

# CSBA Sample Board Policy

Students

BP 5111(a)

## ADMISSION

**Note: Pursuant to Education Code 48200, all children ages 6-18 years are subject to compulsory full-time education, unless specifically exempted. See BP/AR 5112.1 - Exemptions from Attendance for further information about such exemptions.**

The Governing Board encourages the enrollment and appropriate placement of all school-aged children in school. The Superintendent or designee shall inform parents/guardians of children entering a district school at any grade level about admission requirements and shall assist them with enrollment procedures.

Note: Admission requirements include age criteria for grades K-1; see the accompanying administrative regulation. Other admission requirements are addressed in AR 5111.1 - District Residency, BP/AR 5141.31 - Immunizations, and AR 5141.32 - Health Screening for School Entry.

Before enrolling any child in a district school, the Superintendent or designee shall verify the child's age, residency, immunization, and other applicable eligibility criteria specified in law, the accompanying administrative regulation, or other applicable Board policy or administrative regulation.

*(cf. 5111.1 - District Residency)*

*(cf. 5125 - Student Records)*

*(cf. 5141.3 - Health Examinations)*

*(cf. 5141.31 - Immunizations)*

*(cf. 5141.32 - Health Screening for School Entry)*

Note: State and federal law require the immediate enrollment of homeless youth (Education Code 48850, **48852.7**; 42 USC 11432) and foster youth (Education Code 48853.5), regardless of their ability to provide the school with records normally required for enrollment; see BP/AR 6173 - Education for Homeless Children and AR 6173.1 - Education for Foster Youth. In addition, Education Code 49701 requires the district to facilitate the enrollment of children of military families and to ensure that they are not placed at a disadvantage due to difficulty in the transfer of their records from previous school districts and/or variations in entrance or age requirements; see BP/AR 6173.2 - Education of Children of Military Families.

**The Office for Civil Rights, U.S. Department of Education, has issued a "Dear Colleague" letter to clarify that districts may not adopt enrollment procedures that discourage the participation of students based on the actual or perceived citizenship or immigration status of the student or parent/guardian, as such practices would violate federal laws granting all students equal access to education. Thus, the district may not inquire into a student's citizenship or immigration status as a condition of enrollment.**

The Superintendent or designee shall ensure that the enrollment of a homeless or foster child or a child of a military family is not delayed because of outstanding fees or fines owed to the child's

last school or for his/her inability to produce previous academic, medical, or other records normally required for enrollment.

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## ADMISSION (continued)

*(cf. 6173 - Education for Homeless Children)*

*(cf. 6173.1 - Education for Foster Youth)*

*(cf. 6173.2 - Education of Children of Military Families)*

Note: Education Code 48645.5 prohibits the district from denying enrollment to a child solely for reason of his/her contact with the juvenile justice system as specified in the following paragraph. **Also see AR 6173.3 - Education for Juvenile Court School Students.** Pursuant to Education Code 48647, **as added by AB 2276 (Ch. 901, Statutes of 2014),** districts are strongly encouraged to work together with other agencies, including, but not limited to, the county office of education and the county probation department, to facilitate smooth transition of children from the juvenile court schools into regular schools.

In addition, no child shall be denied enrollment in a district school solely on the basis of his/her arrest, adjudication by a juvenile court, formal or informal supervision by a probation officer, detention in a juvenile facility, enrollment in a juvenile court school, or other contact with the juvenile justice system. (Education Code 48645.5)

*(cf. 5119 - Students Expelled from Other Districts)*

***(cf. 6173.3 - Education for Juvenile Court School Students)***

Note: In **Plyler v. Doe**, the U.S. Supreme Court ruled that, under the Fourteenth Amendment of the U.S. Constitution, students cannot be denied a free public education on the basis of their citizenship or immigration status, including their status as undocumented children. As discussed in a joint Dear Colleague Letter and joint fact sheet, **Information on the Rights of All Children to Enroll in School**, issued by the U.S. Department of Justice's Civil Rights Division and U.S. Department of Education's Office for Civil Rights, it may be a violation of federal law for districts to adopt a policy or procedure that prohibits or discourages children from enrolling in school because they or their parents/guardians are not United States citizens or are undocumented.

Undocumented children in California not only have a right to attend school, but are mandated to do so under state compulsory education laws (Education Code 48200). Furthermore, every student has a right to attend school free from discrimination, harassment, violence, intimidation, and bullying; see BP 0410 - Nondiscrimination in District Programs and Activities and BP/AR 5145.3 - Nondiscrimination/Harassment.

Although districts may require proof of residency within the district (e.g., utility or phone bill, property tax payment receipt, rental property lease agreement, etc.), they should not request visas, passports, or other documentation that would discourage undocumented children from enrolling in school; see BP/AR 5111.1 - District Residency.

If the district becomes aware of the citizenship or immigration status of any student, it is prohibited from disclosing such information to U.S. Immigration and Customs Enforcement, as such disclosure is not among the limited exceptions specified in law for which student records may be released without parental consent or a lawful judicial order.

For further discussion of these issues, see CSBA's Legal Guidance on Providing All Children Equal Access to Education, Regardless of Immigration Status. The legal guidance also includes a sample board resolution that may be used to inform students, parents/guardians, and the community of students' rights under current law to attend a district school regardless of their citizenship or immigration status.

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## ADMISSION (continued)

The Superintendent or designee shall not inquire into or request documentation of a student's citizenship or immigration status, and shall not deny a student enrollment in a district school on the basis of the citizenship or immigration status of the student or his/her parents/guardians. Any information obtained about a student's or parent/guardian's citizenship or immigration status shall not be shared without parent/guardian consent or a lawful judicial order, in accordance with laws pertaining to the confidentiality of student records.

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

*(cf. 5145.3 - Nondiscrimination/Harassment)*

Note: The following optional paragraph is for use by districts that request the social security number of a student or his/her parent/guardian for enrollment purposes. 5 USC 552a Note provides that a district may not deny enrollment to a student if he/she or his/her parent/guardian chooses not to provide a social security number. Thus, while CSBA's Legal Guidance of Providing All Children Equal Access to Education, Regardless of Immigration Status recommends against requesting social security numbers, a district that chooses to do so must inform the enrolling student or parent/guardian that the disclosure is voluntary.

A student shall not be denied enrollment based on the parent/guardian's refusal to provide the student's or parent/guardian's social security number. During the enrollment process, a student and parent/guardian shall be informed that disclosure of their social security number is voluntary. (5 USC 552a Note)

Note: The following optional paragraph may be revised to reflect district practice. Education Code 48354 requires the district to give priority for enrollment to students residing in the district, including students applying for intradistrict open enrollment, over students transferring from a school identified under the Open Enrollment Act (Education Code 48350-48361). Thus, the district needs to align the application windows for various attendance options in a manner that will allow the district to meet legal requirements pertaining to admissions priorities. See BP/AR 5116.1 - Intradistrict Open Enrollment and BP/AR 5118 - Open Enrollment Act Transfers for application windows applicable to those options.

When enrolling in any district school, including a school in their attendance area, children whose parents/guardians reside within district boundaries shall be subject to the timelines established by the Board for open enrollment. Children whose parents/guardians do not reside within the district or who are not otherwise eligible for enrollment in the district may apply for interdistrict attendance in accordance with the timelines specified in applicable Board policies and administrative regulations.

*(cf. 5116.1 - Intradistrict Open Enrollment)*

*(cf. 5117 - Interdistrict Attendance)*

(cf. 5118 - Open Enrollment Act Transfers)

Note: Education Code 49452.9, as added by AB 2706 (Ch. 827, Statutes of 2014) amended by AB 2308 (Ch. 570, Statutes of 2016), extends beyond the 2017-18 school year the requirement that requires the district's

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## ADMISSION (continued)

enrollment forms for the 2015-16, 2016-17, and 2017-18 school years to include an informational item about affordable health care options and available enrollment assistance. Pursuant to Education Code 49452.9, the district could accomplish this by developing an informational item or amending its existing forms, or by using a template or attaching a fact sheet to be developed by the California Department of Education.

The district's enrollment application shall include information about the health care options and enrollment assistance available to families within the district. The district shall not discriminate against any child for not having health care coverage and shall not use any information relating to a child's health care coverage or his/her interest in learning about health care coverage in any manner that would harm the child or his/her family. (Education Code 49452.9)

### Legal Reference:

#### EDUCATION CODE

46300 Computation of average daily attendance, inclusion of kindergarten and transitional kindergarten

46600 Agreements for admission of students desiring interdistrict attendance

48000 Minimum age of admission (kindergarten)

48002 Evidence of minimum age required to enter kindergarten or first grade

48010 Minimum age of admission (first grade)

48011 Admission from kindergarten or other school; minimum age

48050-48053 Nonresidents

48200 Children between ages of 6 and 18 years (compulsory full-time education)

48350-48361 Open Enrollment Act

48850-48859 Educational placement of homeless and foster youth

**48645.5 Enrollment of former juvenile court school students**

49076 Access to records by persons without written consent or under judicial order

49408 Information of use in emergencies

49452.9 Health care coverage options and enrollment assistance

49700-49704 Education of children of military families

#### HEALTH AND SAFETY CODE

120325-120380 Education and child care facility immunization requirements

121475-121520 Tuberculosis tests for students

#### CODE OF REGULATIONS, TITLE 5

200 Promotion from kindergarten to first grade

201 Admission to high school

#### CODE OF REGULATIONS, TITLE 17

6000-6075 School attendance immunization requirements

#### **UNITED STATES CODE, TITLE 5**

**552a Note Refusal to disclose social security number**

#### UNITED STATES CODE, TITLE 42

11431-11435 McKinney-Vento Homeless Assistance Act

**COURT DECISIONS**

**Plyler v. Doe, 457 U.S. 202 (1982)**

Management Resources: (see next page)

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Management Resources:

**CSBA PUBLICATIONS**

**Legal Guidance on Providing All Children Equal Access to Education, Regardless of Immigration Status, February 2017**

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

**U.S. DEPARTMENT OF JUSTICE CIVIL RIGHTS DIVISION AND U.S. DEPARTMENT OF EDUCATION OFFICE FOR CIVIL RIGHTS JOINT PUBLICATIONS**

**Fact Sheet: Information on the Rights of All Children to Enroll in School**

**Dear Colleague Letter: School Enrollment Procedures, ~~May 6, 2014~~ May 8, 2014**

**WEB SITES**

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

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

U.S. Department of Education, Office for Civil Rights: <http://www2.ed.gov/about/offices/list/ocr>

**U.S. Department of Justice: <https://www.justice.gov>**

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**Policy Reference UPDATE Service**

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