fee in excess of the fee imposed by law. Policy addresses factors that must be included in the fee justification study based on recent court decision.

Administrative Regulation 7211 - Developer Fees

Regulation revised to delete board responsibilities pertaining to the imposition of developer fees, now addressed in the BP, and to require the superintendent or designee to provide specified information regarding capital facilities accounts to the board as well as the public.

CSBA Sample

Board Policy

Community Relations

BP 1313(a)

CIVILITY

Note: The following policy is optional and may be revised to reflect district practice.

The Governing Board recognizes the impact that civility has on the effective operation of the district, including its role in creating a safe and positive school climate and enabling a focus on student well-being, learning, and achievement. The Board believes that each person should be treated with dignity and respect in their interactions within the school community.

(cf. 0415 - Equity)

(cf. 5137 - Positive School Climate)

Note: The First Amendment of the U.S. Constitution and Article 1, Section 2 of the California Constitution provide strong protection as to speech related to district business.

In addition, pursuant to Government Code 54954.3 and the court's decision in Baca v. Moreno Valley Unified School District, the Governing Board must not prohibit public criticism of district policies, procedures, programs, services, acts, omissions, or employees, even if the speech is clearly defamatory. See BB 9323 - Meeting Conduct. Pursuant to Government Code 54957.9 and the court's decisions in Norse v. City of Santa Cruz and City of San Jose v. Garbett, the Board is authorized to remove persons who willfully disrupt or disturb a meeting, provided that the action actually interferes with the proceedings of the meeting or poses a credible threat of violence that would place reasonable persons in fear for their safety or the safety of others.

Compared to community members, districts have greater authority to regulate the speech of district employees when they are acting in the scope of their employment with the district. Furthermore, court decisions have found that the First Amendment rights of public school students in the school setting are not necessarily the same as the rights of adults in other settings and must be applied in light of the special circumstances of the school environment. In Hazelwood School District v. Kuhlmeier, the U.S. Supreme Court ruled that when a school has not, by policy or practice, opened up a school-sponsored activity for unrestricted use by students, the school may limit student expression as long as its decision is reasonably related to "legitimate pedagogical concerns." See BP/AR 5145.2 - Freedom of Speech/Expression.

Districts should consult legal counsel before placing restrictions on employee, student, or community member speech/expression in an effort to maintain civility.

The Board understands that the First Amendment provides strong protection for speech. However, the Board expects that all speech and expression will comport with norms of civil behavior on district grounds, in district facilities, during district activities or events, and in the use of district electronic/digital systems and platforms.

(cf. 5145.2 - Freedom of Speech/Expression)

(cf. 9323 - Meeting Conduct)

CIVILITY (continued)

Note: The following optional paragraph reflects traits included in the definition of civil behavior provided by the National Council for the Social Studies Connected.

Civil behavior is polite, courteous, and reasonable behavior which is respectful to others and includes integrity, honesty, acceptance, timeliness, dependability, observance of laws and rules, and effective communication.

The Board and district staff shall model civil behavior as an example of behavior that is expected throughout the district. Practices that promote civil behavior include actively listening, giving full attention to the speaker, and refraining from interruptions; welcoming and encouraging participation, input, and feedback through stakeholder engagement; promptly responding to concerns; and embracing varying and diverse viewpoints. Such practices may be incorporated into governance standards adopted by the Board or Superintendent and/or professional standards or codes of conduct for employees as specified in district policies and regulations.

(cf. 2111 - Superintendent Governance Standards)
 (cf. 4119.21/4219.21/4319.21 - Professional Standards)
 (cf. 6164.2 - Guidance/Counseling Services)
 (cf. 9005 - Governance Standards)

Students, staff, parents/guardians, and community members should be educated in the recognition, development, and demonstration of civil behavior. The Superintendent or designee may incorporate related concepts in the curriculum, provide staff development activities, and/or communicate this policy to the school community.

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

Students, staff, parents/guardians, and community members shall not communicate or behave in a manner that causes disruption; hinders the orderly conduct of district operations, the educational program, or any other district program or activity; or creates an unsafe learning or working environment. The Superintendent or designee may respond to disruptive, violent, or threatening behavior in accordance with law and as specified in BP/AR 3515.2 - Disruptions.

(cf. 0450 - Comprehensive Safety Plan)
 (cf. 1250 - Visitors/Outsiders)
 (cf. 3515.2 - Disruptions)
 (cf. 3515.4 - Recovery for Property Loss or Damage)
 (cf. 3515.7 - Firearms on School Grounds)
 (cf. 3516 - Emergencies and Disaster Preparedness Plan)
 (cf. 3516.2 - Bomb Threats)
 (cf. 4156.3/4256.3/4356.3 - Employee Property Reimbursement)
 (cf. 4158/4258/4358 - Employee Security)

CIVILITY (continued)

(cf. 5131.4 - Student Disturbances)
 (cf. 5131.5 - Vandalism and Graffiti)
 (cf. 5131.7 - Weapons and Dangerous Instruments)
 (cf. 5138 - Conflict Resolution/Peer Mediation)

Behavior by students or staff that is discriminatory, harassing, or intimidating, including sexual harassment, bullying, and/or hate violence, or behavior that is in any other way unlawful, is prohibited and is subject to discipline in accordance with law and as specified in district policy and regulations.

(cf. 1312.1 - Complaints Concerning District Employees)
 (cf. 1312.3 - Uniform Complaint Procedures)
 (cf. 4030 - Nondiscrimination in Employment)
 (cf. 4119.11/4219.11/4319.11 - Sexual Harassment)
 (cf. 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures)
 (cf. 5131 - Conduct)
 (cf. 5131.2 - Bullying)
 (cf. 5144 - Discipline)
 (cf. 5144.1 - Suspension and Expulsion/Due Process)
 (cf. 5145.3 - Nondiscrimination/Harassment)
 (cf. 5145.7 - Sexual Harassment)
 (cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)
 (cf. 5145.9 - Hate-Motivated Behavior)

Legal Reference:**EDUCATION CODE**

200-262.4 Educational equity
 32210 Willful disturbance of public school or meeting
 32211 Threatened disruption or interference with classes
 32212 Classroom interruptions
 32280-32289.5 School safety plans
 35181 Governing board authority to set policy on responsibilities of students
 35291-35291.5 Rules
 44050 Employee code of conduct; interaction with students
 44807 Teachers' duty concerning conduct of students
 44810 Willful interference with classroom conduct
 44811 Disruption of classwork or extracurricular activities
 48900-48926 Suspension and expulsion, especially:
 48907 Exercise of free expression; rules and regulations
 48950 Speech and other communication
 49330-49335 Injurious objects

CIVIL CODE

51.7 Freedom from violence or intimidation

GOVERNMENT CODE

54954.3 Opportunity for public to address legislative body; regulations
 54957.9 Disorderly conduct of general public during meeting; clearing of room

Legal Reference continued: (see next page)

CIVILITY (continued)**Legal Reference: (continued)****PENAL CODE****243.5 Assault or battery on school property****415.5 Disturbance of peace of school****422.55 Definition of hate crime****422.6 Civil rights; crimes****626-626.11 School crimes****627-627.10 Access to school premises****653b Loitering about schools or public places****653.2 Electronic communication devices; threats to safety****CALIFORNIA CONSTITUTION****Article I, Section 2 Freedom of speech and expression****Article I, Section 28 Right to safe schools****U.S. CONSTITUTION****Amendment 1, Freedom of speech and expression****COURT DECISIONS****City of San Jose v. Garbett (2010) 190 Cal.App.4th 526****Norse v. City of Santa Cruz (9th Cir. 2010) 629 F.3d 966****Baca v. Moreno Valley Unified School District (1996) 936 F.Supp. 719****Hazelwood School District v. Kuhlmeier (1988) 484 U.S. 260****Management Resources:****CSBA PUBLICATIONS****Superintendent Governance Standards****Professional Governance Standards for School Boards, June 2019****CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS****California's Social and Emotional Learning: Guiding Principles, 2018****Social and Emotional Learning in California: A Guide to Resources, October 2018****COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS****California Professional Standards for Education Leaders (CPSEL), February 2014****NATIONAL POLICY BOARD FOR EDUCATIONAL ADMINISTRATION****Professional Standards for Educational Leaders, October 2015****WEB SITES****CSBA: <https://www.csba.org>****California Department of Education: <https://www.cde.ca.gov>****California Office of the Attorney General: <https://oag.ca.gov>****Center for Safe and Responsible Internet Use: <https://www.ewa.org/organization/center-safe-and-responsible-internet-use>****Commission on Teacher Credentialing: <https://www.ctc.ca.gov>****National Council for the Social Studies Connected: <https://connected.socialstudies.org>****National Policy Board for Educational Administration: <https://www.npbea.org>****National School Safety Center: <http://www.schoolsafety.us>****U.S. Department of Education: <https://www.ed.gov>****U.S. Equal Employment Opportunity Commission: <https://www.eeoc.gov>**

CSBA Sample

Board Policy

Business and Noninstructional Operations

BP 3511.1(a)

INTEGRATED WASTE MANAGEMENT

Note: The following policy may be revised to reflect district practice. Pursuant to Public Resources Code 42630, **districts and** schools are encouraged to assist cities and counties in meeting the solid waste diversion goals set by Public Resources Code 41780. **In addition, pursuant to Public Resources Code 42649.2, as added by AB 341 (Ch. 476, Statutes of 2011), businesses, including schools, that generate more than four cubic yards of solid waste per week are required to arrange for recycling services in accordance with law. Pursuant to Public Resources Code 42649.2 and 42649.81, businesses, including schools, are required to arrange for recycling services if the amount of solid or organic waste they produce meets the thresholds specified in law and the accompanying administrative regulation. The California Department of Resources Recycling and Recovery (CalRecycle) offers Useful resources such as specific identifying waste management strategies, available funding sources, and other publications, including resources for developing and implementing integrated education and school waste reduction programs that provide curriculum to link instruction on integrated waste management and environmental concepts with student action projects at school sites, may be obtained from the California Department of Resources Recycling and Recovery (CalRecycle).**

The Governing Board believes that the conservation of **water, energy, and other** natural resources, **and the protection of the environment, and the implementation of an effective waste diversion program** are connected to the district's educational mission and are essential to the health and well-being of the community. The Superintendent or designee shall develop and/or implement a cost-effective, integrated waste management program that incorporates the principles of green school operations.

(cf. 0100 - Philosophy)
(cf. 3510 - Green School Operations)
(cf. 3511 - Energy and Water Management)
(cf. 3514 - Environmental Safety)
(cf. 3514.2 - Integrated Pest Management)

The district's **integrated waste management** program shall include strategies designed to **promote waste management practices of source reduction, recycling, and composting to help the district reduce and recycle solid and hazardous organic waste generation, properly dispose of potentially hazardous materials,** improve efficiency in **its-the** use of natural resources, and minimize the impact of such use on the environment. The program shall address all areas of the district's operations, including, but not limited to, procurement, resource utilization, and facilities management practices.

(cf. 3300 - Expenditures and Purchases)
(cf. 3517 - Facilities Inspection)

The Superintendent or designee may collaborate with city, county, and state agencies and other public or private agencies in developing and implementing the district's integrated waste management program.

INTEGRATED WASTE MANAGEMENT (continued)

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

(cf. 7131 - Relations with Local Agencies)

Note: CalRecycle provides grants and related information to eligible schools for developing and implementing integrated waste management programs. For more information, see CalRecycle's web site.

The Superintendent or designee shall make every effort to identify funding opportunities for the district's integrated waste management program, including applying for available grants or other cost-reduction incentives.

~~To the extent that funding permits, the Superintendent or designee shall~~ **may** provide appropriate educational and training opportunities to students and staff regarding the benefits and methods of conserving natural resources and ~~protecting the environment~~ **the manner in which integrated waste management strategies impact such efforts.**

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

(cf. 6142.5 - Environmental Education)

(cf. 6142.93 - Science Instruction)

The Superintendent or designee shall regularly monitor all aspects of the district's integrated waste management program and shall provide an update to the Board on its effectiveness as necessary.

Legal Reference: (continued)

INTEGRATED WASTE MANAGEMENT (continued)*Legal Reference:*EDUCATION CODE~~8700-8707~~ Environmental education17070.96 *Leroy F. Greene School Facilities Act of 1996, consideration of high performance standards*17072.35 *New construction grants; use for designs and materials for high performance schools*32370-32376 *Recycling paper*33541 *Environmental education*PUBLIC RESOURCES CODE25410-~~25421~~ 25422 *Energy conservation assistance*40050-40063 ~~Waste management; i~~Integrated waste management41780-~~41786~~ *Waste diversion*42620-42622 *Source reduction and recycling programs*42630-42647 *School site source reduction and recycling*42649-42649.7 *Recycling of commercial solid waste*42649.8-42649.87 *Recycling of organic waste*CODE OF REGULATIONS, TITLE 14~~17225.12~~ Commercial solid waste*Management Resources:*CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERYPUBLICATIONSFrequently Asked QuestionsRecycling and Organics Recycling Guide for Schools PosterWhere to Put It: Recycling, Composting, and Trash Bin SignageWEB SITESCSBA: <http://www.csba.org>

California Department of Resources Recycling and Recovery:

~~<http://www.calrecycle.ca.gov/ReduceWaste/Schools>~~ <https://www.calrecycle.ca.gov/Recycle/Schools>California Division of State Architect: <http://www.dgs.ca.gov/dsa>California Energy Commission: <http://www.energy.ca.gov>California Environmental Protection Agency: <http://www.calepa.ca.gov>U.S. Environmental Protection Agency: <http://www.epa.gov>

(11/01 7/12) 6/21

CSBA Sample

Board Policy

All Personnel

BP 4112.42(a)

4212.42

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS

4312.42

Note: State and federal law (Vehicle Code 34520; 49 CFR 382.101-382.605) require that any district employing school bus drivers establish a drug and alcohol testing program, with specified components, applicable to bus drivers and any other drivers of a commercial motor vehicle weighing over 26,000 pounds or designed to transport 16 or more passengers including the driver. All testing must be conducted in accordance with 49 CFR 40.1-40.413. For further information, see the web sites of the U.S. Department of Transportation (DOT) and the California Highway Patrol (CHP).

In addition, Vehicle Code 34520.3 requires **individuals employed as** drivers of **other** school transportation vehicles (i.e., vehicles that are not school buses, student activity buses, or youth buses and are used by the district for the primary purpose of transporting children), such as a van, to participate in the testing program to the same extent as required by law for school bus drivers. ~~The Legislative Counsel has issued an opinion that Vehicle Code 34520.3 applies only to employees whose primary job is transportation.~~ The district should consult legal counsel as necessary to determine applicability of this law to district employees.

The district's drug and alcohol testing program is subject to compliance inspections conducted by the CHP. It is recommended that the district review the CHP's Controlled Substances and Alcohol Testing Compliance Checklist to assess whether its program fulfills legal requirements.

The Governing Board desires to ensure that district-provided transportation is safe for students, staff, and the public. To that end, the Superintendent or designee shall establish a drug and alcohol testing program designed to prevent the operation of buses or the performance of other safety-sensitive functions by a driver who is under the influence of drugs or alcohol, including a driver of a school bus, student activity bus, or other school transportation vehicle or any other employee who holds a commercial driver's license which is necessary to perform duties related to district employment.

(cf. 3540 - Transportation)

(cf. 3542 - School Bus Drivers)

(cf. 3543 - Transportation Safety and Emergencies)

(cf. 4020 - Drug and Alcohol-Free Workplace)

(cf. 4112.41/4212.41/4312.41 - Employee Drug Testing)

A driver shall not report for duty or remain on duty when **he/she the driver** has used any drug listed in 21 CFR 1308.11. A driver is also prohibited from reporting for duty or remaining on duty when **he/she the driver** has used any drug listed in 21 CFR 1308.12-1308.15, unless **he/she the driver** is using the drug under the direction of a physician who has advised **him/her the driver** that the substance will not adversely affect the driver's ability to safely operate a bus. **(49 CFR 382.213)**

In addition, a driver shall not consume alcohol while on duty **and/or performing safety-sensitive functions**, or for four hours prior to on-duty time. **(49 CFR 382.201-382.209, 382.213-382.205, 382.207)**

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

Note: 49 USC 31306 and 49 CFR 382.301-382.311 require that certain types of tests be part of the district's drug and alcohol testing program. See the accompanying administrative regulation for requirements applicable to each test.

Pursuant to 49 CFR 382.301, the district may, but is not required to, conduct pre-employment alcohol testing. The following paragraph should be revised by districts that choose to conduct such testing.

Drivers shall submit to drug and alcohol testing as required under federal law and specified in the accompanying administrative regulation. The district's testing program for drivers shall include pre-employment drug testing and reasonable suspicion, random, post-accident, return-to-duty, and follow-up drug and alcohol testing of drivers. (49 USC 31306; 49 CFR 382.301-382.311)

Note: Pursuant to 49 CFR 40.11, districts are responsible for implementing the drug and alcohol testing program. They may do this using their own employees, contracting for services, or joining together in a consortium with other employers. The following **optional** paragraph provides that the district will contract for such services and may be revised by districts that use alternative methods.

The Board shall contract for testing services upon verifying that the personnel are appropriately qualified and/or certified and that testing procedures conform to federal regulations.

Except as otherwise provided by law, the Superintendent or designee shall not release individual test results or medical information about a driver to a third party without the driver's specific written consent. (49 CFR 40.321)

Consequences Based on Test Results

No driver shall be temporarily removed from the performance of safety-sensitive functions based only on a laboratory report of a confirmed positive test **for a drug or drug metabolite** before the certified medical review officer has completed verification of the test results, unless the district has obtained a waiver **from the Federal Motor Carrier Safety Administration**. (49 CFR 40.3, 40.21, 382.107, 382.119)

Any driver **for whom the district receives a verified positive drug test result who refuses to take a required drug or alcohol test, tests positive for drugs, or who is found to have a blood alcohol concentration level that exceeds the levels specified in law of 0.04 or higher** shall be **immediately** removed from performing safety-sensitive functions in accordance with 49 CFR 40.23 and 382.211. **An alcohol concentration between 0.02 and 0.04 requires temporary removal of the bus driver for a 24-hour period following the test. Any driver who refuses to take a required drug or alcohol test shall not be permitted to perform or continue to perform safety-sensitive functions.** (49 CFR 40.23, 382.211)

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

Note: Pursuant to 49 CFR 40.21 and 382.119, before temporarily removing a driver from safety-sensitive functions, the district must receive verification of the test results from a licensed physician certified as a medical review officer, unless a waiver of this requirement has been obtained from the Federal Motor Carrier Safety Administration.

No driver shall be temporarily removed from the performance of safety-sensitive functions based only on a laboratory report of a confirmed positive test before the certified medical review officer has completed verification of the test results, unless the district has obtained a waiver. (49 CFR 40.21, 382.107, 382.119)

Not later than five days after receiving notification of the test result or refusal to comply, the Superintendent or designee shall report any refusal, failure to comply, or positive test result to the California Department of Motor Vehicles (DMV) using a form approved by the DMV. (Vehicle Code 13376)

A driver who has violated federal drug and alcohol regulations may be subject to disciplinary action up to and including dismissal in accordance with law, administrative regulations, and the district's collective bargaining agreement.

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

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

Note: Pursuant to Vehicle Code 13376, upon receiving a report of a driver's refusal, failure to comply, or positive test result, the California Department of Motor Vehicles will revoke the driver certificate or refuse to approve an initial application for a certificate. An exception exists for a driver who complies with a rehabilitation or return-to-duty program that meets the requirements of federal regulations. For purposes of retaining a his/her certificate, the driver may participate in such a program only once within a three-year period.

The following paragraph is **optional**. Pursuant to 49 CFR 40.289, the district is not required to provide education and treatment services to any driver. However, if the district offers the driver an opportunity to return to work following a violation, then it must ensure that the driver receives an evaluation by a qualified substance abuse professional and successfully complies with the evaluation recommendations. Responsibility for payment for evaluation and services is to be determined by the district and driver and may be governed by a collective bargaining agreement and health care benefits.

Any driver who refuses, fails to comply, or has a positive test result may be referred to an education and treatment program that meets the requirements of 49 CFR 40.281-40.313. Any driver provided with an opportunity to return to a safety-sensitive duty following a violation shall be evaluated by a qualified substance abuse professional and complete the evaluation recommendations before returning to such duty. (49 CFR 40.289)

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

If the substance abuse professional recommends that **further and** ongoing services are needed to assist the driver to maintain sobriety or abstinence from drug use, the Superintendent or designee shall require the driver to participate in the recommended services as part of a return-to-duty agreement and shall monitor **his/her the driver's** compliance. Any drop from a rehabilitation or return-to-duty program or a subsequent positive test result shall be reported to the DMV. (Vehicle Code 13376; 49 CFR 40.285, 40.287, 40.303, 382.605)

(cf. 4159/4259/4359 - Employee Assistance Programs)
(cf. 4161/4261/4361 - Leaves)
(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)
(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)
(cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)
(cf. 4261.1 - Personal Illness/Injury Leave)

A driver who has violated federal drug and alcohol regulations may be subject to disciplinary action up to and including dismissal in accordance with law, administrative regulations, and the district's collective bargaining agreement.

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

Voluntary Self-Identification

Note: The following section is for use by districts that choose to establish a voluntary self-identification policy or program, pursuant to 49 CFR 382.121, which relieves drivers who admit alcohol or drug misuse from the federal requirements for referral, evaluation, and treatment contained in 49 CFR 40.281-40.313. If the district chooses to establish such a program, it is **mandated** to adopt a written policy containing the provisions specified in items #1-3 below. Pursuant to 49 CFR 382.121, the district's program may also include employee monitoring and non-DOT follow-up testing. If the district chooses to incorporate these elements, it should add them to this list.

Whenever a driver admits to alcohol or drug misuse under the district's voluntary self-identification program, the Superintendent or designee shall ensure all of the following: (49 CFR 382.121)

1. No adverse action shall be taken against the driver by the district.
2. The driver shall be allowed sufficient opportunity to seek evaluation, education, or treatment to establish control over **his/her the** drug or alcohol problem.
3. The driver shall be permitted to participate in safety-sensitive functions only after:

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

- a. Successfully completing an education or treatment program, as determined by a drug and alcohol abuse evaluation expert, such as an employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor
- b. Undergoing a return-to-duty test with a result indicating an alcohol concentration of less than 0.02 and/or a verified negative result for drug use

A driver who admits to alcohol or drug misuse shall not be subject to federal requirements related to referral, evaluation, and treatment, provided that **he/she-the driver** does not self-identify in order to avoid drug or alcohol testing, makes the admission prior to performing a safety-sensitive function, and does not perform a safety-sensitive function until **he/she-the driver** has been evaluated and has successfully completed education or treatment requirements in accordance with program guidelines. (49 CFR 382.121)

Legal Reference: (see next page)

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

GOVERNMENT CODE

8355 Drug-free workplace; employee notification

VEHICLE CODE

13376 Driver certificates; revocation or suspension

34500-34520.5 Safety regulations

CODE OF REGULATIONS, TITLE 13

1200-1293-1294 Motor carrier safety, especially:

1213.1 Placing drivers out-of-service

UNITED STATES CODE, TITLE 41

8101-8106 Drug-Free Workplace Act

UNITED STATES CODE, TITLE 49

31306 Alcohol and drug testing

CODE OF FEDERAL REGULATIONS, TITLE 21

1308.11-1308.15 Controlled substances

CODE OF FEDERAL REGULATIONS, TITLE 49

40.1-40.413 Procedures for transportation workplace drug and alcohol testing programs

382.101-382.605727 Drug and alcohol use and testing; especially:

382.205 On-duty use

382.207 Pre-duty use

382.209 Use following an accident

Management Resources:

CALIFORNIA HIGHWAY PATROL PUBLICATIONS

Controlled Substances and Alcohol Testing Compliance Checklist, 20072017

What is CSAT? Controlled Substances and Alcohol Testing, 20052016

WEB SITES

California Department of Motor Vehicles: <https://www.dmv.ca.gov>

California Highway Patrol: <http://www.chp.ca.gov>

Commercial Driver's License Drug and Alcohol Clearinghouse: <https://clearinghouse.fmcsa.dot.gov>

Federal Motor Carrier Safety Administration: <http://www.fmcsa.dot.gov>

U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance:

<http://www.dot.gov/ost/dapc>

CSBA Sample

Board Policy

Certificated and Classified Personnel

BP 4141(a)
4241

COLLECTIVE BARGAINING AGREEMENT

Note: The following **optional** policy addresses the implementation of the collective bargaining agreement adopted by the Governing Board following a process of negotiations with the exclusive representatives of employees. See BP 4143/4243 - Negotiations/Consultation for information about the bargaining process.

The Governing Board recognizes that collective bargaining agreements are legally binding, bilateral agreements with the exclusive representatives of employees pertaining to terms and conditions of employment. The Board is committed to carrying out the provisions of each agreement and expects the agreements to be consistently and uniformly administered.

(cf. 4140/4240/4340 - Bargaining Units)
(cf. 4143/4243 - Negotiations/Consultation)

Note: Districts should consider deleting policies and administrative regulations on topics covered in collective bargaining agreements or retaining them only after determining that the provisions in the policy or regulation are consistent with the adopted agreements. Some policies or regulations may also need to be retained and/or modified when they pertain to unrepresented employees. Should a contract and a policy conflict, the district may be required to grant the benefits in both documents, even if the district believed that the contract was intended to supersede the policy. See BB 9310 - Board Policies.

If the district has adopted a merit system pursuant to Education Code 45220-45320, then its classified employees are subject to the rules prescribed by the district's personnel commission, except when the subject matter is within the scope of representation and is included in a negotiated agreement. Such districts may revise the following paragraph to clarify that the negotiated agreement supersedes any conflicting rules of the personnel commission.

In United Teachers of Los Angeles v. Los Angeles Unified School District, the California Supreme Court held that a provision in a collective bargaining agreement that directly conflicts with the Education Code cannot be enforced.

Education Code 35036 prohibits the Board from entering into a collective bargaining agreement that, after April 15 prior to the school year that a teacher's transfer would become effective, assigns priority to a teacher who requests to be transferred to another school over other qualified teachers who have applied for positions requiring certification qualifications at that school. See BP 4114 - Transfers.

Following adoption of the collective bargaining agreement, the Superintendent or designee shall review related Board policies and recommend to the Board any action needed to maintain consistency with the agreement. Whenever a Board policy conflicts with a provision in the collective bargaining agreement, the agreement shall be binding for those employees covered by the terms of the agreement. **Whenever a law conflicts with a provision in the collective bargaining agreement, the law will prevail as to those employees for whom the law applies.**

(cf. 9310 - Board Policies)

COLLECTIVE BARGAINING AGREEMENT (continued)

Upon request by the Public Employment Relations Board, the Superintendent or designee shall provide, within 15 days of the request, a copy of the written agreement and any amendments. (8 CCR 32120)

Legal Reference:

EDUCATION CODE

35035 *Additional powers and duties of superintendent, transfer authority*

35036 *Voluntary transfers*

35160 *Authority of governing boards*

35160.1 *Broad authority of school districts*

45220-45320 *Merit system, classified employees*

GOVERNMENT CODE

3540-3549.3 *Educational Employment Relations Act*

CODE OF REGULATIONS, TITLE 8

31001-32997 *Regulations of employee relations boards*

COURT DECISIONS

Janus v. American Federation of State, County and Municipal Employees, Council 31 (2018) 138 S.Ct. 2448

United Teachers of Los Angeles v. Los Angeles Unified School District (2012) 54 Cal. 4th 504

Round Valley Teachers Association (1996) 13 Cal. 4th 269

Management Resources:

WEB SITES

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

California Public Employee Relations: <http://cper.berkeley.edu>

Center for Collaborative Solutions: <http://www.ccscenter.org>

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

State Mediation and Conciliation Service (SMCS): <http://www.dir.ca.gov/csmcs/smcs.html>

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CSBA Sample

Board Policy

All Personnel

BP 4158(a)

4258

EMPLOYEE SECURITY

4358

Note: Pursuant to Government Code 3543.2, safety conditions in employment are a mandatory subject of collective bargaining. The following Board policy and accompanying administrative regulation are optional and may be revised to reflect district practice and the terms of the district's collective bargaining agreements.

The Governing Board desires to provide a safe and orderly work environment for all employees. As part of the district's comprehensive safety plan, the Superintendent or designee shall develop strategies for protecting employees from potentially dangerous persons and situations and for providing necessary assistance and support when emergency situations occur.

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3515 - Campus Security)

(cf. 5131.4 - Student Disturbances)

Any person who threatens the safety of others at any district facility may be removed by the Superintendent or designee in accordance with AR 3515.2 - Disruptions.

(cf. 3515.2 - Disruptions)

Note: Code of Civil Procedure 527.8 allows the district to seek a temporary restraining order and injunction on behalf of an employee against any other individual who has subjected the employee to unlawful violence or a credible threat of violence in the workplace. In *City of San Jose v. William Garbett*, a California Court of Appeal held that a court's issuance of a temporary restraining order and injunction against a person who had verbally threatened a city official was not a violation of that person's right to free speech and right of access to a public place.

Pursuant to Penal Code 18150 and 18170, a gun violence restraining order prohibiting a person from owning, having custody or control of, purchasing, possessing, or receiving a firearm or ammunition may be petitioned by that person's employer, a coworker who has had substantial and regular interactions with the person for at least one year and has the employer's approval, or an employee or teacher of a secondary school that the person has attended in the past six months if the employee or teacher has obtained the approval of a school administrator or designee.

Any employee against whom violence or any threat of violence has been directed in the workplace shall notify the Superintendent or designee immediately. As appropriate, the Superintendent or designee shall initiate legal and security measures to protect the employee and others in the workplace. **Such measures may include seeking a temporary restraining order on behalf of the employee pursuant to Code of Civil Procedure 527.8 and/or a gun violence restraining order pursuant to Penal Code 18150 and 18170.**

EMPLOYEE SECURITY (continued)

Upon request by an employee who is a victim of domestic violence, sexual assault, or stalking, the Superintendent or designee shall provide reasonable accommodations in accordance with Labor Code 230-230.1 and the accompanying administrative regulation to protect the employee's safety while at work.

(cf. 4161.2/4261.2/4361.2 - Personal Leaves)

Note: Pursuant to Education Code 48904 and 48905, provides that an employee who is injured or whose property is damaged by willful misconduct of a district student under the conditions described below may request that the district pursue legal action against the student, or his/her the student's parent/guardian, pursuant to Education Code 48904. Education Code 48904 provides that a parent/guardian will be liable for damages caused by his/her minor child's willful misconduct resulting in injury to a district student, employee, or volunteer or damage to district or employee property. Also sSee BP 3515.4 - Recovery for Property Loss or Damage and AR 5125.2 - Withholding Grades, Diploma or Transcripts. The district should consult legal counsel when considering whether to pursue legal action.

The Superintendent or designee may pursue legal action on behalf of an employee against a student or his/her the student's parent/guardian to recover damages for injury to the employee's person or his/her property caused by the student's willful misconduct that occurred on district property, at a school or district activity, or in retaliation for lawful acts of the employee in the performance of his/her the employee's duties. (Education Code 48904, 48905)

(cf. 3320 - Claims and Actions Against the District)
(cf. 3515.4 - Recovery for Property Loss or Damage)
(cf. 4156.3/4256.3/4356.3 - Employee Property Reimbursement)
(cf. 5125.2 - Withholding Grades, Diploma or Transcripts)

The Superintendent or designee shall ensure that employees receive training provide staff development in crisis prevention and intervention techniques, which in order to protect themselves and students. Staff development may include training in classroom management, effective communication techniques, procedures for responding to an active shooter situation, and crisis resolution.

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

In accordance with law, tThe Superintendent or designee also shall inform teachers, in accordance with law, administrators, and/or counselors of crimes and offenses committed by students who may pose a danger in the classroom. (Education Code 48201, 49079; Welfare and Institutions Code 827)

EMPLOYEE SECURITY (continued)

The Superintendent or designee may make available at appropriate locations, including, but not limited to, district and school offices, gyms, and classrooms, communication devices that would enable two-way communication with law enforcement and others when emergencies occur.

(cf. 5141 - Health Care and Emergencies)

Use of Pepper Spray

Note: The following section is **optional** and may be revised to reflect district practice. Penal Code 22810 authorizes adults, with certain exceptions, to carry an approved tear gas weapon such as pepper spray for purposes of self-defense. Penal Code 626.9 and 626.10, which prohibit the possession of weapons on school grounds, do not prohibit the possession of pepper spray on school grounds. Thus, the Governing Board may determine whether to allow or disallow, with certain exceptions, the possession of pepper spray on school property or at school activities. See the accompanying administrative regulation for related procedures.

Employees shall not carry or possess pepper spray on school property or at school activities, except when authorized by the Superintendent or designee for self-defense purposes. When allowed, an employee may only possess pepper spray in accordance with administrative regulations and Penal Code 22810. Any employee who is negligent or careless in the possession or handling of pepper spray shall be subject to appropriate disciplinary measures.

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

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

Reporting of Injurious Objects

Note: The following **optional** section specifies actions to be taken in the event an employee becomes aware of any person who is in possession of an injurious object, and is consistent with the actions described in AR 5131.7 - Weapons and Dangerous Instruments related to student possession.

Pursuant to Education Code 49334, a school employee who **initially** notifies law enforcement regarding a student or adult who is in possession of an injurious object while on school grounds or under the authority of school personnel cannot be subject to any civil or administrative proceeding, including disciplinary action, for **such action violation of any district policy or procedure related to the notification of a law enforcement agency. Education Code 49334 requires such an employee to conform with district procedures after exercising the option to notify a law enforcement agency.**

~~The Board requires employees to~~ **Employees shall** take immediate action upon being made aware that any person is in possession of a weapon or unauthorized injurious object on school grounds or at a school-related or school-sponsored activity. ~~The eEmployees shall use his/her own~~ **exercise their best** judgment as to the potential danger involved and shall do one of the following:

EMPLOYEE SECURITY (continued)

1. Confiscate the object and deliver it to the principal immediately
2. Immediately notify the principal, who shall take appropriate action
3. Immediately call 911 and the principal

(cf. 3515.7 - Firearms on School Grounds)

(cf. 5131.7 - Weapons and Dangerous Instruments)

(cf. 5144 - Discipline)

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

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

When informing the principal about the possession or seizure of a weapon or dangerous device, **the an** employee shall report the name(s) of persons involved, witnesses, location, and the circumstances of any seizure.

Legal Reference:

EDUCATION CODE

32210-32212 Willful disturbance, public schools or meetings

32225-32226 Communication devices

35208 Liability insurance

35213 Reimbursement for loss, destruction or damage of school property

44014 Report of assault by pupil against school employee

44807 Duty concerning conduct of students

48201 Transfer of student records

48900-48926 Suspension or expulsion

49079 Notification to teacher; student who has engaged in acts re: grounds suspension or expulsion

49330-49335 Injurious objects

CIVIL CODE

51.7 Freedom from violence or intimidation

CODE OF CIVIL PROCEDURE

527.8 Workplace violence safety

GOVERNMENT CODE

995-996.4 Defense of public employees

3543.2 Scope of representation

12926 Definitions

LABOR CODE

230-230.2 Leave for victims of domestic violence, sexual assault, or specified felonies

PENAL CODE

71 Threatening public officers and employees and school officials

240-246.3 Assault and battery, especially:

241.3 Assault against school bus drivers

Legal Reference continued: (see next page)

EMPLOYEE SECURITY (continued)*Legal Reference: (continued)**PENAL CODE (continued)**241.6 Assault on school employee including board member**243.3 Battery against school bus drivers**243.6 Battery against school employee including board member**245.5 Assault with deadly weapon against school employee including board member**290 Registration of sex offenders**601 Trespass by person making credible threat**626-626.11 School crimes**646.9 Stalking****18150 Gun violence restraining orders******18170 Gun violence restraining order issued after notice and hearing****22810 Purchase, possession, and use of tear gas**WELFARE AND INSTITUTIONS CODE**827 Juvenile court proceedings; reports; confidentiality**828.1 District police or security department, disclosure of juvenile records**COURT DECISIONS**City of San Jose v. William Garbett, (2010) 190 Cal. App. 4th 526**Management Resources:**WEB SITES**CSBA: <http://www.csba.org>**California Department of Education, Safe Schools and Violence Prevention Office:**<http://www.cde.ca.gov/ss>*

CSBA Sample Board Policy

Students

BP 5141.4(a)

CHILD ABUSE PREVENTION AND REPORTING

The Governing Board is committed to supporting the safety and well-being of district students and desires to facilitate the prevention of and response to child abuse and neglect. The Superintendent or designee shall develop and implement strategies for preventing, recognizing, and promptly reporting known or suspected child abuse and neglect.

The Superintendent or designee may provide a student who is a victim of abuse with school-based mental health services or other support services and/or may refer the student to resources available within the community as needed.

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

(cf. 5141.5 - Mental Health)

(cf. 5141.6 - School Health Services)

(cf. 6164.2 - Guidance/Counseling Services)

Child Abuse Prevention

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

~~Education Code 51220.5 specifies that the district's course of study for grades 7 and/or 8 may include parenting skills education, including instruction on child abuse and neglect; see AR 6143 - Courses of Study.~~

The district's instructional program ~~shall include~~ **may provide** age-appropriate and culturally sensitive child abuse prevention curriculum. ~~This curriculum shall~~ **which** explains students' right to live free of abuse, includes instruction in the skills and techniques needed to identify unsafe situations and react appropriately and promptly, informs students of available support resources, and teaches students how to obtain help and disclose incidents of abuse.

(cf. 6142.8 - Comprehensive Health Education)

(cf. 6143 - Courses of Study)

Note: The following paragraph is **optional**. Education Code 51900.6, ~~as added by AB 2016 (Ch. 809, Statutes of 2014)~~, authorizes districts to provide age-appropriate instruction in sexual abuse and sexual assault awareness and prevention in grades K-12, provided that students are allowed to be excused from such instruction upon the written request of their parents/guardians. It also requires the State Board of Education and Superintendent of Public Instruction to consider addressing these issues in the next revision of the state health education content standards and curriculum framework.

The district's program also may include age-appropriate curriculum in sexual abuse and sexual assault awareness and prevention. Upon written request of a student's parent/guardian, the student shall be excused from taking such instruction. (Education Code 51900.6)

CHILD ABUSE PREVENTION AND REPORTING (continued)

Note: Pursuant to Education Code 33133.5, posters notifying students of the appropriate telephone number to call to report child abuse or neglect are available on the California Department of Education's web site in five languages. Education Code 33133.5 encourages districts to post the appropriate version or versions of the poster in an area of the school where students frequently congregate.

The Superintendent or designee may display posters, in areas on campus where students frequently congregate, notifying students of the appropriate telephone number to call to report child abuse or neglect. (Education Code 33133.5)

Note: The following paragraph is for use by districts that serve students in grades 7-12. Education Code 215.5 requires districts that issue or reissue student identification cards to have the telephone number of the National Domestic Violence Hotline (1-800-799-7233) printed on either side of student identification cards.

In addition, student identification cards for students in grades 7-12 shall include the National Domestic Violence Hotline telephone number. (Education Code 215.5)

(cf. 5142 - Safety)

The Superintendent or designee shall, to the extent feasible, seek to incorporate community resources into the district's child abuse prevention programs and may use these resources to provide parents/guardians with instruction in parenting skills and child abuse prevention.

Child Abuse Reporting

Note: The Child Abuse and Neglect Reporting Act (Penal Code 11164-11174.3) identifies persons who are mandated to report known or suspected child abuse or neglect and establishes procedures for filing a report; see the accompanying administrative regulation.

The Superintendent or designee shall establish procedures for the identification and reporting of known and suspected child abuse and neglect in accordance with law.

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

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

Procedures for reporting child abuse shall be included in the district and/or school comprehensive safety plan. (Education Code 32282)

(cf. 0450 - Comprehensive Safety Plan)

Note: Education Code 44252, as amended by AB 2560 (Ch. 110, Statutes of 2014), requires that teachers applying to the Commission on Teacher Credentialing for a new credential or a renewal of their credential read and sign a statement that they understand the duties imposed on them as mandated reporters pursuant to Penal Code 11164-11174.3.

CHILD ABUSE PREVENTION AND REPORTING (continued)

District employees who are mandated reporters, as defined by law and administrative regulation, are obligated to report all known or suspected incidents of child abuse and neglect.

Note: ~~As amended by AB 1432 (Ch. 797, Statutes of 2014),~~ Education Code 44691 and Penal Code 11165.7 require districts to annually train their employees regarding the duties of mandated reporters; see the accompanying administrative regulation. However, pursuant to Penal Code 11165.7, a lack of training does not excuse any mandated reporter from the duty to report suspected child abuse and neglect.

The Superintendent or designee shall provide training regarding the duties of mandated reporters **as required by law and as specified in the accompanying administrative regulation. (Education Code 44691; Penal Code 11165.7)**

*Legal Reference:*EDUCATION CODE

215.5 Student identification cards with National Domestic Violence Hotline telephone number

32280-32289.5 ~~32289.8~~ Comprehensive school safety plans

33133.5 Posters of telephone number for students to report child abuse or neglect

33195 Heritage schools, mandated reporters

33308.1 Guidelines on procedure for filing child abuse complaints

44252 Teacher credentialing

44691 Staff development in the detection of child abuse and neglect

44807 Duty concerning conduct of students

48906 Notification when student released to peace officer

48987 Dissemination of reporting guidelines to parents

49001 Prohibition of corporal punishment

51220.5 Parenting skills education

51900.6 Sexual abuse and sexual assault awareness and prevention **instruction**

CODE OF CIVIL PROCEDURE

340.1 Damages suffered as a result of childhood sexual abuse

PENAL CODE

152.3 Duty to report murder, rape, or lewd or lascivious act

273a **Willfully ~~eruelty or~~ causing unjustifiable pain or mental suffering punishment of child; endangering life or health**

286 Crime of sodomy

287 Crime of oral copulation

288 Definition of lewd or lascivious act requiring reporting

289 Crime of sexual penetration

11164-11174.3 Child Abuse and Neglect Reporting Act

WELFARE AND INSTITUTIONS CODE

15630-15637 Dependent adult abuse reporting

CODE OF REGULATIONS, TITLE 5

3200-3205 ~~4650~~ Filing complaints with CDE; special education students

UNITED STATES CODE, TITLE 42

11434a McKinney-Vento Homeless Assistance Act; definitions

COURT DECISIONS

Camreta v. Greene (2011) 131 S.Ct. 2020

Management Resources: (see next page)

CHILD ABUSE PREVENTION AND REPORTING (continued)

Management Resources:

CSBA PUBLICATIONS

Why Schools Hold the Promise for Adolescent Mental Health, Governance Brief, May 2019

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

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

Health Framework for California Public Schools, Kindergarten Through Grade Twelve

WEB SITES

California Attorney General's Office, Suspected Child Abuse Report Form:

http://www.ag.ca.gov/childabuse/pdf/ss_8572.pdf

https://oag.ca.gov/sites/all/files/agweb/pdfs/childabuse/ss_8572.pdf

California Department of Education, ***Child Abuse Prevention Training and Resources Safe Schools:***

<http://www.cde.ca.gov/ls/ss/ap>

California Department of Social Services, ***Information Resources Guide Children and Family***

Services Division: <http://www.childsworld.ca.gov>

U.S. Department of Health and Human Services, Child Welfare Information Gateway:

<https://www.childwelfare.gov/eas> <https://www.childwelfare.gov>

(11/04 12/14) 6/21

CSBA Sample

Board Policy

Students

BP 5141.52(a)

SUICIDE PREVENTION

Note: Education Code 215 **mandates** that the Governing Board of any district serving students in grades **K7-12** adopt a policy on student suicide prevention, intervention, and postvention (i.e., intervention conducted after a suicide) with specified components. **AB 1767 (Ch. 694, Statutes of 2019) amended Education Code 215 to mandate policy on suicide prevention, intervention, and postvention for students in grades K-6 beginning in the 2020-21 school year.** The required components are addressed in the following policy and the accompanying administrative regulation.

The following policy is consistent with the California Department of Education's Also see the California Department of Education's (CDE) Model Youth Suicide Prevention Policy, which also includes an extensive list of resources to assist in the prevention, intervention, and postvention of student suicide. developed pursuant to Education Code 215. Districts are encouraged to work closely with their county behavioral health department to identify and access resources at the local level.

The Mental Health Services Oversight and Accountability Commission developed a suicide prevention plan for the state which is published in Striving for Zero: California's Strategic Plan for Suicide Prevention 2020-2025, available on its web site. The plan presents strategic aims, with related goals, objectives, and an implementation schedule. Districts may find the strategic plan useful in learning more about the stigma associated with behavioral health needs, myths and misconceptions about suicidal behavior and its hinderance to prevention efforts, suicidal behavior, risk and protective factors, and best practices in suicide prevention.

The following policy and accompanying administrative regulation should be revised to reflect district practice and the grade levels offered by the district.

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

Note: Pursuant to Education Code 215, as amended by AB 1767, the district's suicide prevention policy must be developed in consultation with school and community stakeholders, school-employed mental health professionals, suicide prevention experts, and, for policy for grades K-6, the county mental health plan. According to CDE's Model Youth Suicide Prevention Policy, school-employed mental health professionals may include school counselors, psychologists, social workers, and nurses. CDE's model policy also includes consultation with administrators, other school staff, parents/guardians, students, local health agencies and professionals, law enforcement, and community organizations.

It is recommended that districts also consult with legal counsel and the district's risk manager or insurance carrier, as appropriate.

SUICIDE PREVENTION (continued)

In developing policy and **procedures** strategies for suicide prevention, ~~and intervention, and postvention,~~ the Superintendent or designee shall consult with school and community stakeholders, ~~such as administrators, other staff, parents/guardians and students; school-employed mental health professionals, such as school counselors, school psychologists, school social workers, and school nurses; suicide prevention experts, such as local health agencies, mental health professionals, and community organizations; law enforcement; and,~~ in developing policy for grades K-6, the county mental health plan. (Education Code 215)

(cf. 1220 - Citizen Advisory Committees)

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

Note: The following optional paragraph may be revised to reflect district practice. Education Code 215 does not define "school and community stakeholders" or "school-employed mental health professionals" who must be consulted in the development of policy. The following examples are consistent with CSBA and CDE recommendations.

School and community stakeholders and school mental health professionals with whom the Superintendent or designee shall consult may include district and school administrators, school counselors, school psychologists, school social workers, school nurses, other staff, parents/guardians and caregivers, students, local health agencies, mental health professionals, community organizations, law enforcement, legal counsel, and/or the district's risk manager or insurance carrier. The Superintendent or designee may also collaborate with county and/or city governments in an effort to align district policy with any existing community suicide prevention plans.

Note: Education Code 215, as amended by AB 1767, requires that the district's policy for students in grades K-6 be age appropriate and delivered and discussed in a manner that is sensitive to the needs of young students. The following paragraph is for use by districts that serve K-6 students, and may be revised as appropriate for the student population served by the district.

~~The Board shall ensure that measures and strategies for students in grades K-6 are age appropriate and delivered and discussed in a manner that is sensitive to the needs of young students. (Education Code 215)~~

Measures and strategies for suicide prevention, intervention, and postvention shall include, but are not limited to:

Note: Education Code 215, as amended by AB 1767, mandates that the district's policy address any training on suicide awareness and prevention to be provided to teachers of students in all grade levels served by the district. See the accompanying administrative regulation for additional language fulfilling this mandate. In addition, Education Code 49604 encourages each district to provide suicide prevention training at least once to each middle, junior high, and high school counselor. Item #1 **may should** be revised to specify **the other** categories of employees who will receive the training.

SUICIDE PREVENTION (continued)

1. Staff development on suicide awareness and prevention for teachers, **interns**, school counselors, and others ~~district employees~~ who interact with students, **including, as appropriate, substitute teachers, coaches, expanded day learning staff, crossing guards, tutors, and volunteers**, as described in the accompanying administrative regulation

(cf. 1240 - Volunteer Assistance)

(cf. 4112.21 - Interns)

(cf. 4121 - Temporary/Substitute Personnel)

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

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

(cf. 5142 - Safety)

(cf. 5148 - Child Care and Development)

(cf. 5148.2 - Before/After School Programs)

(cf. 6145.2 - Athletic Competition)

Note: Items #2-79 below reflect **optional** strategies for suicide prevention, intervention, and postvention and may be revised to reflect district practice.

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

(cf. 6142.8 - Comprehensive Health Education)

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

(cf. 5131 - Conduct)

(cf. 5131.2 - Bullying)

(cf. 5137 - Positive School Climate)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

(cf. 5145.9 - Hate-Motivated Behavior)

4. **The review of materials and resources used in awareness efforts and communications to ensure they align with best practices for safe and effective messaging about suicide**

SUICIDE PREVENTION (continued)

54. The provision of information to parents/guardians **and caregivers** regarding risk **and protective** factors, ~~and~~ warning signs of suicide, the severity of the suicide problem among youth, the district's suicide prevention curriculum, **the district's suicide prevention policy and procedures**, basic steps for helping suicidal youth, **the importance of communicating with appropriate staff if suicide risk is present or suspected, access to suicide prevention training**, and/or school and community resources that can help youth in crisis
65. Encouragement for students to notify appropriate school personnel or other adults when they are experiencing thoughts of suicide or when they suspect or have knowledge of another student's suicidal intentions
76. Crisis intervention procedures for addressing suicide threats or attempts
87. Counseling and other postvention strategies for helping students, staff, and others cope in the aftermath of a student's suicide

Note: The National Association of School Psychologists recommends that the district and/or school sites create a suicide prevention crisis team to assist in effectively identifying and intervening with students who are at risk of suicidal behavior, including adoption and implementation of policies and procedures. It is recommended that such teams include, at a minimum, administration, mental health staff, and school security personnel. The same crisis intervention team may be established to address broader mental health concerns as described in BP 5141.5 - Mental Health.

9. **Establishment of district and/or school-site crisis intervention team(s) to ensure the proper implementation and review of this policy and other district practices related to the emotional and behavioral wellness of students, including, but not limited to, the oversight of mental health and suicide prevention training, collaboration with community mental health organizations, identification of resources and organizations that provide evidence-based treatment, collaboration to build community response, and compliance with Education Code 215**

(cf. 5141.5 - Mental Health)

Note: Education Code 215 **mandates** that the district's policy specifically address the needs of high-risk groups, including, but not limited to, those listed in the following paragraph. See the accompanying administrative regulation for additional language fulfilling this mandate.

As appropriate, these measures and strategies shall specifically address the needs of students who are at high risk of suicide, including, but not limited to, students who are bereaved by suicide; students with disabilities, mental illness, or substance use disorders; students who are experiencing homelessness or who are in out-of-home settings such as foster care; and students who are lesbian, gay, bisexual, transgender, or questioning. (Education Code 215)

SUICIDE PREVENTION (continued)

Note: The following two paragraphs are for use by districts that serve students in grades K-6. Education Code 215, as amended by AB 1767, mandates that the district's policy for students in grades K-6 ensure proper coordination and consultation with the county mental health plan if a referral is made for mental health or related services on behalf of a student who is a Medi-Cal beneficiary.

The Board shall ensure that measures and strategies for students in grades K-6 are age appropriate and delivered and discussed in a manner that is sensitive to the needs of young students. (Education Code 215)

If a referral is made for mental health or related services for a student in grade K-6 who is a Medi-Cal beneficiary, the Superintendent or designee shall coordinate and consult with the county mental health plan. (Education Code 215)

(cf. 5141.6 - School Health Services)

District employees shall act only within the authorization and scope of their credential or license. Nothing in this policy shall be construed as authorizing or encouraging district employees to diagnose or treat mental illness unless they are specifically licensed and employed to do so. (Education Code 215)

Note: Education Code 215 requires that the district's student suicide prevention policy be updated at least every five years. Given the severity of the issue and importance of maintaining an up-to-date suicide prevention policy, CSBA and CDE recommend reviewing and updating this policy annually. The following paragraph may be revised to reflect district practice.

The Board shall review, and update as necessary, this policy at least every five years. **The Board may, at its discretion, review the policy more frequently.** (Education Code 215)

The Superintendent or designee shall periodically review district data pertaining to school climate and reports of suicidal ideation, attempts, or death to identify patterns or trends and make recommendations regarding program development.

Note: Education Code 234.6, as added by AB 34 (Ch. 282, Statutes of 2019), requires districts, beginning in the 2020-21 school year, to ensure that the district's suicide prevention policies for grades K-6 and 7-12 be readily accessible in a prominent location on the district's web site in a manner that is easily accessible to parents/guardians and students.

The Superintendent or designee shall post this policy on the district's web site, in a prominent location and in a manner that is easily accessible to parents/guardians and students. (Education Code 234.6)

Legal Reference: (see next page)

SUICIDE PREVENTION (continued)*Legal Reference:*EDUCATION CODE

215 Student suicide prevention policies

215.5 Suicide prevention hotline contact information on student identification cards

216 Suicide prevention online training programs

234.6 Posting suicide prevention policy on web site

32280-32289.5 Comprehensive safety plan

49060-49079 Student records

49602 **Counseling; Confidentiality of student information**

49604 Suicide prevention training for school counselors

GOVERNMENT CODE

810-996.6 Government Claims Act

PENAL CODE

11164-11174.3 Child Abuse and Neglect Reporting Act

WELFARE AND INSTITUTIONS CODE

5698 Emotionally disturbed youth; legislative intent

5850-5886 Children's Mental Health Services Act

COURT DECISIONSCorales v. Bennett (Ontario-Montclair School District) (2009) 567 F.3d 554*Management Resources:*CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONSHealth Framework for California Public Schools, Kindergarten Through Grade Twelve, 2019Health Education Content Standards for California Public Schools, Kindergarten Through Grade Twelve, 2008Health Framework for California Public Schools, Kindergarten Through Grade Twelve, 2019Model Youth Suicide Prevention PolicyCALSCHLS PUBLICATIONSCalifornia Healthy Kids Survey (CHKS)California School Parent Survey (CSPS)California School Staff Survey (CSSS)CENTERS FOR DISEASE CONTROL AND PREVENTION PUBLICATIONSSchool Connectedness: Strategies for Increasing Protective Factors Among Youth, 2009EACH MIND MATTERS: CALIFORNIA'S MENTAL HEALTH MOVEMENT PUBLICATIONSMaking Headlines: Guide to Engaging the Media in Suicide Prevention in California, 2012HEARD ALLIANCE PUBLICATIONSK-12 Toolkit for Mental Health Promotion and Suicide Prevention, 2017MENTAL HEALTH SERVICES OVERSIGHT AND ACCOUNTABILITY COMMUNICATIONS PUBLICATIONSStriving for Zero: California's Strategic Plan for Suicide Prevention 2020-2025NATIONAL ASSOCIATION OF SCHOOL PSYCHOLOGISTS PUBLICATIONSPreventing Suicide: Guidelines for Administrators and Crisis Teams, 2015SUICIDE PREVENTION RESOURCE CENTER PUBLICATIONSAfter a Suicide: A Toolkit for Schools, 2nd Edition, 2018U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES PUBLICATIONSNational Strategy for Suicide Prevention: Goals and Objectives for Action, rev. 2012Preventing Suicide: A Toolkit for High Schools, 2012

SUICIDE PREVENTION (continued)*Management Resources: (continued)***WEB SITES****American Academy of Pediatrics:** <https://www.healthychildren.org>**American Association of Suicidology:** <http://www.suicidology.org>**American Foundation for Suicide Prevention:** <https://afsp.org>**American Psychological Association:** <http://www.apa.org>**American School Counselor Association:** <https://www.schoolcounselor.org>**California Department of Education, Mental Health:** <http://www.cde.ca.gov/ls/cg/mh>**California Department of Health Care Services, Mental Health Services:**<http://www.dhcs.ca.gov/services/MH>**California Mental Health Services Authority:** <https://www.calmhsa.org>**CalSCHLS:** <https://calschls.org>**Centers for Disease Control and Prevention, Mental Health:** <http://www.cdc.gov/mentalhealth>**Crisis Text Line:** <https://www.crisistextline.org>**Each Mind Matters: California's Mental Health Movement:** <https://emmresourcecenter.org>**HEARD Alliance:** <https://www.heardalliance.org>**Mental Health Services Oversight and Accountability Commission:** <https://mhsaac.ca.gov>**National Action Alliance for Suicide Prevention:** <https://theactionalliance.org>**National Association of School Psychologists:** <https://www.nasponline.org>**National Child Traumatic Stress Network:** <https://www.nctsn.org>**National Institute for Mental Health:** <http://www.nimh.nih.gov>**Substance Abuse and Mental Health Services Administration:** <https://www.samhsa.gov>**Suicide Prevention Lifeline:** <https://suicidepreventionlifeline.org>**Suicide Prevention Messaging:** <https://suicidepreventionmessaging.org>**Suicide Prevention Resource Center:** <https://www.sprc.org/about-suicide>**Suicide Prevention Lifeline:** <https://suicidepreventionlifeline.org>**Trevor Project:** <http://thetrevorproject.org>**U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services****Administration:** <http://www.samhsa.gov>

CSBA Sample Board Policy

Students

BP 5145.12(a)

SEARCH AND SEIZURE

Note: The following optional policy and accompanying administrative regulation should be modified to reflect district practice. The legality of a search by school officials is complex and depends on the particular circumstances surrounding the search. Districts with specific questions about the legality of a search should consult legal counsel. It is also recommended that the district work with legal counsel to provide staff development for employees conducting searches on behalf of the district.

The following policy and accompanying administrative regulation address circumstances under which searches of individual students may be authorized based on individualized suspicion, and circumstances under which the district may conduct searches without individualized suspicion (e.g., searches of lockers, use metal detectors, or use contraband detection dogs). In *In re Sean A.*, the Court of Appeal upheld a limited search for weapons or drugs without individualized suspicion where a school policy called for students who left campus and returned in the middle of the day to be searched. Districts that wish to develop policy authorizing limited searches for weapons or drugs without individualized suspicion should consult legal counsel.

The Governing Board is fully committed to promoting a safe learning environment and, to the extent possible, eliminating the possession and use of weapons, illegal drugs, and other controlled substances by students on school premises and at school activities. As necessary to protect the health and welfare of students and staff, and only as authorized by law, Board policy, and administrative regulation, school officials may search students, their property, and/or district property under their control and may seize illegal, unsafe, or otherwise prohibited items. The Board urges that employees School officials shall exercise discretion and use good judgment when conducting searches.

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

(cf. 0450 - Comprehensive Safety Plan)

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 3515 - Campus Security)

(cf. 3515.3 - District Police/Security Department)

(cf. 5131 - Conduct)

(cf. 5131.7 - Weapons and Dangerous Instruments)

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

(cf. 5145.3 - Nondiscrimination/Harassment)

The Board urges that employees exercise discretion and good judgment. When conducting a search or seizure, employees shall act in accordance with law, Board policy, and administrative regulation.

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

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 5145.3 - Nondiscrimination/Harassment)

SEARCH AND SEIZURE (continued)

Note: As discussed below, the law surrounding student searches is complex. Therefore, it is recommended that the district work with legal counsel to provide training for employees conducting searches on behalf of the district.

The Superintendent or designee shall ensure that staff who conduct student searches receive training regarding the requirements of the district's policy and administrative regulation and other legal issues, as appropriate.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Individual Searches Based on Individualized Suspicion

Note: The Fourth Amendment of the U.S. Constitution, which prohibits unreasonable search and seizure, also applies to students in the school setting. In *New Jersey v. T.L.O.*, the U.S. Supreme Court held that the legality of a search of a student and/or ~~his/her~~ **the student's** belongings depends on whether the search is "reasonable." The "reasonableness" of a search depends on two factors: (1) whether there is individualized suspicion that the search will turn up evidence of a student's violation of the law or school rules and (2) whether the search is reasonably related to the objectives of the search and not excessively intrusive in light of the student's age, gender, and/or the nature of the infraction.

In *Redding v. Safford Unified School District*, the U.S. Supreme Court held that a strip search of a student (permissible in Arizona schools) was beyond the scope and overly intrusive in light of the seriousness of the student's alleged violation (i.e., possession of ibuprofen), the lack of immediate danger, and the lack of justification for the search given that the basis of the search was an uncorroborated tip from a fellow student. Although the specific type of search discussed in the court decision is not permissible in California schools pursuant to Education Code 49050, the factors considered by the court are applicable to an analysis as to whether a search is reasonable in scope, as specified below.

The law regarding searches of students' cellular phones, personally owned computers, or other personal communications devices is still developing. It is especially difficult to determine whether the school can impose discipline in circumstances where the behavior, such as sending a threatening message, occurs off-campus; see BP 5131 - Conduct. When the student brings an electronic device onto school grounds, it may be searched by school officials, but the search is subject to the same legal standards as a search of other student property, such as a backpack or purse. Therefore, when searching a student's personally owned electronic device, the district must have individualized suspicion that the search will lead to evidence that the student is violating a specific law or school rule and the scope of the search must be reasonably related to that violation. For example, searching a student's phone for evidence against another student or searching text messages extending well beyond the period of time of the alleged violation would likely be considered excessive in scope and thus unlawful. These standards for personally owned items are not applicable to a district's right to monitor a student's use of district-owned computer equipment or networks, subject to the district's acceptable use agreement; see BP/E 6163.4 - Student Use of Technology.

School officials may search any individual student, ~~his/her~~ **the student's** property, or district property under ~~his/her~~ **the student's** control when there is a reasonable suspicion that the search will uncover evidence that ~~he/she-the student~~ is violating the law, Board policy,

SEARCH AND SEIZURE (continued)

administrative regulation, or other rules of the district or the school. Reasonable suspicion shall be based on specific and objective facts that the search will produce evidence related to the alleged violation.

The types of student property that may be searched by school officials include, but are not limited to, lockers, desks, purses, backpacks, student vehicles parked on district property, cellular phones, or other electronic communication devices.

Note: In *Redding v. Safford Unified School District*, the U.S. Supreme Court held that a strip search of a student (permissible in Arizona schools) was beyond the scope and overly intrusive in light of the seriousness of the student's alleged violation (i.e., possession of ibuprofen), the lack of immediate danger, and the lack of justification for the search given that the basis of the search was an uncorroborated tip from a fellow student. Although the specific type of search discussed in the court decision is not permissible in California schools pursuant to Education Code 49050, the factors considered by the court are applicable to an analysis as to whether a search is reasonable in scope, as specified below.

Any search of a student, **his/her the student's** property, or district property under **his/her the student's** control shall be limited in scope and designed to produce evidence related to the alleged violation. Factors to be considered by school officials when determining the scope of the search shall include the danger to the health or safety of students or staff, such as the possession of weapons, drugs, or other dangerous instruments, and whether the item(s) to be searched by school officials are reasonably related to the contraband to be found. In addition, school officials shall consider the intrusiveness of the search in light of the student's age, gender, and the nature of the alleged violation.

The types of student property that may be searched by school officials include, but are not limited to, lockers, desks, purses, backpacks, **and** student vehicles parked on district property, cellular phones, or other electronic communication devices.

Note: In California, searches of personal electronic devices such as cellular phones are subject to the restrictions imposed by Penal Code 1546.1 in addition to the prohibitions against unreasonable searches and seizures under the Fourth Amendment. Districts with questions about searches of electronic devices such as cellular phones should consult legal counsel.

A student's personal electronic device may be searched only if a school official, in good faith, believes that an emergency involving danger of death or serious physical injury to the student or others requires access to the electronic device information.

(cf. 6163.4 - Student Use of Technology)

Employees shall not conduct strip searches or body cavity searches of any student. (Education Code 49050)

Searches of individual students shall be conducted in the presence of at least two district employees.

SEARCH AND SEIZURE (continued)

The principal or designee shall notify the parent/guardian of a student subjected to an individualized search as soon as possible after the search.

(cf. 5145.11 - Questioning and Apprehension by Law Enforcement)

Searches of **Multiple Student Lockers/ and Desks**

Note: The ability of school officials to search a locker without individualized suspicion depends on whether, under the circumstances, the student has a reasonable expectation of privacy in the locker. In *In re Cody S.*, the Court of Appeal observed that, while students in California generally have a reasonable expectation of privacy in lockers, that expectation can be limited where school policy makes it clear that lockers are the property of the district and subject to search. Nonetheless, board policy alone will not determine whether a student has a reasonable expectation of privacy in a locker as other circumstances such as staff communication and school practice can also inform the reasonableness of a student's expectation of privacy. Districts with specific questions about whether school officials can search lockers without individualized suspicion should consult legal counsel.

~~Like other student belongings, individual lockers and desks may be searched when there is reasonable, individualized suspicion, subject to the limits discussed in the above section entitled "Individual Searches." An argument could be made that, because lockers and desks are the property of the district, a student does not have an expectation of privacy and thus school officials could search them at any time, without individualized suspicion. However, because California courts have not ruled on this issue, the state of the law is unclear and districts that wish to develop policy authorizing searches of lockers and desks at any time, without individualized suspicion, should consult legal counsel.~~

The following **optional** section is for districts that conduct regular, announced inspections of multiple student lockers and/or desks **and should be revised to reflect district practice.** ~~Because such searches are random and announced in advance, individualized suspicion is not required.~~

All student lockers and desks are the property of the district. The principal or designee may conduct a general inspection of school properties that are within the control of students, such as lockers and desks, on a regular, announced basis, with students standing by their assigned lockers or desks. Any items contained in a locker or desk shall be considered to be the property of the student to whom the locker or desk was assigned.

Use of Metal Detectors

Note: In *In re Latasha W.*, the Court of Appeal upheld a policy of random weapons screening with a handheld metal detector. In addition, an Attorney General opinion (75 Ops.Cal.Atty.Gen. 155 (1992)) states that the reasonable use of metal detectors to deter the presence of weapons in schools is appropriate without individualized suspicion. The Attorney General recommends that the Governing Board make a specific finding identifying the rationale for the use of metal detectors. This finding need not be based on a specific weapons incident, but rather may be based on the need for metal detectors in response to the general harm caused by weapons and the need to provide a safe learning environment.

The following **optional** paragraph should be modified to reflect the district's rationale for the use of metal detectors.

SEARCH AND SEIZURE (continued)

The Board **believes finds** that the presence of weapons in the schools threatens the district's ability to provide the safe and orderly learning environment to which district students and staff are entitled. The Board also **believes finds** that metal detector searches offer a reasonable means to keep weapons out of the schools and mitigate the fears of students and staff.

Note: The Board should consider where and when metal detectors will be used, such as on a permanent basis at certain sites, rotated among sites, during regular school hours, and/or during special events such as athletic events or dances. To ensure that a metal detector search is reasonable, the Attorney General recommends that an administrative plan be established which contains uniform, established procedures and adequate safeguards against arbitrary and capricious enforcement by school officials. For example, the plan may specify that metal detectors be used at randomly selected schools or that students will be searched on a random basis (e.g., every fifth student entering). The key is to ensure that neutral criteria are applied so that the persons conducting the search do not exercise discretion in determining whether specific persons are targeted or selected for the search. The Attorney General's opinion also recommends that the district's use of metal detectors be incorporated into the district and/or school site safety plan; see BP/AR 0450 - Comprehensive Safety Plan. See the accompanying administrative regulation for other safeguards identified by the Attorney General.

The Superintendent or designee shall use metal detectors **at district schools** as necessary to **keep weapons out of schools and** help provide a safe learning environment. **He/she The Superintendent or designee** shall establish a plan to ensure that metal detector searches are conducted in a uniform and consistent manner.

Use of Contraband Detection Dogs

Note: The following **optional** section is for districts that use trained dogs for random and unannounced inspections for contraband. Prior to instituting such a program, districts wishing to conduct these types of "sniff searches" should make specific findings as to the need for the program and consult legal counsel.

Legally, problems arise when individual persons are sniffed and when students are separated from their belongings so that the belongings can be sniffed. In B.C. v. Plumas, the 9th Circuit Court of Appeals concluded that the random and suspicionless dog sniff of a student as he walked by the dog while exiting the room was unreasonable. The court found compelling the fact that there were not specific findings of a serious drug problem at the school that would necessitate the need for the use of the dogs. This court did not rule on whether sniffs of inanimate objects (such as automobiles or lockers) in a school setting are legal. However, courts outside of California (Zamora v. Pomeroy and Horton v. Goose Creek Independent School District) have indicated that dog sniffing around lockers and cars would probably not be deemed a "search" and thus would be permissible on a random basis without individualized suspicion. If the dog then alerts on a particular car or locker, this alert could then constitute the reasonable suspicion needed in order to conduct a search.

The law is unclear as to whether the district can conduct random and unannounced use of dogs whereby students are asked or required to leave their belongings so that the dog can sniff those belongings. An Attorney General opinion (83 Ops.Cal.Atty.Gen. 257 (2001-2000)) states that, unless exigent circumstances exist (e.g., supporting data of a known drug problem), requiring students to leave their belongings behind in the classroom (e.g., backpacks, purses, jackets) in order to conduct random, unannounced and neutral sniff

SEARCH AND SEIZURE (continued)

tests on students' personal belongings would be unreasonable and therefore unconstitutional. Whether the district can "ask" students to leave their belongings behind is also questionable since such a request might be considered an unconstitutional "seizure." Districts that wish to institute either type of policy should consult legal counsel and have specific data demonstrating the need for such a policy. Although Attorney General opinions are not law, they are generally afforded deference by the courts. See the accompanying administrative regulation.

In an effort to keep the schools free of dangerous contraband, the district may use specially trained, nonaggressive dogs to sniff out and alert staff to the presence of substances prohibited by law or Board policy. The dogs may sniff the air around lockers, desks, or vehicles on district property or at district-sponsored events. Dogs shall not sniff within the close proximity of students or other persons and may not sniff any personal items on those persons **without individualized suspicion.** ~~without their consent.~~

Legal Reference: (see next page)

SEARCH AND SEIZURE (continued)

Legal Reference:

EDUCATION CODE

32280-32289 School safety plans

35160 Authority of governing boards

35160.1 Broad authority of school districts

48900-48927 Suspension and expulsion

49050-49051 Searches by school employees

49330-49334 Injurious objects

PENAL CODE

626.9 Firearms

626.10 Dirks, daggers, knives or razor

1546-1546.1 Production of or access to electronic communication informationCALIFORNIA CONSTITUTION

Article I, Section 28(c) Right to Safe Schools

COURT DECISIONS***In G.C. v. Owensboro Public Schools* (6th Cir. 2013) 711 F.3d 623*****In re Sean A.* (2010) 191 Cal. App. 4th 182*****Redding v. Safford Unified School District*, (2009) 557 U.S. 364 (2009)*****B.C. v. Plumas*, (9th Cir. 1999) 192 F.3d 1260*****Jennings v. Joshua Independent School District*, (5th Cir. 1992) 948 F.2d 194 557 U.S. 364 (2009)*****In re Cody S.*, 121 Cal. App. 4th 86, 92 (2004)*****Klump v. Nazareth Area School District* (E.D. Pa. 2006) 425 F. Supp. 2d 622, 640*****In Re William V.* (2003) 111 Cal.App.4th 1464*****B.C. v. Plumas*, (9th Cir. 1999) 192 F.3d 1260*****In re Latasha W.* (1998), 60 Cal. App. 4th 1524*****O'Connor v. Ortega*, (1987) 480 U.S. 709*****In re William G* (1985) 40 Cal. 3d 550*****New Jersey v. T.L.O.*, (1985) 469 U.S. 325*****Horton v. Goose Creek Independent School District*, (5th Cir. 1982) 690 F.2d 470*****Zamora v. Pomeroy*, (10th Cir. 1981) 639 F.2d 662**ATTORNEY GENERAL OPINIONS**83 Ops.Cal.Atty.Gen. 257 (2004-2000)****75 Ops.Cal.Atty.Gen. 155 (1992)**

Management Resources:

NATIONAL INSTITUTE OF JUSTICE PUBLICATIONS***The Appropriate and Effective Use of Security Technologies in U.S. Schools: A Guide for Schools and Law Enforcement Agencies*, 1999**WEB SITESCSBA: <http://www.csba.org>California Attorney General's Office: <http://caag.state.ca.us>California Department of Education, Safe Schools: <http://www.cde.ca.gov/lr/ss>National Institute of Justice: <http://www.ojp.usdoj.gov/nij>

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Board Policy

Facilities

BP 7211(a)

DEVELOPER FEES

Note: Developer fees are one method of financing facilities available to the district. As amended by SB 50 (Ch. 407, Statutes of 1998), Government Code 65995 prohibit cities and counties from requiring development fees in excess of the maximum amounts set forth in Education Code 17620 to help fund school facilities. Government Code 65995 and, as amended by AB 127 (Ch. 35, Statutes of 2006), Government Code 65997 essentially repeal, until 2012, the Mira/Hart/Murrietta line of case law which had granted cities or counties the authority to deny development projects based on a determination as to whether school facilities were adequate to meet the demands created by the development. Districts with current Mira agreements should consult legal counsel in order to determine whether that agreement can be "grandfathered," and therefore exempted from the SB 50 requirements.

See AR 7211 for detailed findings that must be made by the Governing Board prior to the levying of any developer fees. The following policy and regulation are optional:

The following policy is optional. Education Code 17620-17621 and Government Code 65995-65995.7 provide authority for three levels of developer fees that may be levied by school districts on residential, commercial, and industrial construction to mitigate the impact of increased enrollment on school facilities. Before imposing developer fees, the Governing Board must conduct a fee justification study and comply with other requirements.

Due to the failure of state bond measure Proposition 13 in March 2020, Government Code 65997 is operative until a new state bond measure is approved. Pursuant to Government Code 65997, public agencies may, on the basis of the inadequacy of school facilities, deny or refuse to approve a "legislative" act but may not require the payment of a fee in excess of that imposed pursuant to Government Code 65995-65995.7. Courts have distinguished between legislative acts (e.g., zoning ordinances) and adjudicative acts (e.g., subdivision approvals, variances, and conditional use permits). Districts with specific questions as to the operation of Government Code 65997 should consult legal counsel.

Level 1 fees, the basic mitigation fee, may be applied to residential, commercial, and industrial construction projects and must be within the limits established by law and the State Allocation Board (SAB). Level 2 fees apply only to residential construction, and the amount of the fee varies across districts as determined through a school facilities needs analysis. Level 3 fees may be double the amount of Level 2 fees, but may only be collected when SAB certifies that state funds for new school facility construction are not available.

Pursuant to Education Code 17620, some types of construction may be exempted from the developer fee. Districts should consult with legal counsel as appropriate.

In order to finance the construction or reconstruction of school facilities needed to accommodate students coming **increased student enrollment resulting** from new development, the Governing Board may establish, levy, and collect developer fees on residential, commercial, and industrial construction within the district, subject to restrictions specified by law and administrative regulation.

DEVELOPER FEES (continued)**Level 1 Funding Fees: Residential, Commercial and Industrial Construction**

Note: In order to levy or increase developer fees, Government Code 66001 requires that a district develop a Fee Justification Study which justifies the amount of the fee. The State Allocation Board sets the developer fee rates; these rates will be increased. For Level 1 fees, Government Code 65995 establishes a maximum amount of fee, which is adjusted for inflation by SAB every two years. In order to levy developer fees, Government Code 66001 requires that the Board conduct a fee justification study which demonstrates a reasonable relationship between residential, commercial, and industrial development in the district and the need for additional school facilities. It is important to note that, in order to increase their rates, Pursuant to Government Code 66001 and 66016, before increasing any fee, requires districts to must update their fee justification study and to satisfy the notice and hearing requirements, as specified below. Education Code 17622 requires separate, special findings when levying fees on spaces enclosed for agricultural purposes.

Courts have held that boards must be able to show that a valid method was used in the fee justification study. In *Summerhill Winchester LLC v. Campbell Union School District*, the Court of Appeal concluded that a fee justification study must include the following three factors: (1) a projection of the total amount of new housing expected to be built within the district; (2) an estimate of how many students will be generated by the new development; and (3) an estimate of what it will cost to provide the necessary school facilities for the new students. Districts with questions about the adequacy of a fee justification study or how to analyze the reasonableness of a fee in relation to the type of development at issue should consult legal counsel.

Before taking action to establish, increase, or impose **Level 1** developer fees, the Governing Board shall conduct a fee justification study which: (Government Code 66001)

1. Identifies the purpose of the fee and the use to which the fee will be put
2. Determines a reasonable relationship between the fee's use and the type of development project for which the fee is imposed
3. Determines a reasonable relationship between the need for the public facility and the type of development project for which the fee is imposed
4. Determines a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributed to the development for which the fee is imposed

Before levying developer fees or prior to increasing an existing fee, the Board shall schedule hold a public hearing. The Superintendent or designee shall mail notice of the time and place of the meeting at which a public hearing shall occur, including a general explanation of the matter to be considered and a statement that the required data are available, at least 14 days prior to the meeting to any interested party who has requested such information. Any written request for mailed notices shall be valid for one year from the date on which it is filed

DEVELOPER FEES (continued)

unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The district may charge a fee reasonably related to the cost of providing these materials. (Government Code 66016)

Information on the anticipated amount of fees, other available funds and funding sources, and the estimated cost of planning, land acquisition, and school construction shall be made available to the public at least 10 days before the hearing. (Government Code 66016)

At the hearing, the Board shall adopt a resolution for the levying of the developer fees. (Government Code 66016)

The resolution shall set forth:

1. The purpose of the fee, **the use to which the fee is to be put**, and the public improvement(s) that the fee will be used to finance (Government Code **66001, 66006**)
2. The Board's findings of reasonable relationship which justify the fees pursuant to Government Code 66001
3. **If the district requires payment of the fee at a time earlier than the date of final inspection or the issuance of a certificate of occupancy, The— the district's determination of either of the following conditions which allow collection of the fees at the time when building permits are issued:** (Government Code 66007)
 - a. That the fees are to reimburse the district for previous expenditures
 - b. That the fees shall be collected for public improvements or facilities for which an account has been established, funds have been appropriated, and the district has adopted a proposed construction schedule or plan

In the case of any commercial or industrial development, the Board shall make findings on either an individual project basis or on the basis of categories of commercial or industrial development. Those categories may include, but are not limited to, the following uses: office, retail, transportation, communications and utilities, light industrial, heavy industrial, research and development, and warehouse. The Board shall also conduct a study to determine the impact of the increased number of employees anticipated to result from the commercial or industrial development upon the cost of providing school facilities within the district. (Education Code 17621)

DEVELOPER FEES (continued)**Level 2 Funding Fees: Residential Construction**

Note: Government Code 65995.5 allows the Board to impose a fee on residential construction that is higher than the Level 1 fee limit set forth in Government Code 65995 if the district ~~makes is considered eligible pursuant to Education Code 17071.10-17078.10 and a timely application to SAB for new construction funding under the State Facilities Program for which is made to the State Allocation Board it is determined to be eligible by SAB pursuant to Education Code 17071.10-17071.76.~~ In addition, Government Code 65995.5 requires the district to adopt a ~~"Facility Needs Analysis"~~ **facility needs analysis** and to satisfy the cost-saving/revenue-enhancing measures described in that section. The **facility needs analysis** ~~Needs Analysis~~ required by Government Code 65995.6 serves a similar purpose as the ~~Fee Justification Study~~ **fee justification study** detailed above, but specifies different legal requirements, as well as a different approval and adoption process. Government Code 65995.5 clarifies that developer fees may be expended on the costs of performing the needs analysis as well as on the administrative costs associated with collecting the fees.

In order to impose **Level 2** residential construction fees within the limits of Government Code 65995.5, the Board shall, **in addition to fulfilling the requirements above for Level 1 fees, undertake the following:** (Government Code 65995.5)

1. **Make a timely application to the State Allocation Board (SAB) for new construction funding for which it is eligible and be determined to be eligible by SAB**
2. **Conduct and adopt a school facility needs analysis pursuant to Government Code 65995.6**
3. **Satisfy at least two of the requirements set forth in Government Code 65995.5(b)(3)(A-D) (Government Code 65995.5)**

Note: Government Code 65352.2, ~~as added by AB 1367 (Ch. 396, Statutes of 2001),~~ requires the district to provide the notification specified below to the appropriate city or county planning agency. If the parties decide to meet, Government Code 65352.2 specifies issues that may be considered at the meeting.

At least 45 days prior to completion of the school facility needs analysis, the Board shall notify and provide copies of the analysis to the planning commission or agency of the city or county with land use jurisdiction within the district. Upon request of either party, the Board and city or county shall meet within 15 days following notification. (Government Code 65352.2)

(cf. 7131 - Relations with Local Agencies)

The Board shall adopt the school facility needs analysis by resolution at a public hearing. (Government Code 65995.6)

DEVELOPER FEES (continued)

This analysis ~~may~~ **shall** not be adopted until the analysis, in its final form, has been made available to the public for a period of not less than 30 days. Prior to its adoption, the public shall have the opportunity to review and comment on the analysis and the Board shall respond to written comments it receives regarding the analysis. (Government Code 65995.6)

~~No~~ **Not** less than 30 days prior to the hearing, notice of the time and place of the hearing, including the location and procedure for viewing or requesting a copy of the proposed analysis, shall be published in at least one newspaper of general circulation within the jurisdiction of the district. If there is no paper of general circulation, the notice shall be posted in at least three conspicuous places within the district's jurisdiction not less than 30 days prior to the hearing. (Government Code 65995.6)

In addition, the Superintendent or designee shall mail a copy of the needs analysis not less than 30 days prior to the hearing to any person who has made a written request if the written request was made 45 days prior to the hearing. The district may charge a fee reasonably related to the cost of providing these materials. (Government Code 65995.6)

During the period of public review, the analysis shall be provided to the local agency responsible for land use planning for its review and comment. (Government Code 65995.6)

Note: Government Code 65995.6 provides that if the school facility needs analysis is revised during the period of public review or at the public hearing, the approval process must recommence (e.g., another 30-day review period, published notice, etc.).

The school facility needs analysis may be revised at any time. The revision is subject to the same conditions and requirements applicable to the adoption of the analysis. The existing school building capacity shall be recalculated as part of any revision to the needs analysis. (Government Code 65995.6)

Note: Pursuant to Government Code 65995.6, the fees take effect immediately upon adoption and are effective for only one year. After one year, the district must repeat the adoption process.

The fees authorized by Government Code 65995.6 and ~~Government Code 65995.7~~ shall be adopted by resolution as part of the adoption or revision of the school facilities needs analysis. The fees shall take effect immediately upon adoption of the resolution and may not be effective for more than one year. (Government Code 65995.6)

Level 3 Funding Fees: Residential Construction

Note: Government Code 65995.7 has authorized a district that is eligible to receive the Level 2 funding the authority to levy a still higher fee on residential construction (Level 3 funding) upon a determination by SAB that state funds are no longer available.

DEVELOPER FEES (continued)

When Level 3 fees are authorized by law and the district qualifies for Level 2 **funding fees** pursuant to Government Code 65995.5, the Board may assess a fee on residential construction pursuant to ~~the requirements of~~ Government Code 65995.7.

~~Pursuant to Government Code 65995.7, the~~ The notice and hearing requirements, resolution requirement, and term of effectiveness for Level 3 **funding fees** shall be the same as the requirements for Level 2 **funding fees** as specified above. **(Government Code 65995.7)**

Appeals Process for Protests by Developers

Note: ~~In addition to authorizing developer protests in accordance with Government Code 66020 and 66021, Education Code 17621 requires the Board to provide an appeals process for commercial/industrial fees when the district has analyzed the impact of these projects on a categorical rather than individual basis.~~

~~The Superintendent or designee shall establish an appeals process for the handling of protests by developers. (Education Code 17621)~~

Use of Fees

Note: Pursuant to Government Code 66006, the district may establish a reasonable annual charge, based on estimated cost, for sending the following notice.

The Board shall review ~~the above information~~ **provided by the Superintendent or designee pursuant to Government Code 66006 regarding each account or fund into which developer fees have been deposited**, at the first regularly scheduled public Board meeting which occurs 15 days after the information is made available to the public. Fifteen-day prior notice of this meeting shall be mailed to any parties filing a written request pursuant to Government Code 66006. **(Government Code 66006)**

Note: Pursuant to Government Code 66001, if the following findings are not made every five years as required, the district may be required to refund the moneys in the account or fund pursuant to Government Code 66006(e).

In addition to discharging its public disclosure duties regarding the levying of developer fees, the Board shall, for the fifth fiscal year after the first deposit into the account or fund and every five years thereafter, make all of the following findings with respect to the portion of the account or fund that remains unexpended, whether committed or uncommitted: **(Government Code 66001)**

1. Identify the purpose to which the fee is to be put
2. Demonstrate a reasonable relationship between the fee and the purpose for which it is charged

DEVELOPER FEES (continued)

3. Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements originally identified
4. Designate the approximate dates on which the funding referred to in item #3 is expected to be deposited into the appropriate account or fund

*Legal Reference:*EDUCATION CODE17070.10-~~17077.10~~ 17079.30 Leroy F. Greene School Facilities Act of 1998

17582 District deferred maintenance fund

17620-17626 Levies against development projects by school districts

101122 Schedule for allocation of proceeds from sale of bonds

GOVERNMENT CODE

6061 One time notice

6066 Two weeks' notice

65352.2 Level 2 funding notification requirement

65864-65869.5 Development agreements

65995-65998 Payment of fees against a development project

66000-66008 Fees for development projects

66016-~~66018.5~~ 66019 Development project fees Procedures for adopting various fees

66020-66025 Protests, legal actions, and audits

CODE OF REGULATIONS, TITLE 2

1859-1859.406-408 School facility program

COURT DECISIONSTanimura & Antle Fresh Foods, Inc. v. Salinas Union High School District (2019) 34 Cal. App. 5th 775Summerhill Winchester LLC v. Campbell Union School District (2018) 30 Cal. App. 5th 545Cresta Bella, LP v. Poway Unified School District (2013) 218 Cal.App.4th 438Warmington Old Town Associates (2002) 101 Cal.App.4th 840Dolan v. City of Tigard (1994) 114 S.Ct. 2309Garrick Development Company v. Hayward Unified School District (1992) 3 Cal.App.4th 320*Management Resources:*WEB SITESDepartment of General Services, Office of Public School Construction: <http://www.opsc.dgs.ca.gov>
<https://www.dgs.ca.gov/OPSC>