

CENTER JOINT UNIFIED SCHOOL DISTRICT

www.centerusd.k12.ca.us

Students will realize their dreams by developing communication skills, reasoning, integrity, and motivation through academic excellence, a well-rounded education, and being active citizens of our diverse community.

BOARD OF TRUSTEES REGULAR MEETING

Center High School - Theater
3111 Center Court Lane, Antelope, CA 95843

Wednesday, June 3, 2009 - 6:00 p.m.

STATUS

I. CALL TO ORDER & ROLL CALL - 5:00 p.m.

II. ANNOUNCEMENT OF ITEMS TO BE DISCUSSED IN CLOSED SESSION

1. Conference with Labor Negotiator, George Tigner, Re: CSEA (G.C. §54957.6)
2. Public Employee Performance Evaluation (Certificated) Assistant Superintendent (G.C. §54957)
3. Public Employee Performance Evaluation (Classified) Director (G.C. §54957)
4. Public Employee Appointment (G.C. §54957) Superintendent

III. PUBLIC COMMENTS REGARDING ITEMS TO BE DISCUSSED IN CLOSED SESSION

IV. CLOSED SESSION - 5:00 p.m.

V. OPEN SESSION - CALL TO ORDER - 6:00 p.m.

VI. FLAG SALUTE

VII. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

Info/Action

VIII. ADOPTION OF AGENDA

Action

IX. STUDENT / STAFF RECOGNITIONS (5 minutes each)

Info

1. Staff Recognition - Special Education Information System (SEIS)

X. REPORTS/PRESENTATIONS (8 minutes each)

Info

Governance

1. District Organization

Note: If you need a disability-related modification or accommodation, including auxiliary aids or services, to participate in the public meeting, please contact the Superintendent's Office at (916) 338-6409 at least 48 hours before the scheduled Board meeting. [Government Code §54954.2] [Americans with Disabilities Act of 1990, §202.]

NOTICE: The agenda packet and supporting materials, including materials distributed less than 72 hours prior to the scheduled meeting, can be viewed at Center Joint Unified School District, Superintendent's Office, located at 8408 Watt Avenue, Antelope, CA. For more information please call 916-338-6409.

XI. COMMENTS FROM THE AUDIENCE REGARDING ITEMS NOT ON THE AGENDA

Public
Comments
Invited

Anyone may address the Board regarding any item that is within the Board's subject matter jurisdiction. However, the Board may not discuss or take action on any item which is not on this agenda except as authorized by Government Code Section 5495.2. A speaker shall be limited to 3 minutes (Board Policy 9323). All public comments on items listed on this agenda will be heard at the time the Board is discussing that item.

XII. BOARD / SUPERINTENDENT REPORTS (10 minutes)

Info

XIII. CONSENT AGENDA (5 minutes)

Action

NOTE: The Board will be asked to approve all of the following items by a single vote, unless any member of the Board asks that an item be removed from the consent agenda and considered and discussed separately.

- | | | |
|------------|----|---|
| Governance | 1. | Approve Adoption of Minutes from May 20, 2009 Regular Meeting |
| I | 2. | Approve 2009-2010 Board Meeting Schedule |
| Personnel | 3. | Approve Addition of Academic Coordinator Salary Schedule |
| Curriculum | 4. | Approve 2008/2009 Master Contracts
Red Rock Canyon School |

XIV. INFORMATION ITEMS (3 minutes)

Info

- | | | |
|------------|----|---|
| Curriculum | 1. | Workshop: "2009 AVID Summer Institute" - J. Slay, D. Stout, S. Wildman, M. Neal & W. Hollis (WCR) |
| Business | 2. | Workshop: "State Categorical Flexibility and Federal Funds Workshop" - J. Bess (Bus. Off.) |

XV. BUSINESS ITEMS

Governance	A.	<u>Second Reading: Board Policies/Regulations/Exhibits</u>	Action
	Replace	BP/AR 0520.2	Title I Program Improvement Schools
	Delete	E (1-4) 0520.2	Title I Program Improvement Schools
	Add	E (1-2) 0520.2	Title I Program Improvement Schools
	Replace	BP 3280	Sale or Lease of District-Owned Real Property
	Replace	BP/AR/E 3320	Claims and Actions Against the District
	Replace	BP/AR 4111.2/4211.2/4311.2	Legal Status Requirement
	Replace	BP/AR 4113	Assignment
	Replace	AR 4161.8/4261.8/4361.8	Family and Medical Leave
	Replace	BP/AR 5125	Student Records
	Replace	AR 5125.1	Release of Directory Information
	Replace	BP/AR 5126	Awards for Achievement
	Replace	BP/AR 5145.7	Sexual Harassment
	Replace	BP/AR 5148	Child Care and Development
	Add	BP/AR 5148.3	Preschool/Early Childhood Education
	Add	BP/AR 6142.2	World/Foreign Language Instruction
	Replace	BP/AR 6159.1	Procedural Safeguards and Complaints for Special Ed.
	Replace	BP/AR 6163.4	Student Use of Technology
	Replace	AR 6164.4	Identification and Evaluation for Special Education
	Replace	AR 6164.6	Identification and Education Under Section 504
	Delete	BP 6300	Preschool/Early Childhood Education

PUBLIC HEARING: The Board of Trustees has set this time aside to hear public comments relative to the consideration and adoption of the School Facility Needs Analysis and the resolution to adopt Level 2 & 3 School Fees for new residential construction.

**Facilities & Op. B. School Facility Needs Analysis and Resolution #36/2008-09:
Level 2 & 3 School Fees for New Residential Construction**

Action

This resolution is to adopt and approve the Needs Analysis and Alternative School Facility Fees that may be imposed on residential construction.

- | | |
|---|---------------|
| XVI. ADVANCE PLANNING | Info |
| a. Future Meeting Dates: | |
| i. Wednesday, June 17, 2009 @ 6:00 p.m. - Center High School Theater | |
| b. Suggested Agenda Items: | |
| XVII. CONTINUATION OF CLOSED SESSION (Item IV) | Action |
| XVIII. ADJOURNMENT | Action |

Center Unified School District

AGENDA REQUEST FOR:

Dept./Site: Curriculum and Instruction

Date: June 3, 2009

To: Board of Trustees

Information Item X

From: Scott Loehr, Assistant

Action Item

Superintendent

Attached Pages *None*

Administrator's Initials: SL

SUBJECT: Staff Recognition – Special Education Information System (SEIS)

During the 2008-2009 school year, the district's Special Education Local Planning Area (SELPA) made the transition to new IEP paperwork and a new online IEP system. As a result, the district has worked to transition from our current system and paperwork to this new system. We have conducted extensive professional development opportunities for all special education staff and multiple data migrations. While the entire special education staff is to be commended for this colossal project, I would like to recognize three individuals (**Heather Perry, Tami J'Beily, and Tracie Ramirez**) that have provided instrumental leadership and support throughout this transition. The district is now in full implementation of the new system and looks forward to starting the 2009/2010 school year solely on this new system.

RECOMMENDATION: Staff Recognition Item

Center Joint Unified School District

AGENDA REQUEST FOR:

Dept./Site: Superintendent's Office

To: Board of Trustees

Date: June 3, 2009

From: Dr. Kevin J. Jolly, Superintendent

Principal/Administrator Initials: _____

Action Item _____

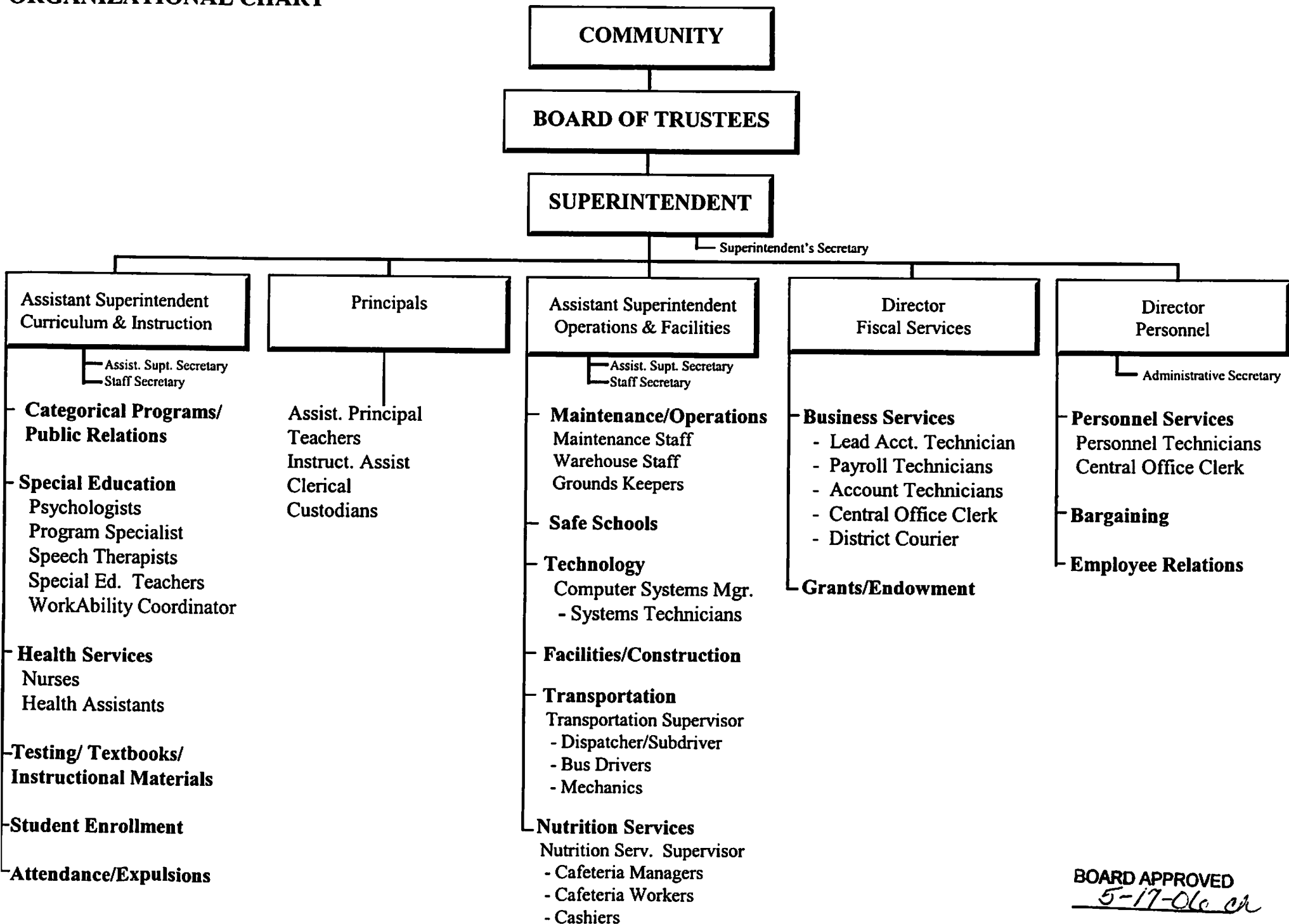
Information Item X

Attached Pages _____

SUBJECT: District Organization

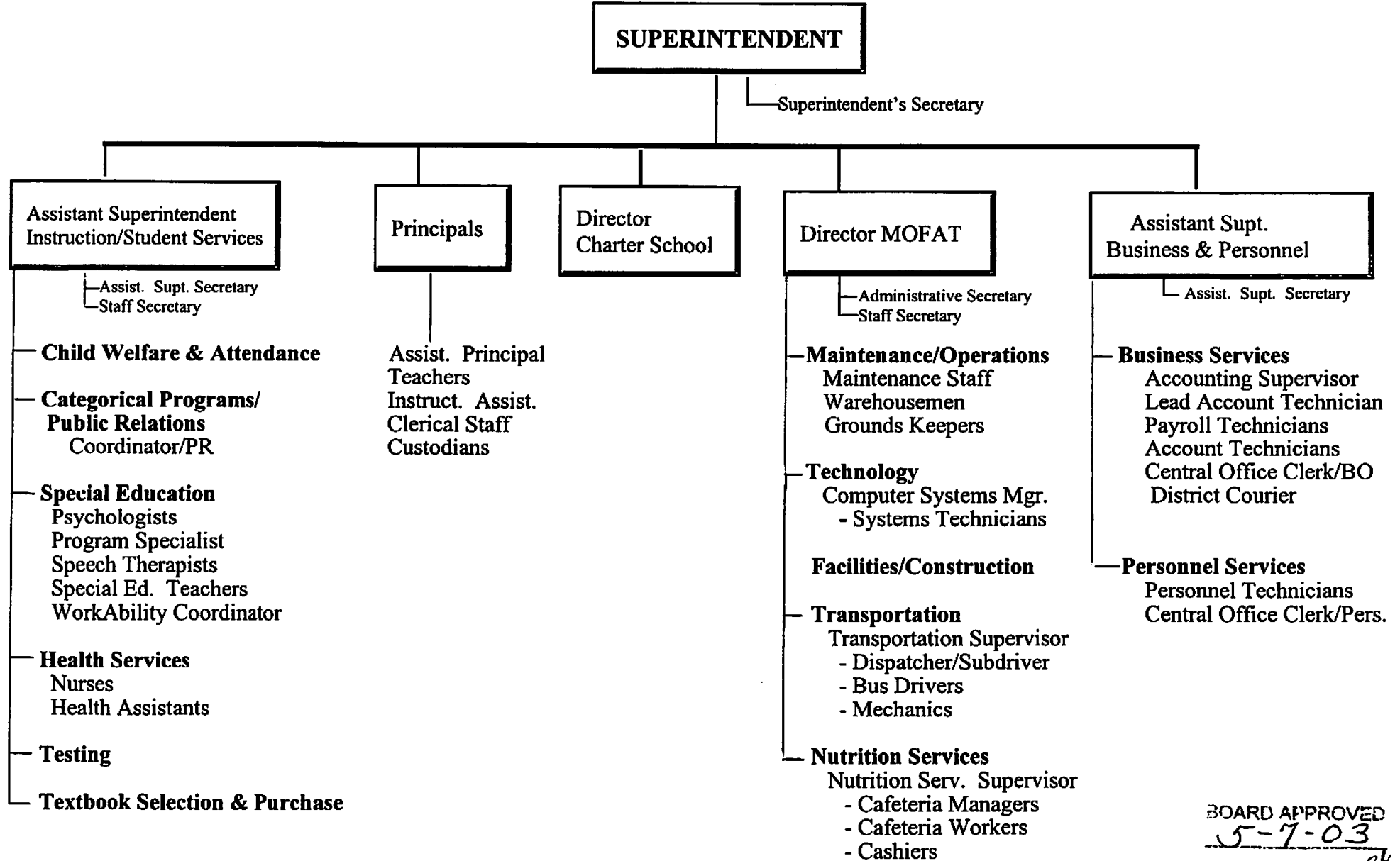
RECOMMENDATION: information item

Center Unified School District
ORGANIZATIONAL CHART



BOARD APPROVED
5-17-06 *cr*

Center Unified School District
ORGANIZATION CHART

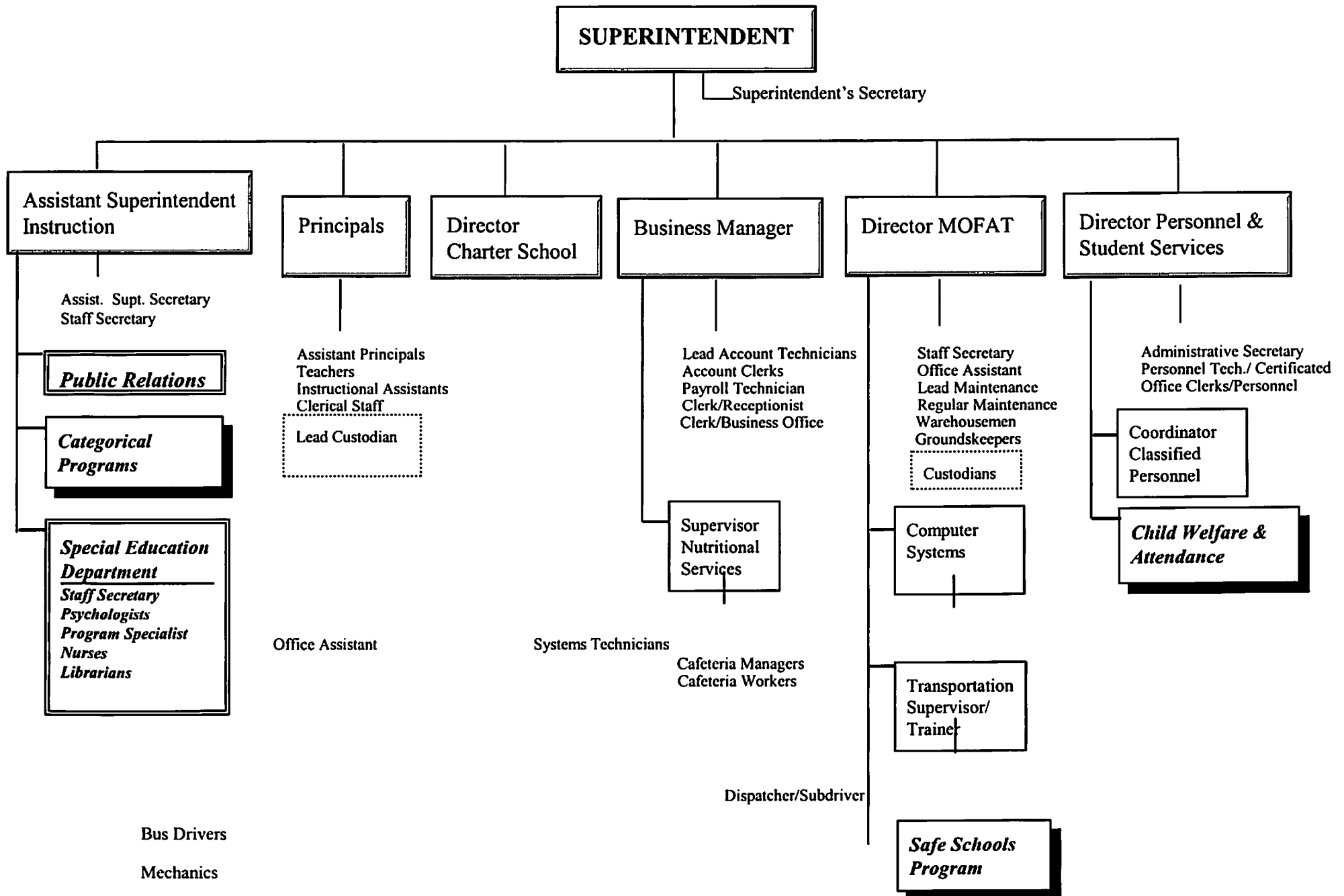


BOARD APPROVED
5-7-03
gk.

Aug. 2000

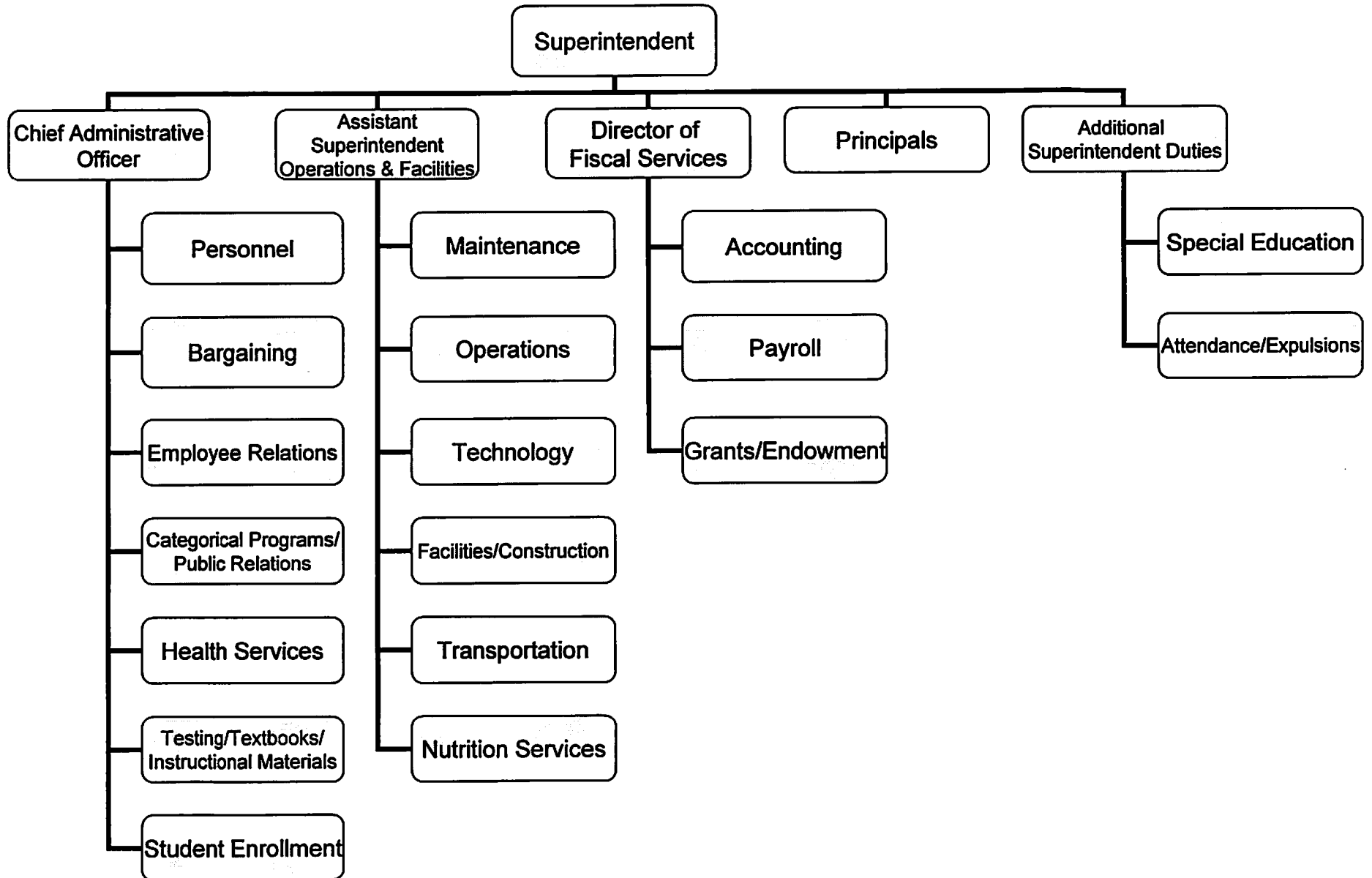
Center Unified School District

ORGANIZATION CHART



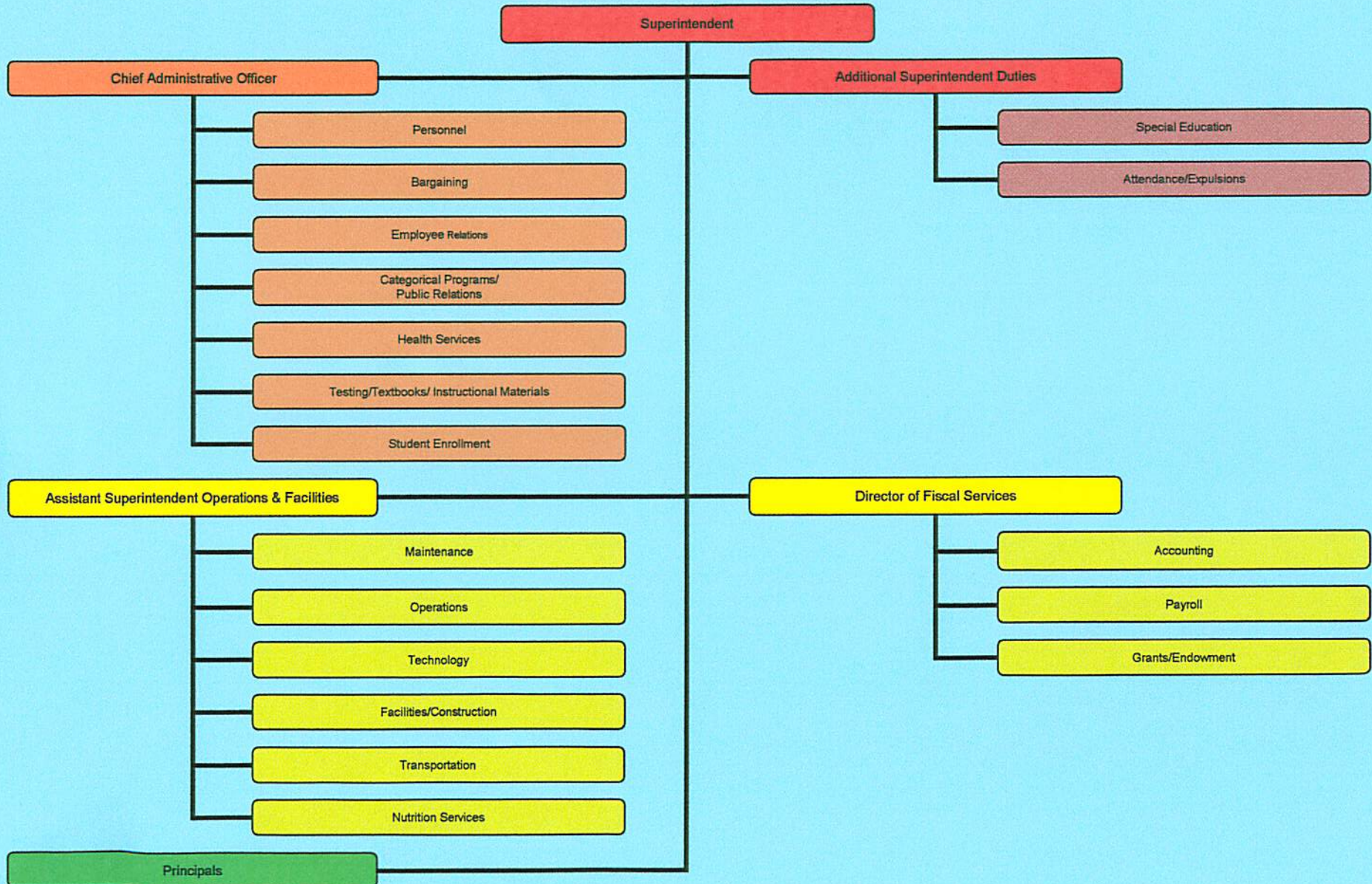
Center Joint Unified School District

District Office Organization



Center Joint Unified School District

District Office Organization



Chief Administrative Officer Job Description

General Function:

Under the direction of the Superintendent, the CAO acts for, represents, and exercises, the authority of the Superintendent in directing the implementation of the district's plans, policies, instructional programs, and personnel services.

Major Expectations:

1. Supporting the Superintendent's implementation of the goals and objectives of the Board of Trustees.
2. Acting for the Superintendent at various meetings, conferences, and functions, as assigned.
3. Timely and effectively performing all assignments, tasks, and duties as directed by the Superintendent.
4. Developing and maintaining effective procedures for recruiting, hiring, promoting, retaining, and terminating employees.
5. Establishing and maintaining professional labor/management relationships with the collective bargaining units representing District employees.
6. Ensuring adherence to contract provisions regarding all instructional and non-instructional personnel.
7. Participating in the development of evaluation process utilized by principals and other supervisors to evaluate site personnel.
8. Promoting the implementation and evaluation of the educational programs.
9. Providing periodic reports to the Superintendent on the progress being made to accomplish each of the school year-based set of objectives.
10. Promoting appropriate in-service staff development for instructional staff and administrators to ensure the necessary expertise for accomplishment of the district's strategic plan.
11. Monitoring student performance to ensure that program standards are met.
12. Developing and maintaining positive and productive relationships among all school and community stakeholders.

Center Joint Unified School District

AGENDA REQUEST FOR:

Dept./Site: Superintendent's Office

Action Item X

To: Board of Trustees

Information Item

Date: June 3, 2009

#Attached Pages

From: Dr. Kevin J. Jolly, Superintendent

Principal's Initials:

SUBJECT: Adoption of Minutes

The minutes from the following meeting are being presented:

May 20, 2009 Regular Meeting

RECOMMENDATION: CJUSD Board of Trustees approve presented minutes.

CONSENT AGENDA

CENTER JOINT UNIFIED SCHOOL DISTRICT

BOARD OF TRUSTEES REGULAR MEETING

Oak Hill Elementary School - Multi Purpose Room
3909 North Loop Blvd., Antelope, CA 95843

Wednesday, May 20, 2009

MINUTES

CALL TO ORDER - President Wilson called the meeting to order at 6:00 p.m.

ROLL CALL - Trustees Present: Mrs. Anderson, Mr. Blenner, Mr. Friedman, Mrs. Williams, Mr. Wilson

Teleconference: Trustee Libby Williams participated from 59322 Mitchell City Road, Bogalusa, Louisiana 70427.

Administrators Present: Dr. Jolly, Superintendent
Scott Loehr, Assist. Supt., Curriculum & Instruction
Craig Deason, Assist. Supt., Operations & Facilities
George Tigner, Director of Personnel
Jeanne Bess, Director of Fiscal Services

FLAG SALUTE - led by Kriss Hays

ADOPTION OF AGENDA - approved adoption of agenda as amended with the addition of more student recognitions to Student / Staff Recognitions and move Business Items A & B, First Reading of Policies/Regulations/Exhibits, to the end of Business Items.

Motion: Friedman **Ayes:** Anderson, Blenner, Friedman, Williams, Wilson
Second: Blenner **Noes:** None
Absent: None
Abstain: None

STUDENT / STAFF RECOGNITIONS

2. Oak Hill Elementary Student Recognitions - Patty Spore, Vice Principal at Oak Hill, recognized students from each classroom for various achievements throughout the current school year.
1. 2009 Retirement Acknowledgments - George Tigner, Director of Personnel, acknowledged the certificated and classified employees who will retire at the end of the current school year.
3. Student Recognitions – Steve Thiessen, Principal at CHS, presented certificates to each of the players from the Girls' Varsity Softball Team for placing 4th in the section for the season.

ORGANIZATION REPORTS

1. **CUTA** - Ann Neal, President, noted that it has been an honor to represent the teachers, and to work with the Board for the betterment of Center. It was announced that Douglas Higgins will be completing Ann Neal's term as CUTA President. Mr. Higgins noted that he looked forward to working with the Board in the future, but that it will be a challenging year.

ORGANIZATION REPORTS (continued)

2. **CSEA** - Marie Huggins, President, announced that this week is Classified Employee Week. She noted that gas cards were presented to the Classified Employees of the Year. She stated that Site Representatives are encouraging potlucks at the school sites this week. Mrs. Huggins noted that she had the honor of attending the Senior Awards night to present scholarships to 3 Seniors at Center High School.

REPORTS/PRESENTATIONS

1. **Board of Trustees Meeting Location(s) for 2009/2010 School Year** – Trustee Williams shared her concerns with the meeting location changing from month to month. Dr. Jolly and the Trustees shared their ideas both in favor of one location as well as the location rotation. It was recommended that we continue to rotate the meeting locations.

2. **Facilities & Security Report** - Craig Deason, Assistant Superintendent Operations & Facilities, presented pictures of the progress on the stadium to the Board. He also noted that he would like to apply for a grant for the purchase of solar panels for the district office, Center High School and the old junior high site. Mr. Deason informed the Board that in the Sierra Vista Development area there are 3 elementary sites and one middle school site in the plans. It has been proposed that we go down to three sites or less acres (from 12 down to 10 acres).

3. **Bond Fund Project Budget Report** - Tim Doane, from CPM, reviewed the two reports that were included in the Board packet: November 1991 Bond Executive Summary and Master Program Budget.

COMMENTS FROM THE AUDIENCE REGARDING ITEMS NOT ON THE AGENDA - none

BOARD/SUPERINTENDENT REPORTS

Mr. Friedman

- congratulated all of our graduates on the upcoming graduations.
- wished that everyone enjoy the upcoming summer break.

Mrs. Williams

- congratulated the graduates.
- congratulated those who received awards tonight.

Mr. Blenner

- congratulated tonight's award winners from Oak Hill.
- congratulated the retirees.
- noted that he will be at the graduations next week.

Mrs. Anderson

- wished the employees a wonderful break, and is looking forward to an exciting year next year.

Dr. Jolly

- congratulated site administrators for their efforts on the end of the year activities.
- noted that there is a fresh set of challenges to the budget due to the election results.

Mr. Wilson

- wished everyone a great summer.
- noted that he hates to see Mrs. Neal go.
- mentioned that David Pepper's 6 year old daughter had a stroke.

CONSENT AGENDA

1. Approved Adoption of Minutes from May 6, 2009 Regular Meeting
2. Approved Adoption of Minutes from May 6, 2009 Special Meeting
3. Approved Resolution #35/2208-09: Authorizing Payment To Board Member For Missed Meeting
4. Approved CUTA Contract Language, Article XVII - Certificated Leave of Absence Support System
5. Approved Career Technical Education Application for Funding - Carl D. Perkins Career and Technical Education Improvement Act of 2006
6. Approved 2009-2010 Contract with Dr. Robert A. Hoffman O.D. MCT Vision Screening
7. Approved 2009/2010 Consulting Agreement with enVision Consulting Group, Inc. for School Accountability Report Card Services
8. Approved Center High School CIF Representatives for 2009-2010
9. Approved Amendment #1 to Contract with Wallace-Kuhl & Associates for Construction Testing and Inspection Services for the Center High School Athletic Facilities Project - Increments #2 & 3
10. Approved Amendment #1 - Digital Intercom Project for Spinelli and Dudley Elementary Schools
11. Approved First Amendment to Communications Site Lease Agreement with T-Mobile
12. Approved Child Development Agency Annual Report
13. Approved Amendment #2 to Facilities Lease for Construction of the Athletic Facilities Upgrades at Center High School Revising Guaranteed Maximum Price, Cost Estimates, and Low Voltage Provisions
14. Approved Payroll Orders: July 2008 through April 2009
15. Approved Supplemental Agenda (Vendor Warrants)
16. Approved California High School Exit Exam (CAHSEE) Waiver Request - CHS

Motion: Blenner **Ayes:** Blenner, Friedman, Williams, Wilson
Second: Anderson **Noes:** None
 Absent: None
 Abstain: Anderson

BUSINESS ITEMS

C. **APPROVED – Continue Safe School Officers**

Craig Deason recommended that a task force committee be put together.

There was a motion to fund the Safe School Officer program, which would be based out of the high school campus and be on call for the other sites as needed.

Motion: Friedman **Ayes:** Anderson, Blenner, Friedman, Williams, Wilson
Second: Blenner **Noes:** None
 Absent: None
 Abstain: None

BUSINESS ITEMS (continued)

D. APPROVED – Non-Renewal of School Resource Officer Program

There was a motion to not renew the SRO program at the expiration of the contract, which will expire on June 30, 2009.

Motion:	Blenner	Ayes:	Anderson, Blenner, Friedman, Williams, Wilson
Second:	Friedman	Noes:	None
		Absent:	None
		Abstain:	None

Trustee Williams recommended that we continue to look for grants to fund this program in the future.

E. School Calendars (2010/2011, 2011/2012 & 2012/2013 SY)

Motion:	Blenner	Ayes:	Anderson, Blenner, Friedman, Williams, Wilson
Second:	Friedman	Noes:	None
		Absent:	None
		Abstain:	None

PUBLIC HEARING: Mitigated Negative Declaration for the District's proposed Rex Fortune Elementary School site. President Wilson opened the public hearing at 7:16 p.m. There were no public comments. The public hearing was closed at 7:17 p.m.

F. APPROVED - Resolution #33/2008-09: Adopting an Initial Study and Mitigated Negative Declaration with Mitigation Measures for the Proposed Rex Fortune Elementary School, Adopting Written Findings Pursuant to the California Environmental Quality Act and the California Education Code; Approving the Project; and Delegating Authority to Staff to Execute the Notice of Determination

Motion:	Friedman	Ayes:	Anderson, Blenner, Friedman, Williams, Wilson
Second:	Blenner	Noes:	None
		Absent:	None
		Abstain:	None

G. APPROVED - Resolution #34/2008-09: Rendering Zoning Inapplicable to Rex Fortune Elementary School Site

Motion:	Friedman	Ayes:	Anderson, Blenner, Friedman, Williams, Wilson
Second:	Blenner	Noes:	None
		Absent:	None
		Abstain:	None

BUSINESS ITEMS (continued)

A. APPROVED - First Reading: Board Policies/Regulations/Exhibits (No Significant Changes)

There was a motion to approve all policies listed except BP/AR 5126.

Motion:	Friedman	Ayes:	Anderson, Blenner, Friedman, Williams, Wilson
Second:	Blenner	Noes:	None
		Absent:	None
		Abstain:	None

There was a motion to approve BP/AR 5126.

Motion:	Friedman	Ayes:	Anderson, Blenner, Friedman, Williams
Second:	Blenner	Noes:	Wilson
		Absent:	None
		Abstain:	None

B. APPROVED - First Reading: Board Policies/Regulations/Exhibits (Significant Changes)

There was a motion to approve BP/AR 5145.7

Motion:	Friedman	Ayes:	Anderson, Blenner, Friedman, Williams, Wilson
Second:	Blenner	Noes:	None
		Absent:	None
		Abstain:	None

There was a motion to approve BP/AR 6142.2

Motion:	Blenner	Ayes:	Anderson, Blenner, Friedman, Williams
Second:	Friedman	Noes:	Wilson
		Absent:	None
		Abstain:	None

ADVANCE PLANNING

a. Future Meeting Dates:

- i. Regular Meeting: Wednesday, June 3, 2009 @ 6:00 p.m. - Center High School – Theater*

b. Suggested Agenda Items: workshop to discuss future planning

ADJOURNMENT – 7:43 p.m.

Motion:	Blenner	Ayes:	Anderson, Blenner, Friedman, Williams, Wilson
Second:	Anderson	Noes:	None
		Absent:	None
		Abstain:	None

Respectfully submitted,

Dr. Kevin J. Jolly, Superintendent
Secretary to the Board of Trustees

Libby A. Williams, Clerk
Board of Trustees

Adoption Date

Center Joint Unified School District

AGENDA REQUEST FOR:	
Dept./Site: Superintendent's Office	Action Item _____
To: Board of Trustees	Information Item _____
Date: June 3, 2009	# Attached Pages _____
From: Dr. Kevin J. Jolly, Superintendent	
Principal/Administrator Initials: _____	

CONSENT AGENDA

<p>SUBJECT: 2009-2010 Board Meeting Schedule</p> <p>Please approve the attached Board Meeting Schedule for the 2009-2010 school year. The dates listed are for the 1st and 3rd Wednesday of each month, beginning in August 2009 and ending with June 2010. There would be no regular Board Meetings scheduled for July 2009. We would also like to not schedule Board Meetings on the first day of school, the evening of the Teacher of the Year Dinner, and during the CSBA Conference.</p> <p>RECOMMENDATION: CJUSD Board of Trustees approve the 2009-2010 Board Meeting Schedule.</p>

CENTER JOINT UNIFIED SCHOOL DISTRICT BOARD OF TRUSTEES MEETING SCHEDULE 2009-2010

The Center Joint Unified Board of Trustees meets in regular session on the first and third Wednesday of each month at 6:00 p.m.

DATES & LOCATIONS OF BOARD MEETINGS FOR 2009-2010 SY

August	19*	McClellan High School - Cafeteria 8725 Watt Avenue, Antelope, CA 95843
September	16*	Center High School - Theater 3111 Center Court Lane, Antelope, CA 95843
October	7 & 21	Spinelli Elementary School - Cafeteria 3401 Scotland Drive, Antelope, CA 95843
November	4 & 18	Global Youth Charter School - MP Room 3243 Center Court Lane, Antelope, CA 95843
December	16*	Dudley Elementary School - MP Room 8000 Aztec Way, Antelope, CA 95843
January	6 & 20	Antelope View Charter School - MP Room 3243 Center Court Lane, Antelope, CA 95843
February	3 & 17	North Country Elementary School - MP Room 3901 Little Rock Drive, Antelope, CA 95843
March	3 & 17	Dudley Elementary School - MP Room 8000 Aztec Way, Antelope, CA 95843
April	7 & 21	Wilson C. Riles Middle School - MP Room 4747 PFE Road, Roseville, CA 95747
May	5 & 19	Oak Hill Elementary School - MP Room 3909 North Loop Blvd., Antelope, CA 95843
June	2 & 16	Center High School - Theater 3111 Center Court Lane, Antelope, CA 95843

*** These dates have been cancelled:**

July 1 & July 15 - summer vacation

August 5 - 1st day of school

September 2 - SCOE Teacher of the Year dinner

December 2 - CSBA Conference

2009/2010 AGENDA & BOARD MEETING SCHEDULE

➤➤ Agenda Items must be TYPED and initialed by the site administrator/supervisor

➤➤ Agenda Item Request Forms can be downloaded from the District's Website under Staff Intranet

BOARD MEETING DATES	AGENDA REQUESTS MUST BE IN SUPERINTENDENT'S OFFICE BY:	LOCATIONS OF BOARD MEETINGS
AUGUST 19	AUGUST 7	McClellan High - Cafeteria
SEPTEMBER 16	SEPTEMBER 4	Center High - Theater
OCTOBER 7 21	SEPTEMBER 25 OCTOBER 9	Spinelli - Cafeteria
NOVEMBER 4 18	OCTOBER 23 NOVEMBER 6	Global Youth - MP Room
DECEMBER 16	DECEMBER 4	Dudley - MP Room
JANUARY 6 20	DECEMBER 18 JANUARY 8	Antelope View Charter - MP Room
FEBRUARY 3 17	JANUARY 22 FEBRUARY 5	North Country - MP Room
MARCH 3 17	FEBRUARY 19 MARCH 5	Dudley - MP Room
APRIL 7 21	MARCH 26 APRIL 9	Wilson Riles Middle School - MP Room
MAY 5 19	APRIL 23 MAY 7	Oak Hill - MP Room
JUNE 2 16	MAY 21 JUNE 4	Center High - Theater

DATES MAY BE SUBJECT TO CHANGE OR CANCELLATION

These dates have been cancelled:

July 1 & July 15 - summer vacation

August 5 - 1st day of school

September 2- SCOE Teacher of the Year dinner

December 2 - CSBA Conference

Center Joint Unified School District

AGENDA REQUEST FOR:

Dept./Site: Personnel Department

Action Item X

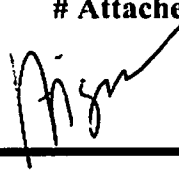
Date: June 3, 2009

Information Item

To: Board of Trustees

Attached Pages 1

From: George Tigner, Director of Personnel



Subject: Addition of New Salary Schedule

Add salary schedule that reflects 198 days per year for Academic Coordinators.
Salary Schedule is attached.

Recommendation: Approve Salary Schedule as Submitted

CONSENT AGENDA

CENTER JOINT UNIFIED SCHOOL DISTRICT
ACADEMIC COORDINATOR SALARY SCHEDULE
2009-2010

STEPS	CLASS I BA	CLASS II BA + 36	CLASS III BA + 48	CLASS IV BA + 60	CLASS V BA + 72*
1	39,959	41,959	44,056	46,258	
2	41,557	43,637	45,818	48,108	
3	43,219	45,382	47,651	50,032	
4	44,948	47,197	49,557	52,033	
5	46,746	49,085	51,539	54,114	
6	48,616	51,048	53,601	56,279	59,097
7	50,561	53,090	55,745	58,530	61,461
8	52,583	55,214	57,975	60,871	63,919
9		57,423	60,294	63,306	66,476
10			62,706	65,838	69,135
11				68,472	71,900
12				71,211	74,776
14				73,347	77,019
16				75,547	79,330
18				77,813	81,710
20				80,147	84,161

Longevity 3% (Class IV & V) Steps 14 - 16 - 18 - 20

Masters** \$500

PHD/ED \$750

***Employees hired after July 1, 1989, must be in the District at least five (5) years prior to movement into Class V.**

****Teachers earning a Masters Degree from an accredited institution shall receive \$500 for each, effective July 1, 1995.**

Center Joint Unified School District

AGENDA REQUEST FOR:

Dept./Site: Special Education

Date: June 3, 2009

Action Item X

To: Board of Trustees

Information Item

From: Scott Loehr, Assistant Superintendent

Attached Pages

Initials: *S.L.*

SUBJECT: 2008/2009 Master Contracts

Please approve the following Master Contracts for special education students receiving services at nonpublic schools/agencies during the 2008/09 fiscal year.

Red Rock Canyon School

RECOMMENDATION: CUSD Board of Trustees to approve the Master Contract for the 2008/09 school year.

CONSENT AGENDA

**CENTER JOINT UNIFIED SCHOOL DISTRICT
LOCAL EDUCATION AGENCY
8408 WATT AVENUE
ANTELOPE, CALIFORNIA 95843-9116
TELEPHONE (916) 338-6320 FACSIMILE (916) 338-6322**

CONTRACT YEAR: 2008-2009

**AGREEMENT FOR NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES
MASTER CONTRACT**

(Education Code Section 56157, 56365 et. seq.)

This Master Contract is made and entered into this **thirtieth day of April 2009** between the Center Joint Unified School District (public education agency), County of Sacramento, herein after referred to as the "LEA", and **Red Rock Canyon School** herein after referred to as "CONTRACTOR" (nonpublic, nonsectarian school or agency) for the purpose of providing special education and related services to individuals with exceptional needs under the authorization of California Education Code Sections 56157 and 56365-56366.5. It is understood that this agreement does not commit LEA to payment for special education and related services provided to any individual unless and until an Individual Service Agreement is executed between LEA and CONTRACTOR on behalf of such individual or interim written facsimile approval is given to the CONTRACTOR by a representative of the LEA's Office of Instructional Services.

A current copy of the California Department of Education Nonpublic School/Agency Certification shall be provided to the LEA at the time this contract is entered into.

CONTRACT RELATIONS AND INSURANCE PROVISION

1. MODIFICATIONS AND AMENDMENTS

This contract may be modified or amended by a written document executed by CONTRACTOR and LEA. This contract shall include an Individual Service Agreement developed for each pupil who is scheduled to receive special education and/or designated instruction and services through a nonpublic, nonsectarian school or agency. Changes in any educational instruction, services or placement provided under the contract may only be made on the basis of revisions to a pupil's Individualized Education Program (IEP). At any time during the term of the contract, the parent, nonpublic school, nonpublic agency, or LEA may request a review and/or revision of a pupil's Individualized Education Program, subject to all procedural safeguards required by law. Changes in the administrative or financial agreements of the contract which do not alter the Individual Service Agreement that outlines each pupil's educational instruction, services or placement may be made at any time during the term of the contract, as mutually agreed in writing by CONTRACTOR and LEA.

2. NOTICES

All notices provided for by this contract shall be in writing and shall be delivered by certified or registered mail, postage prepaid, written facsimile, or by hand-delivery as noted below.

Notices mailed to LEA shall be addressed to:
SCOTT LOEHR, ASSISTANT SUPERINTENDENT
Name

CENTER JOINT UNIFIED SCHOOL DISTRICT
LEA

8408 WATT AVENUE
Address

ANTELOPE, CALIFORNIA 95843-9116
City State Zip

(916) 338-6320 (916) 338-6322
Phone Facsimile

Notices to CONTRACTOR shall be addressed to:
Name

Red Rock Canyon School
Nonpublic School/Agency

747 East St. George Boulevard
Address

St. George, Utah 84770
City State Zip

(916) 435-229-3291 (916) 435-673-0994
Phone Facsimile

If mailed, notice shall be effective as of the date of postmark on receipt by addressee. If delivered by hand, the effective date shall be the date of receipt by addressee in the District Office of Instructional Services.

3. DISPUTES

Disagreements between LEA and CONTRACTOR concerning the meaning, requirements, or performance of this contract shall be appealed to the Sacramento County Superintendent of Schools. The Sacramento County Superintendent, or his/her designee, shall render a decision in writing which shall be binding upon the parties.

4. SUBCONTRACT AND ASSIGNMENT

CONTRACTOR shall comply with California Education Code Section 45125.1 which requires vendors/contractors/consultants providing services to the school district conduct criminal background checks of employees.

CONTRACTOR assures LEA that subcontractors providing transportation shall keep in effect a liability insurance policy providing at least \$1,000,000.00 coverage. The CONTRACTOR shall provide for the insurance company, insurance agency, or other insurance provider to send written notice of cancellation to the LEA at least thirty (30) days prior to cancellation. Proof of insurance shall be provided by the CONTRACTOR to the LEA prior to the beginning of transportation services by a subcontractor, and upon each renewal of coverage thereafter. CONTRACTOR will require each transportation subcontractor to promptly submit copies of insurance policies to the LEA upon request of the LEA; certificates of insurance may be found by LEA to be acceptable proof, provided that the information thereon is adequate and verifiable.

5. INDEPENDENT CONTRACTOR STATUS

This contract is by and between two independent entities and is not intended to and shall not be construed to create the

relationship of agent, servant, employee, partnership, joint venture or association.

6. CONFLICTS OF INTEREST

CONTRACTOR agrees to furnish to LEA along with the signing of this contract, a copy of its current bylaws and/or other governing rules, and a current list of its Governing Board of Directors (or Trustees) or similar governing body or persons of CONTRACTOR. CONTRACTOR promises and attests that the CONTRACTOR and any member of Board of Directors (or Trustees) shall not have any relationship with LEA that constitutes or potentially constitutes a conflict of interest including, but not limited to, employment with LEA.

7. TERMINATION

This Master Contract may be terminated for cause. To terminate the contract either party shall give twenty (20) calendar days written notice to the other. Upon termination without default of CONTRACTOR, LEA shall pay without duplication, for all services performed and expenses incurred to date of termination.

In consideration of this payment, CONTRACTOR waives all right to any further payment or damage, and shall turn over to LEA everything pertaining to CONTRACTOR's services hereunder, possessed by CONTRACTOR or under its control at the time of termination or thereafter, including all documents.

Individual Service Agreements may be terminated without advance notice if both parties agree in writing to do so.

The LEA shall not terminate Individual Service Agreements because of the availability of a public class initiated during the course of this contract's term, unless the parent agrees to the transfer of a pupil to a public school program.

8. INSPECTION AND AUDIT

CONTRACTOR shall provide reasonable access to, or forward copies of, any books, documents, papers, reports, records or other matter relating to the contract upon request by LEA except as otherwise provided by law. All budgetary and financial information and projections submitted by CONTRACTOR to LEA for purpose of contract negotiations shall be made available for the relevant contract period being audited to assess the extent to which funds were expended consistent with said budgetary and financial information and projections. CONTRACTOR agrees to maintain fiscal records for at least five years and will make all fiscal records available to LEA for audit.

9. INDEMNIFICATION

CONTRACTOR shall defend LEA and its officers, agents, and employees against all claims for damages for death or injury to persons or property, including without limitation all consequential damages, from any cause whatsoever arising from or connected with its service hereunder, whether or not resulting from the negligence of CONTRACTOR, its agents and employees and from all damages of every nature and description proximately caused by negligent or willful acts or omissions by CONTRACTOR, its agents or employees in the course of rendering service(s) under this contract.

10. INSURANCE

During the entire term of this contract and any extension or modification thereof, CONTRACTOR shall keep in effect a policy or policies of general liability insurance, including coverage of owned and nonowned vehicles used in relation to the performance of service(s) by CONTRACTOR, of at least \$1,000,000.00 combined single limit for all damages arising from each accident or occurrence and \$1,000,000.00 all damages arising out of injury to or destruction of property for each accident or occurrence.

Not later than the effective date of this contract, CONTRACTOR shall provide LEA with satisfactory evidence of insurance, including the CONTRACTOR shall provide for the insurance company, insurance agency or other insurance provider to

send written notice of cancellation to the LEA at least twenty (20) calendar days before cancellation or material change, evidencing the above-specified coverage. CONTRACTOR shall at its own cost and expense, procure and maintain insurance under the Workers' Compensation law. Failure to maintain the above mentioned insurance coverage shall be cause for automatic termination of this contract.

CONTRACTOR recognizes that the LEA's insurance requirement may be revised in terms of limits and/or coverage. If LEA determines that additional coverage is necessary, LEA will reopen negotiations to discuss the cost of this additional coverage.

11. GENERAL PROVISIONS

1. No charge of any kind to parents shall be made by CONTRACTOR for educational activities and related services specified on the pupil's IEP, including screening or interviews which occur prior to or as a condition of a pupil's enrollment under the terms of the contract, except as specified in writing in a due process procedure that is signed by all relevant parties and attached to the relevant pupil's Individual Service Agreement, or for voluntary extracurricular activities conducted subsequent to written notification to parent(s) as to the cost and the voluntary and extracurricular nature of the activity. Unless the activity takes place during a school vacation or holiday, pupils not participating shall continue to receive special education and related services as set forth in their IEPs.

2. For the purpose of the contract, "parent(s)" means the natural parent(s), adoptive parent(s), or legal guardian(s).

3. For the purpose of the contract, "days" refers to calendar days unless otherwise specified.

4. CONTRACTOR shall provide appropriately credentialed teachers, licensed personnel and class size consistent with the California laws and regulations and written LEA requirements.

CONTRACTOR shall be responsible for verification of credentials and licenses held by its employees, agents and subcontractors and shall provide the LEA with copies of said credentials and licenses upon the signing of this contract and also throughout the term of this contract. CONTRACTOR shall immediately notify LEA in writing and provide copies of appropriate credential(s) and/or license(s) if change of staff occurs which directly affects the pupil.

5. CONTRACTOR shall submit a school calendar with the total number of billable days. Creditable days of attendance are only those days that are included in the submitted and approved, by LEA, school calendar which is attached hereto or as specified in the Individual Service Agreement for each pupil. Creditable days of attendance are those in which instructional minutes meet or exceed those in comparable LEA programs, as determined by the LEA. Creditable days are only those days in which the student is in attendance; LEA does not pay CONTRACTOR for non-creditable days. LEA pays CONTRACTOR daily rate minus \$33.25 for excused absences.

6. The total number of instructional minutes per school day provided by CONTRACTOR shall be equivalent to the number of instructional minutes established for LEA schools and shall be specified in the Individual Service Agreement developed for each pupil.

Unless otherwise specified on the student's Individualized Education Program (IEP) the number of instructional minutes per school day shall be as described below, excluding recess, lunch and passing time.

The total number of annualized minutes of instruction shall be at a minimum, unless otherwise approved by the LEA, as follows: 31,500 instructional minutes for pre-kindergarten; 36,000 instructional minutes for kindergarten; 50,400 instructional minutes for grades one through three; 54,000 instructional minutes for grades four through eight; 64,800 instructional minutes for grades nine through twelve.

7. LEA shall provide CONTRACTOR with a copy of each pupil's Individualized Education Program. CONTRACTOR shall provide pupils a program of educational instruction and services within the nonpublic school or nonpublic agency which is consistent with each pupil's Individualized Education Program as specified in each pupil's Individual Service Agreement. The general program of instruction provided to pupils under Individual Service Agreements shall be responsive to the LEA's required sequence of course and related curriculum for pupils. CONTRACTOR's general programs of instruction shall be described in writing and a copy provided to LEA prior to the effective date of this contract.

Designated instruction and services provided by a nonpublic school or agency will only be provided during the period of the pupil's regular or extended school year program, or both, unless otherwise specified by the pupil's Individualized Education Program.

8. CONTRACTOR shall abide by established LEA policies on corporal punishment, pupil transfer, suspensions and expulsions, and positive behavioral interventions. The LEA, Office of Instructional Services, shall be notified when any change in placement is being considered.

9. CONTRACTOR shall keep daily attendance of each pupil and shall report this attendance monthly to LEA using the forms and methods issued by the California Superintendent of Public Instruction each year. Such attendance shall be kept on attendance forms approved by Superintendent, and the original and copies of such forms shall be filed with monthly invoices to LEA within thirty (30) days of the close of the school attendance month. Separate attendance forms must be submitted for all related services as specified on Individualized Education Programs.

Original attendance forms submitted to the LEA with invoices for payment must be completed by the individual providing the service for CONTRACTOR, whose signature must appear on said form(s). CONTRACTOR is responsible for verifying accuracy of said attendance forms and for informing service providers of their personal responsibility for the completion and accuracy of said forms. CONTRACTOR shall permit LEA representatives, upon reasonable notice, to meet with staff of CONTRACTOR for the purpose of discussing attendance reporting, laws, regulations, and rules, etc.

10. CONTRACTOR shall allow monitoring of each pupil's instructional program by LEA and shall be invited to participate in the review of the pupil's progress by the LEA. Representatives of LEA shall have access to observe each pupil at work, observe the instructional setting, interview CONTRACTOR, its representatives and employees, and review each pupil's progress, including the behavioral intervention plan, if any. CONTRACTOR agrees that LEA representatives may make unannounced monitoring visits. LEA representatives making site visits will initially report to CONTRACTOR's site administrative office.

11. CONTRACTOR shall provide for reasonable visits by parents to all of the school facilities including, but not limited to, the instructional setting attended by pupil, school and recreational activity areas, and pupil's living quarters. CONTRACTOR shall ensure that parent visits are in agreement with court order(s), if any.

12. A unit of service for payment purposes is one day of attendance. LEA shall not be responsible for payment of services for days on which a pupil's attendance does not qualify for average daily attendance (ADA) reimbursement under California law and/or regulations.

13. If a pupil is in grades 9, 10, 11, or 12, the LEA will provide a specific list of the course requirements to be satisfied by the CONTRACTOR leading toward graduation or completion of diploma requirements and specified levels of proficiency in basic skills as measured by LEA approved proficiency tests. For pupils in grades 9, 10, 11, and 12, CONTRACTOR shall administer mandated proficiency tests following LEA testing dates.

At the close of each semester, for pupils in grades 9, 10, 11, and 12, CONTRACTOR shall prepare transcripts and submit

them to the pupil's school of residence for evaluation of progress toward completion of diploma requirements.

14. Within five (5) school days after CONTRACTOR becomes aware of pupil's change of residence, CONTRACTOR shall provide written notice to LEA, of said change of residence. CONTRACTOR shall notify parents in writing of their obligation to notify CONTRACTOR of changes of pupil's residence.

If CONTRACTOR neglects to follow these procedures, costs for services delivered after CONTRACTOR becomes aware of a pupil's change of residence to another district will not be the responsibility of the LEA.

15. CONTRACTOR shall immediately report by telephone and facsimile to LEA, Office of Instructional Services, if a pupil is removed from school by the parent.

16. No later than the fifth consecutive day of a pupil's absence, CONTRACTOR shall notify LEA, Office of Instructional Services, by telephone and facsimile, of such absence. LEA is not financially responsible for any pupil absences, excused or unexcused.

17. CONTRACTOR agrees to complete a written accident report and forward it to the LEA, Office of Instructional Services, when a student has suffered an injury that requires medical attention.

18. CONTRACTOR agrees to submit an incident report, by telephone and facsimile, to the LEA, Office of Instructional Services, when it becomes aware of circumstances that require notification be made to other agencies. These circumstances may include, but are not limited to, allegations of molestation, child abuse, injuries resulting from physical restraint, and Behavioral Emergency Reports.

19. Progress reports shall be sent by CONTRACTOR to LEA no later than five (5) days after the completion of each academic quarter/trimester or summer session, if applicable. An updated report shall be submitted if there is no current progress report when pupils are scheduled for a review by the LEA's Individualized Education Program team or when a pupil's enrollment is terminated.

20. CONTRACTOR agrees, in the event of school or agency closure, to forward all pupil records to LEA. These shall include, but are not limited to, current transcripts, IEPs and results of proficiency testing.

21. Any structural modifications required in compliance with prevailing legal mandates shall not be the responsibility of the LEA.

22. CONTRACTOR assures LEA that it does not unlawfully discriminate on the basis of race, religion, sex, national origin, age, sexual orientation or disability in employment or operation of its programs.

23. CONTRACTOR assures LEA that all staff members, including volunteers, are familiar with child and dependent adult abuse reporting obligations and procedures as specified in the California Penal Code.

12. PAYMENT PROVISION**Red Rock Canyon School****1. RATE SCHEDULE**

Education service(s) offered by CONTRACTOR, and the charges for such service(s) during the term of this contract, shall be as follows:

A. Basic Education Program	Rate	Period Not to Exceed
LH/SED		
SH	\$125.00 per day	June 30, 2009

Per diem rates for pupils whose Individualized Education Programs authorize less than a full instructional day will be adjusted proportionally.

B. Related Services	Rate	Period Not to Exceed
(1) a. Transportation – Round Trip		
b. Transportation – One Way		
c. Transportation – i.e.; Public Transportation		
(2) a. Ed. Counseling – Individual		
b. Ed. Counseling – Group		
c. Counseling – Family		
(3) Adapted Physical Education Assessment		
(4) a. Lang./Speech Therapy – Individual		
B. Related Services, continued	Rate	Period Not to Exceed
b. Language/Speech Therapy – Group		
(5) Orientation/Mobility Training		
(6) Occupational Therapy		
(7) Physical Therapy		
(8) One-to-one Aide (Tutoring)		
(9) Other		
(10) Materials		

2. PAYMENT DEMAND CONTRACTOR shall submit written demand monthly for payment. Said demand shall be made on a form and in the manner prescribed by the California Department of Education. CONTRACTOR shall submit said demands for payment for services rendered no later than thirty (30) days from the end of the school attendance month in which said services are actually rendered. LEA shall make payment within sixty (60) days of receipt of invoice in an amount equal to the number of creditable days of attendance multiplied by the agreed upon unit amount.

CONTRACTOR shall submit rebilling payment no later than ten (10) calendar days when an invoice is returned to the CONTRACTOR.

3. RIGHT TO WITHHOLD

LEA has the right to withhold payment to CONTRACTOR when LEA has reliable evidence, described in writing to CONTRACTOR, that: (A) CONTRACTOR's performance, in whole or in part, either has not been carried out or is insufficiently documented; (B) CONTRACTOR has neglected, failed or refused to furnish information or to cooperate with the inspection, review or audit of its program, work or records; (C) service is provided by personnel who are not appropriately credentialed/licensed or whose credential(s)/license(s) are not on file with LEA, Office of Instructional Services; (D) records required by LEA prior to school closure have not been received; (E) properly submitted rebilling payment demand is not received by LEA within thirty (30) days from the end of the attendance accounting period; or (F) properly submitted rebilling payment demand is not received by LEA within ten (10) calendar days from the date that the invoice is returned to the CONTRACTOR. If LEA expresses intent to withhold payment, CONTRACTOR shall have thirty (30) days from date of receipt of said writing hereinabove referred to, to correct such deficiency. Upon written request from CONTRACTOR documenting reasonable justification, LEA shall agree to an extension of thirty (30) days for correction. No payment will be made by LEA to CONTRACTOR until LEA finds that the deficiency has been corrected.

4. AUDIT EXCEPTIONS

CONTRACTOR agrees to accept responsibility for receiving, replying to, and/or complying with any audit exceptions by appropriate LEA personnel or State or Federal audit agencies occurring as a result of CONTRACTOR's performance of this contract. CONTRACTOR also agrees to pay to LEA within thirty (30) days of demand by LEA the full amount resulting from any audit exceptions to the extent they are attributable by the auditing agency to CONTRACTOR's failure to perform properly any of its obligations under this contract, unless LEA agrees to different terms in writing. Any and all audit exceptions will be specified in detail before a demand by LEA for any amount set forth therein.

5. SERVICE NOTICE

CONTRACTOR shall provide written notice to LEA in advance of providing any service(s) when CONTRACTOR is unable to meet any of the requirements of this contract.

13. OTHER PROVISIONS

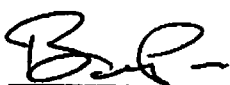
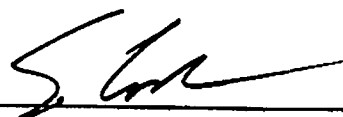
1. During the term of this contract, CONTRACTOR shall comply with all applicable federal, state, State Board of Education, local and LEA statutes, laws, ordinances, rules and regulations relating to the required special education and designated instruction and services and facilities for individuals with exceptional needs.

2. This contract and all exhibits or attachments hereto constitute the entire agreement between LEA and CONTRACTOR and supersede any prior or contemporaneous understanding or agreement with respect to the services contemplated.

3. The terms and conditions of this contract shall be governed by the laws of the State of California with venue in Sacramento County, California.

The parties hereto have executed this contract by and through their duly authorized agents and representatives.

This contract is effective on April 30, 2009 and terminates at 5:00 p.m. on June 30, 2009 unless sooner terminated as provided herein.

-CONTRACTOR-	-LEA-
RED ROCK CANYON SCHOOL Nonpublic School/Agency	CENTER UNIFIED SCHOOL DISTRICT Public Education Agency
 Contracting Officer's Signature	 District Superintendent's or Designee's Signature
<u>Brian Pace</u> (Type) Name and Title	Scott Loehr, Assistant Superintendent Authorized Representative and Contracts Supervisor

Center Unified School District

AGENDA REQUEST FOR:

Dept./Site: Wilson C. Riles Middle School

Date: June 3, 2009

Action Item ____

To: Board of Trustees

Information Item X

From: Joyce Duplissea, Principal

Attached Pages 1

Principal's Initials: 

SUBJECT:

Wilson C. Riles Middle School will send Jennifer Slay, Danielle Stout, Sarah Wildman, Mary Neal, and Wendy Hollis to the 2009 AVID Summer Institute, July 13 - 17, 2009. The conference will be held in Sacramento. Funding for Jennifer, Danielle, and Sarah to attend the conference will come from SLIP funds. Mary and Wendy will be covered by an incentive and the CA Region 3 grant.

Center Joint Unified School District

AGENDA REQUEST FOR:

Dept./Site: Business Department

Date: 05/29/09

Action Item

To: Board of Trustees

Information Item X

From: Jeanne Bess 
Director of Fiscal Services

Attached Page

SUBJECT:

**State Categorical Flexibility and
Federal Funds Workshop**

School Services of California is sponsoring a wokshop on Friday, June 19, 2009 at the Sacramento DoubleTree Hotel covering the new information regarding the State Categorical Flexibility and Federal Funds usage for Districts.

Jeanne Bess will attend in preparation of year end closing. The cost of the conference is \$65.



CCSESA

School
Services
of
California
INC. TM

STATE CATEGORICAL FLEXIBILITY AND FEDERAL FUNDS WORKSHOP

WORKSHOP DATES, LOCATIONS, AND TIMES

June 19, 2009—Sacramento DoubleTree

June 22, 2009—Ontario Convention Center

Registration: 8:00 a.m.

Program: 8:45 a.m. Adjourns: 12:00 p.m.

ABOUT THE WORKSHOP

The California County Superintendents Educational Services Association (CCSESA) and School Services of California, Inc., (SSC) have teamed up to provide a workshop to share with California's educational leaders information and tools that will help make the most of the new state categorical flexibility and federal funding in support of student academic achievement goals. We are in the process of securing financial support from a foundation, which allows this workshop to be offered for the nominal cost of \$65.

The recently enacted 2009-10 State Budget provides local educational agencies (LEAs) with unprecedented flexibility in the use of specified categorical funds. Funding for Tier III categorical programs is now available to support "any educational purpose." Similarly, with the enactment of the American Recovery and Reinvestment Act, the federal government has provided billions of dollars to assist LEAs maintain their educational programs in the face of falling state revenues.

WORKSHOP TOPICS

- Comprehensive explanation of funding for Tier III categorical programs and the American Recovery and Reinvestment Act (ARRA) federal funds
- Advice on how to take full advantage of the new flexibility
- Ways to target resources to achieve your academic goals
- Methods to account for the federal funds
- How to avoid the pitfalls and meet the challenges of these changes

WHO SHOULD ATTEND?

District and county office fiscal and instructional teams, including superintendents, board members, chief business officials, and cabinet members.

THE PRESENTERS

Sue Burr, *Executive Director*
California County Superintendents Educational Services Association

Mike Ricketts, *Deputy Executive Director*
California County Superintendents Educational Services Association

Ron Bennett, *Executive Director*
School Services of California, Inc.

Robert Miyashiro, *Executive Director*
School Services of California, Inc.

Jannelle Kubinec, *Executive Director*
School Services of California, Inc.

Michele Huntoon, *Executive Director*
School Services of California, Inc.

REGISTRATION

Online through our website:
www.sscal.com, click on "Workshops and Registration"

Fax completed registration form (including PO or credit card number)
to 916.313.3298

Mail completed registration form to
Marilyn MacCrakin, School Services of
California, Inc., 1121 L Street, Suite 1060,
Sacramento, California 95814

Center Joint Unified School District

AGENDA REQUEST FOR:

Dept./Site: Superintendent's Office

Action Item_____ **X**

To: Board of Trustees

Information Item _____

Date: June 3, 2009

Attached Pages _____

From: Dr. Kevin J. Jolly, Superintendent

Principal/Administrator Initials: _____

SUBJECT: Second Reading: Board Policies/Regulations/Exhibits

Replace	BP/AR	0520.2	Title I Program Improvement Schools
Delete	E (1-4)	0520.2	Title I Program Improvement Schools
Add	E (1-2)	0520.2	Title I Program Improvement Schools
Replace	BP	3280	Sale or Lease of District-Owned Real Property
Replace	BP/AR/E	3320	Claims and Actions Against the District
Replace	BP/AR	4111.2/4211.2/4311.2	Legal Status Requirement
Replace	BP/AR	4113	Assignment
Replace	AR	4161.8/4261.8/4361.8	Family and Medical Leave
Replace	BP/AR	5125	Student Records
Replace	AR	5125.1	Release of Directory Information
Replace	BP/AR	5126	Awards for Achievement
Replace	BP/AR	5145.7	Sexual Harassment
Replace	BP/AR	5148	Child Care and Development
Add	BP/AR	5148.3	Preschool/Early Childhood Education
Add	BP/AR	6142.2	World/Foreign Language Instruction
Replace	BP/AR	6159.1	Procedural Safeguards and Complaints for Special Education
Replace	BP/AR	6163.4	Student Use of Technology
Replace	AR	6164.4	Identification and Evaluation for Special Education
Replace	AR	6164.6	Identification and Education Under Section 504
Delete	BP	6300	Preschool/Early Childhood Education

RECOMMENDATION: CJUSD Board of Trustees approve the second reading of presented policies/regulations/exhibits.

CSBA Sample

Board Policy

Philosophy-Goals-Objectives and Comprehensive Plans

BP 0520.2(a)

TITLE I PROGRAM IMPROVEMENT SCHOOLS

Note: The following optional policy and accompanying administrative regulation are for use by districts that receive federal Title I funds to improve the academic achievement of students from economically disadvantaged families; also see BP/AR 6171 - Title I Programs. Pursuant to the No Child Left Behind Act of 2001 (NCLB) (20 USC 6316), schools receiving Title I funds are identified for "program improvement" (PI) if they fail to make "adequate yearly progress" (AYP), as defined by the State Board of Education (SBE), for two or more consecutive years. See the definition of AYP in the accompanying administrative regulation. According to the state criteria, a school is identified for PI if, for each of two consecutive years, it either (1) does not make AYP in the same content area (English language arts or mathematics) schoolwide or for any numerically significant student subgroup or (2) does not make AYP on the same indicator (Academic Performance Index or high school graduation rate) schoolwide. The assessment scores of small schools that have too few students to generate a school-level report are aggregated into a district accountability measure. For further information about the identification of PI schools, see the California Department of Education's (CDE) Adequate Yearly Progress Report Information Guide.

See BP/AR 0520.3 - Title I Program Improvement Districts for requirements pertaining to local educational agencies identified for PI pursuant to 20 USC 6316.

The following paragraph reflects the goals of the PI program pursuant to 20 USC 6311 and may be revised to reflect district practice.

The Governing Board is committed to enabling all district students to meet state academic achievement standards and to narrowing the achievement gap among student groups. To that end, the Board shall assist all district schools, including those receiving federal Title I funds, to achieve adequate yearly progress, as defined by the State Board of Education.

(cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind Act)

(cf. 6011 - Academic Standards)

(cf. 6162.5 - Student Assessment)

(cf. 6162.51 - Standardized Testing and Reporting Program)

(cf. 6171 - Title I Programs)

Whenever a district school is identified by the California Department of Education as in need of program improvement (PI), the Superintendent or designee shall ensure that school improvement efforts are coordinated and aligned. He/she shall also revise the school's Single Plan for Student Achievement in accordance with law and as specified in administrative regulation.

(cf. 0420 - School Plans/Site Councils)

(cf. 0420.1 - School-Based Program Coordination)

(cf. 0520.1 - High Priority Schools Grant Program)

(cf. 0520.4 - Quality Education Investment Schools)

TITLE I PROGRAM IMPROVEMENT SCHOOLS (continued)

Note: Pursuant to 20 USC 6316, whenever a school is identified for PI, the district must allow, in Year 1 of PI and in subsequent years, all students in that school to transfer to another district school or charter school that has not been identified for PI. In addition to the transfer option, 20 USC 6316 requires the district to arrange for supplemental educational services for eligible students in schools that are in Year 2 of PI and beyond. For schools in Year 3 of PI and beyond, other corrective actions and/or restructuring must also be implemented. See the accompanying administrative regulation.

20 USC 6316 and 34 CFR 200.48 require that the district set aside an amount equal to at least 20 percent of district Title I funds to pay for costs related to supplemental educational services and transportation for student transfers. Districts have some discretion as to how much is spent on each purpose, provided that at least 5 percent of the district's total Title I allocation is allotted to each purpose. The district may spend less if the demand is met. The district may, but is not required to, use non-Title I funds or additional federal, state, or local sources of funding for these purposes if the demand for services exceeds 20 percent.

Administrative costs cannot be counted in these amounts. However, pursuant to 34 CFR 200.48, as amended by 73 Fed. Reg. 210, the cost of determining outreach and assistance to parents/guardians concerning their choice to transfer their child or to request supplemental services may be included within specified limits. 73 Fed. Reg. 210 also amended 34 CFR 200.48 to provide that, if a district does not meet its 20 percent spending obligation in a given school year, it must spend the unexpended amount on these purposes in the subsequent school year, unless it meets specified criteria; see the accompanying administrative regulation.

Depending on the length of time a district school has been identified for PI, the district shall provide opportunities for student transfers, supplemental educational services, other corrective actions, and/or restructuring in accordance with law.

(cf. 5116.1 - Intradistrict Open Enrollment)

(cf. 6179 - Supplemental Instruction)

Program Evaluation

Note: The following **optional** section may be revised to reflect indicators of program effectiveness agreed upon by the Governing Board and Superintendent and/or required by the state plan for NCLB adopted pursuant to 20 USC 6311.

Pursuant to 20 USC 6311, any district receiving Title I, Part A funds must prepare and disseminate an annual report card which includes specified information regarding student achievement on statewide academic assessments, indicators of AYP, whether the district or district schools have been identified for PI, graduation rates, and teacher qualifications. 34 CFR 200.11, as amended by 73 Fed. Reg. 210, adds a requirement that districts report the most recent available academic achievement results in grades 4 and 8 on the National Assessment of Educational Progress reading and mathematics assessments. The report cards must include the percentage of students at each achievement level, for the total student population and for each numerically significant subgroup, and participation rates for students with disabilities and English learners.

Rather than issuing a district-level report card, districts are allowed by 20 USC 6311 to incorporate the information into the school accountability report card required by Education Code 35256; see BP 0510 - School Accountability Report Card.

TITLE I PROGRAM IMPROVEMENT SCHOOLS (continued)

The Board shall annually review the adequate yearly progress of each district school based on state academic assessments and other indicators specified in the state plan for the No Child Left Behind Act. The Superintendent or designee shall publicize and disseminate the results of this review to parents/guardians, principals, schools, and the community so that the instructional program can be continually refined to help all students meet state academic standards. (20 USC 6316)

(cf. 0510 - School Accountability Report Card)
(cf. 6190 - Evaluation of the Instructional Program)

The Board and Superintendent or designee also shall review the effectiveness of the actions and activities carried out by PI schools with respect to parental involvement, professional development, and other PI activities. (20 USC 6316)

(cf. 4131 - Staff Development)
(cf. 6020 - Parent Involvement)

As necessary based on the results of these evaluations, the Board may require the Superintendent or designee to review and revise any of the school's reform plans, including the school's Single Plan for Student Achievement, allocate additional resources toward the implementation of the plan, and/or require more frequent monitoring of the school's progress in order to raise student achievement.

Legal Reference: (see next page)

TITLE I PROGRAM IMPROVEMENT SCHOOLS (continued)

Legal Reference:

EDUCATION CODE

35256 School accountability report card

60642.5 California Standards Tests

60850-60856 High School Exit Examination

64000 Categorical programs included in consolidated application

64001 Single school plan for student achievement, consolidated application programs

CODE OF REGULATIONS, TITLE 5

11992-11994 Persistently dangerous schools, definition

13075-13075.4 Supplemental educational services

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act

6301 Title I program purpose

6311 Adequate yearly progress

6312 Local educational agency plan

6313 Eligibility of schools and school attendance areas; funding allocation

6316 School improvement

7912 Persistently dangerous schools

UNITED STATES CODE, TITLE 29

794 Section 504 of the Rehabilitation Act

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy

200.13-200.20 Adequate yearly progress

200.30-200.35 Identification of program improvement schools

200.36-200.38 Notification requirements

200.39-200.43 Requirements for program improvement, corrective action, and restructuring

200.44 School choice option

200.45-200.47 Supplemental educational services

200.48 Funding for transportation and supplemental services

200.49-200.51 State responsibilities

200.52-200.53 District improvement

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

2008 Adequate Yearly Progress Report Information Guide, August 2008

California's Accountability Workbook

FEDERAL REGISTER

Final Rule and Supplementary Information, October 29, 2008. Vol. 73, No. 210, pages 64436-64513

U.S. DEPARTMENT OF EDUCATION GUIDANCE

Public School Choice, January 14, 2009

Supplemental Educational Services, January 14, 2009

WEB SITES

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

California Department of Education, Program Improvement:

<http://www.cde.ca.gov/ta/ac/ti/programimprov.asp>

U.S. Department of Education, No Child Left Behind: <http://www.nclb.gov>

(3/03 7/04) 3/09

Board Policy

Title I Program Improvement Schools

BP 0520.2

Philosophy, Goals, Objectives and Comprehensive Plans

The Governing Board desires to assist all schools receiving federal Title I funds to achieve adequate yearly progress as defined by the State Board of Education.

(cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind Act)
(cf. 6011 - Academic Standards)
(cf. 6162.5 - Student Assessment)
(cf. 6162.51 - Standardized Testing and Reporting Program)
(cf. 6171 - Title I Programs)

Whenever a district school is identified as in need of program improvement, the Superintendent or designee shall coordinate improvement efforts with federal, state and local school improvement programs as appropriate and shall develop an improvement plan in accordance with law and as specified in administrative regulation.

(cf. 0420.1 - School-Based Program Coordination)
(cf. 0420.3 - School-Based Student Motivation and Maintenance Program)
(cf. 0520 - Intervention for Underperforming Schools)
(cf. 0520.1 - High Priority Schools Grant Program)

Depending on the length of time a district school has been identified for program improvement, the Board and Superintendent or designee shall implement opportunities for student transfers, supplemental educational services, other corrective actions and/or restructuring in accordance with law.

(cf. 5116.1 - Intradistrict Open Enrollment)
(cf. 6179 - Supplemental Instruction)

The Superintendent or designee shall provide the Board with regular reports on the implementation of the school improvement plan and the effectiveness of program improvement efforts in raising student achievement.

(cf. 6190 - Evaluation of the Instructional Program)
(cf. 9000 - Role of the Board)

Legal Reference:

EDUCATION CODE

60642.5 California Standards Tests

60850-60856 High School Exit Examination

CODE OF REGULATIONS, TITLE 5

13075-13075.4 Supplemental Services

UNITED STATES CODE, TITLE 20

6301 Title I program purpose

6311 Adequate yearly progress

6312 Local educational agency plan

6313 Eligibility of schools and school attendance areas; funding allocation

6316 School improvement

7912 Persistently dangerous schools

CODE OF FEDERAL REGULATIONS, TITLE 34

200.13-200.20 Adequate yearly progress

200.30-200.35 Identification of program improvement schools

200.36-200.38 Notification requirements

200.39-200.43 Requirements for program improvement, corrective action and restructuring

200.44 School choice option

200.45-200.47 Supplemental services

200.48 Funding for transportation and supplemental services

200.49-200.51 State responsibilities

200.52-200.53 District improvement

Management Resources:

CSBA ADVISORIES

California's Implementation of the No Child Left Behind Act, July 2003

No Child Left Behind: Update on Federal Regulations and State Board of Education Actions, January 2003

CDE PUBLICATIONS

California's Accountability Workbook

U.S. DEPARTMENT OF EDUCATION GUIDANCE

Public School Choice, February 6, 2004

Supplemental Educational Services, August 22, 2003

WEB SITES

California Department of Education, Program Improvement:

<http://www.cde.ca.gov/ta/ac/ti/programimprov.asp>

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

U.S. Department of Education, No Child Left Behind: <http://www.nclb.gov>

Policy CENTER UNIFIED SCHOOL DISTRICT

adopted: October 6, 2004 Antelope, California

CSBA Sample

Administrative Regulation

Philosophy-Goals-Objectives and Comprehensive Plans

AR 0520.2(a)

TITLE I PROGRAM IMPROVEMENT SCHOOLS

Note: The following optional administrative regulation reflects the requirements of the No Child Left Behind Act of 2001 (NCLB) (20 USC 6316) for Title I schools that fail to make "adequate yearly progress" (AYP) for two or more consecutive school years and thus are identified for program improvement (PI).

Definitions

Note: Specific indicators used by the State Board of Education (SBE) to define AYP and "numerically significant subgroups" are described in the state's federally approved Accountability Workbook and are subject to change. 73 Fed. Reg. 210 amended 34 CFR 200.19 to make a number of changes for calculating the high school graduation rate.

Adequate yearly progress (AYP) is a series of annual academic performance goals, as defined by the State Board of Education, that incorporate student participation levels on state assessments, minimum required percentages of students scoring at the proficient level or above on English language arts and mathematics state assessments, high school graduation rates, and growth on the state's Academic Performance Index (API).

(cf. 6162.51 - Standardized Testing and Reporting Program)

(cf. 6162.52 - High School Exit Examination)

Numerically significant subgroups include economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency, when the number of students in the subgroup is sufficient to yield statistically reliable results. (20 USC 6311)

Program improvement (PI) school is a school receiving federal Title I funds that has failed to make AYP for each of two consecutive school years in the same content area (i.e., English-language arts or mathematics) schoolwide or for any numerically significant subgroup, or has failed to make AYP on the same additional indicator (i.e., API for all schools or, for high schools, graduation rate) schoolwide.

Year 1 Program Improvement

When any Title I school is identified for Year 1 PI: (20 USC 6316)

1. The Superintendent or designee shall provide students enrolled in the school the option of transferring to another district school or charter school that has not been identified for PI, as described below under "Student Transfers."

(cf. 0420.4 - Charter Schools)

TITLE I PROGRAM IMPROVEMENT SCHOOLS (continued)

Note: 20 USC 6316 requires PI schools to develop or revise a two-year improvement plan. The Categorical Program Monitoring instrument used by the California Department of Education (CDE) to determine program compliance indicates that the school should revise its Single Plan for Student Achievement, developed pursuant to Education Code 64000-64001, to fulfill this requirement.

2. The principal and school community shall revise the school's Single Plan for Student Achievement in accordance with 20 USC 6316, and present it for approval by the Governing Board.

(cf. 0420 - School Plans/Site Councils)

(cf. 6171 - Title I Programs)

3. Within 45 days of receiving the plan, the Board shall establish a peer review process to assist with the review of the plan, work with the school as necessary, and approve the plan if it meets the requirements of law. (20 USC 6316)
4. The school shall implement the plan no later than the beginning of the next full school year following the school's identification for PI, or, if the plan has not been approved prior to beginning the school year, immediately upon approval of the plan. (20 USC 6316)
5. As the school develops and implements the school plan, the Superintendent or designee shall ensure that the school receives technical assistance either from the district, the California Department of Education (CDE), an institution of higher education, a private organization, an educational service agency, or another entity with experience in helping schools improve academic achievement, including assistance in:
 - a. Analyzing data from state assessments and other examples of student work to identify and address problems in instruction and/or problems in implementing Title I requirements pertaining to parent involvement, professional development, or school and district responsibilities identified in the school plan
 - b. Identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research and that have proven effective in addressing the specific instructional issues that caused the school to be identified for PI
 - c. Analyzing and revising the school's budget so that the school's resources are more effectively allocated to the activities most likely to increase student achievement and remove the school from PI status

(cf. 3100 - Budget)

TITLE I PROGRAM IMPROVEMENT SCHOOLS (continued)

Year 2 Program Improvement

For any Title I school that fails to make AYP by the end of the first full school year after being identified for PI, the Superintendent or designee shall: (20 USC 6316)

1. Continue to provide all students enrolled in the school the option of transferring to another district school or charter school that has not been identified for PI, as described below under "Student Transfers"
2. Arrange for the provision of supplemental educational services to eligible students from low-income families by a provider with a demonstrated record of effectiveness, as described below under "Supplemental Educational Services"
3. Continue to provide for technical assistance

Year 3 Program Improvement: Corrective Action

When a school continues to fail to make AYP by the end of the second full school year after identification for PI (four consecutive years of failure to make AYP), the Superintendent or designee shall continue to provide all elements of Year 1 and Year 2 PI. In addition, the Board shall take at least one of the following corrective actions: (20 USC 6316)

1. Replace school staff relevant to the failure
(cf. 4113 - Assignment)
2. Implement a new curriculum and related professional development
(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)
3. Significantly decrease management authority at the school level
4. Appoint an outside expert to advise the school
5. Extend the school year or school day for the school
(cf. 6111 - School Calendar)
6. Restructure the internal organization of the school

TITLE I PROGRAM IMPROVEMENT SCHOOLS (continued)**Year 4 Program Improvement and Beyond: Restructuring**

For any school that continues to fail to make AYP after one full year of corrective action, the Superintendent or designee shall continue to provide all students enrolled in the school with the option to transfer to another district school or charter school and continue to make supplemental educational services available to eligible students who remain in the school. In addition, the Board shall develop a plan and make necessary arrangements to implement one of the following options for alternative governance and restructuring, consistent with state law: (20 USC 6316)

1. Reopen the school as a charter school
2. Replace all or most of the school staff relevant to the failure
3. Enter into a contract with an entity with a demonstrated record of effectiveness to operate the school
4. Turn the operation of the school over to the CDE
5. Institute any other major restructuring of the school's governance arrangements that makes fundamental reforms

Notifications

Note: 20 USC 6316 and 34 CFR 200.37 require the following notification to parents/guardians. Templates that can be used by the district to develop the notification for any year of PI, as well as translations in many languages, are available on the CDE's web site.

Whenever a school is identified for PI, corrective action, or restructuring, the Superintendent or designee shall promptly notify parents/guardians of students enrolled in that school. The notification shall include: (20 USC 6316; 34 CFR 200.37)

1. An explanation of what the identification means, and how the school compares in terms of academic achievement to other elementary or secondary schools in the district and state
2. The reasons for the identification
3. An explanation of what the school is doing to address the problem of low achievement
4. An explanation of what the district or state is doing to help the school address the achievement problem

TITLE I PROGRAM IMPROVEMENT SCHOOLS (continued)

5. An explanation of how parents/guardians can become involved in addressing the academic issues that caused the school to be identified for PI

Note: Specific requirements for the notifications described in items #6 and 7 below are addressed below in the sections on "Student Transfers" and "Supplemental Educational Services," respectively.

6. An explanation of the option to transfer to another district school or charter school as described below under "Student Transfers"
7. If the school is in Year 2 of PI or beyond, an explanation of how parents/guardians can obtain supplemental educational services for their child as described below under "Supplemental Educational Services"

(cf. 5145.6 - Parental Notifications)

The Superintendent or designee shall disseminate information about corrective actions taken at any district school to the parents/guardians of each student in that school and to the public through such means as the Internet, the media, and public agencies. (20 USC 6316)

The Superintendent or designee shall promptly notify teachers and parents/guardians whenever a school is identified for restructuring and shall provide them adequate opportunities to comment before taking action and to participate in developing any plan for restructuring school governance. (20 USC 6316)

All notifications pertaining to PI shall be written in an understandable and uniform format and, to the extent practicable, in a language the parents/guardians can understand. (20 USC 6316)

Note: 20 USC 6316 and 34 CFR 200.48 require districts to spend at least 20 percent of district Title I funds for costs related to supplemental educational services, transportation for student transfers, and related outreach and assistance to parents/guardians; see the accompanying Board policy. As amended by 73 Fed. Reg. 210, 34 CFR 200.48 authorizes districts to spend less than 20 percent if specified criteria are met. These criteria include providing timely, accurate notifications as described above and partnering with outside groups to inform students and families, as provided below. The following paragraph is optional.

To the extent practicable, the district shall partner with outside groups, such as faith-based organizations, other community-based organizations, and business groups, to help inform eligible students and their families of the opportunities to transfer or to receive supplemental educational services. (34 CFR 200.48)

Student Transfers

Note: As noted above, 20 USC 6316 requires any school in Year 1 of PI or beyond to provide all students in that school with an opportunity to transfer to another public or charter school in the district.

TITLE I PROGRAM IMPROVEMENT SCHOOLS (continued)

34 CFR 200.44 provides that a district subject to a desegregation plan, whether voluntary, court-ordered, or required by a federal or state administrative agency, is not exempt from the requirement to allow such transfers. However, the district may take into account the requirements of the desegregation plan in determining how to provide students with the option to transfer to another school.

Because NCLB requires the district to offer intradistrict transfers to all students in PI schools, it is recommended that the district give priority to such students in its intradistrict open enrollment policy; see BP 5116.1 - Intradistrict Open Enrollment.

All students enrolled in a school in Year 1 of PI or beyond shall be provided an option to transfer to another district school or charter school that: (20 USC 6316; 34 CFR 200.44)

1. Has not been identified for PI, corrective action, or restructuring

Note: Districts must offer students attending a school identified as "persistently dangerous" by the CDE the opportunity to transfer to another district school. See BP/AR 5116.1 - Intradistrict Open Enrollment for a definition of "persistently dangerous" and other conditions regarding this type of transfer.

2. Has not been identified by the CDE as a "persistently dangerous" school pursuant to 20 USC 7912 and 5 CCR 11992-11994

(cf. 0450 - Comprehensive Safety Plan)

(cf. 5116.1 - Intradistrict Open Enrollment)

Note: Pursuant to 20 USC 6316 and 34 CFR 200.44, all students in PI schools must be given the opportunity to transfer although priority must be given to the lowest achieving students from low-income families. U.S. Department of Education (USDOE) non-regulatory guidance (Public School Choice) clarifies that all students in such schools must be given an option to transfer but the district should determine situations in which prioritization must be applied (e.g., the lowest achieving students from low-income families are given their first choice and/or are provided transportation first if funds are limited). For these purposes, the district must determine family income on the same basis that the district uses to make Title I allocations to schools.

Among these students, priority shall be given to the lowest achieving students from low-income families, as defined by the district for purposes of allocating Title I funds. (20 USC 6316; 34 CFR 200.44)

If two or more district schools are eligible to accept transfers based on criteria listed in items #1-2 above, the district shall provide a choice of more than one such school and shall take into account parent/guardian preferences among the choices offered. (34 CFR 200.44)

Note: 34 CFR 200.44 indicates that lack of capacity is not a permissible reason to deny transfer opportunities to students. The USDOE guidance and CDE correspondence dated October 31, 2007, reiterate that districts must either create additional capacity or provide choices of other schools. The CDE correspondence cautions districts to ensure that nothing in their parental notification letter or transfer application implies that choice may be limited due to a lack of capacity. When capacity is an issue, the district might consider portable classrooms, reassignment of teachers, distance learning programs, the establishment of new charter schools, or other options.

TITLE I PROGRAM IMPROVEMENT SCHOOLS (continued)

School capacity shall not be used to deny transfer opportunities to students. However, the Superintendent or designee may consider capacity in selecting schools that will be offered as alternatives for school choice. The Board may increase capacity in eligible district schools to accommodate all students who wish to transfer.

Note: 34 CFR 200.37 and 200.44, as amended by 73 Fed. Reg. 210, clarify timelines for the notice and implementation of the transfer option, as provided below. Preliminary AYP determinations are reported by the CDE prior to the beginning of the traditional school year to enable districts to meet the following requirement.

The transfer option shall be offered so that students may transfer in the school year following the school year in which the district administered the assessments that resulted in the identification of the school for PI, corrective action, or restructuring. In order to provide adequate time for parents/guardians to exercise their transfer option before the school year begins, the Superintendent or designee shall notify parents/guardians of the available school choices sufficiently in advance of, but no later than 14 calendar days before, the start of the school year. (34 CFR 200.37, 200.44)

Note: 34 CFR 200.37 contains requirements for the content of the notice that must be provided to parents/guardians whenever a school is identified for PI, corrective action, or restructuring, which include the content described in items #4-5 below related to school choice. The USDOE guidance describes additional requirements that the notice should contain (items #1-3 below). These requirements are incorporated into the sample parental notification available on the CDE's web site.

Notice of the transfer option shall:

1. Inform parents/guardians that their child is eligible to attend another public school due to the identification of the current school as in need of improvement
2. Identify each public school or public charter school that the parent/guardian can select
3. Explain why the choices made available to the parents/guardians may have been limited
4. Provide information on the academic achievement of the school(s) to which the student may transfer (34 CFR 200.37)
5. Explain the provision of transportation to the new school (34 CFR 200.37)

Note: 34 CFR 200.37 describes additional content of the notice that may be provided to parents/guardians at the district's discretion. The following paragraph is optional and may be revised as desired.

TITLE I PROGRAM IMPROVEMENT SCHOOLS (continued)

The notice may include other information about the school(s) to which the student may transfer, such as a description of any special academic programs or facilities, the availability of before- and after-school programs, the professional qualifications of teachers in the core academic subjects, and a description of parent involvement opportunities. (34 CFR 200.37)

(cf. 5148.2 - Before/After School Programs)

In addition to mailing notices directly to parents/guardians, the Superintendent or designee shall provide information about transfer options through broader means, such as the Internet, the media, and public agencies serving students and their families. (34 CFR 200.36)

Note: 34 CFR 200.39, as amended by 73 Fed. Reg. 210, adds the following requirement for districts that have their own web sites. If the district does not have a web site, the CDE is required to provide this information on its web site.

To ensure that parents/guardians have current information, the district shall prominently display on its web site, in a timely manner each school year, the number of students who were eligible for and who participated in the student transfer option, beginning with data from the 2007-08 school year and each subsequent year thereafter, and a list of available schools to which eligible students may transfer in the current school year. (34 CFR 200.39)

Note: According to the USDOE guidance, the district may set a reasonable deadline by which parents/guardians must respond to the offered transfer option, as long as parents/guardians have sufficient time and information to make an informed decision. The following paragraph is optional and may be revised to specify timelines for each step of the process. See E(1) 0520.2 for a sample form that the district can use for parent/guardian requests for student transfers.

The Superintendent or designee may establish reasonable timelines for parents/guardians to indicate their intent to transfer their child and for the district to notify parents/guardians of the school assignment.

Note: According to the USDOE guidance, parents/guardians do not necessarily have to be guaranteed their first choice of schools. The following optional paragraph reflects language in the guidance that authorizes, but does not require, districts to develop a system of rank-ordering preferences.

The Superintendent or designee may require parents/guardians to rank-order their preferences from among schools that are eligible to receive transfer students. Parents/guardians may decline their assigned school and remain in their school of origin.

Note: If a student exercises the option to transfer to another school, 20 USC 6316 and 34 CFR 200.44 require the district to provide or pay for the student's transportation to that school. The USDOE guidance clarifies that, if the district does not offer transportation services to its students, it will be required to reimburse parents/guardians for the costs of providing transportation or for using public transportation. This requirement is an exception to state and federal law for other types of intradistrict transfers for which the district is not obligated to provide or pay for transportation; see BP 5116.1 - Intradistrict Open Enrollment.

TITLE I PROGRAM IMPROVEMENT SCHOOLS (continued)

The district shall provide, or shall pay for the provision of, transportation for the student to the public school that student chooses to attend. (20 USC 6316; 34 CFR 200.44)

(cf. 3540 - Transportation)

Note: The USDOE guidance states that districts have flexibility to establish transportation zones based on geographic location. The following optional paragraph is based on the authority in the USDOE guidance and may be revised to reflect district practice.

To ensure that transportation may be reasonably provided, the Superintendent or designee may establish transportation zones based on geographic location. Transportation to schools within a zone shall be fully provided, while transportation outside the zone may be partially provided.

Any student who transfers to another school may remain in that school until he/she has completed the highest grade in that school. However, the district shall not be obligated to provide, or pay for the provision of, transportation for the student after the end of the school year that the school of origin is no longer identified for PI, corrective action, or restructuring. (20 USC 6316; 34 CFR 200.44)

In the event that all district schools are identified for PI, corrective action, or restructuring, the district shall, to the extent practicable, establish a cooperative agreement with other local educational agencies in the area for an interdistrict transfer. (20 USC 6316; 34 CFR 200.44)

(cf. 5117 - Interdistrict Attendance)

Supplemental Educational Services

Note: As described above, 20 USC 6316 and 34 CFR 200.45 require the district to make supplemental educational services available to students from low-income families whenever a school is in Year 2 of PI or beyond. For these purposes, the district must determine family income on the same basis that the district uses to make Title I allocations to schools. Parents/guardians are allowed to select supplemental educational services within the district or in neighboring local educational agencies from a list of entities approved by the SBE. USDOE non-regulatory guidance (Supplemental Educational Services) indicates that parents/guardians also may select a provider that is accessible through technology, such as e-learning, online, or distance learning technology.

When required by law, supplemental educational services shall be provided outside the regular school day and shall be specifically designed to increase achievement of eligible students from low-income families on state academic assessments and to assist them in attaining state academic standards. (20 USC 6316)

(cf. 6011 - Academic Standards)

(cf. 6179 - Supplemental Instruction)

TITLE I PROGRAM IMPROVEMENT SCHOOLS (continued)

Note: 20 USC 6316 and 34 CFR 200.37 address the content of the notification that must be issued when a school is required to provide supplemental educational services. These requirements are incorporated into the sample parental notification letters available on the CDE's web site.

When a school is required to provide supplemental educational services, the Superintendent or designee shall annually notify parents/guardians of: (20 USC 6316; 34 CFR 200.37)

1. The availability of supplemental educational services
2. The identity of approved providers that are within the district or are reasonably available in neighboring local educational agencies
3. The identity of approved providers of technology-based or distance learning supplemental educational services

Note: 34 CFR 200.37, as amended by 73 Fed. Reg. 210, now requires districts to indicate providers who can serve students with disabilities or limited English proficiency, as provided in item #4 below, and to explain the benefits of receiving services, as provided in item #5 below.

4. The services, qualifications, and demonstrated effectiveness of each provider, including an indication of those providers who are able to serve students with disabilities or limited English proficiency
5. The benefits of receiving supplemental educational services

Note: The USDOE guidance suggests that the notification also include procedures and timelines for selecting a provider. The following paragraph is optional.

In addition, the notification shall describe procedures and timelines that parents/guardians must follow to select a provider.

Note: 73 Fed. Reg. 210 amended 34 CFR 200.37 to add the following requirement pertaining to notification of supplemental educational services.

This notification shall be clearly distinguishable from other information sent to parents/guardians regarding identification of the school for PI, corrective action, or restructuring. (34 CFR 200.37)

Note: 34 CFR 200.39, as amended by 73 Fed. Reg. 210, adds the following requirement for districts that have their own web sites. If the district does not have a web site, the CDE is required to provide this information on its web site.

To ensure that parents/guardians have current information, the district shall prominently display on its web site, in a timely manner each school year, the number of students who

TITLE I PROGRAM IMPROVEMENT SCHOOLS (continued)

were eligible for and who participated in supplemental educational services, beginning with data from the 2007-08 school year and each subsequent year thereafter, a list of state-approved providers serving the district in the current year, and the location where services are provided. (34 CFR 200.39)

Note: 20 USC 6316 requires a district to spend 20 percent of its Title I spending obligation on costs related to supplemental educational services, transportation for transfers, and related outreach and assistance to parents/guardians; see the accompanying Board policy. 34 CFR 200.48, as amended by 73 Fed. Reg. 210, specifies that, in order to spend less than 20 percent, a district must distribute sign-up forms for supplemental educational services, establish at least two enrollment windows, and make school facilities available to eligible providers, as provided below. The following three paragraphs are optional.

See E(2) 0520.2 for a sample service request form.

The Superintendent or designee shall distribute sign-up forms for supplemental educational services directly to all eligible students and their parents/guardians and make them available and accessible through broad means of dissemination such as the Internet, other media, and communications through public agencies serving eligible students and their families. (34 CFR 200.48)

The district shall provide a minimum of two enrollment windows, at separate points in the school year, that are of sufficient length to enable parents/guardians of eligible students to make informed decisions about requesting supplemental educational services and selecting a provider. (34 CFR 200.48)

Eligible supplemental services providers shall be given access to school facilities, using a fair, open, and objective process, on the same basis as other groups that seek access to school facilities. (34 CFR 200.48)

(cf. 1330 - Use of School Facilities)

Note: The USDOE guidance advises that the district may establish a reasonable deadline by which parents/guardians must request services, as long they are given sufficient time and information to make an informed decision. The following paragraph may be revised to include any such deadline established by the district.

Within a reasonable period of time established by the Superintendent or designee, parents/guardians shall select a service provider from among those approved by the SBE. Upon request, the Superintendent or designee shall assist parents/guardians in choosing a provider. (20 USC 6316; 34 CFR 200.46)

Note: Pursuant to 34 CFR 200.47, a school district may apply to the SBE to become a supplemental service provider as long as the district has not been identified as a PI district, program staff are not employed at a

TITLE I PROGRAM IMPROVEMENT SCHOOLS (continued)

school identified for PI, and the district demonstrates a record of effectiveness. 5 CCR 13075.1 and 13075.2 define "record of effectiveness" and list application requirements. 5 CCR 13075.4 lists conditions under which a provider's status can be terminated by the SBE. The following optional paragraph is for use by districts that have been approved as service providers.

When the district is an approved service provider, the Superintendent or designee shall be careful to provide parents/guardians with a balanced presentation of the options available to them and shall ensure that they understand their right to select the district or any other service provider.

The Superintendent or designee shall ensure that eligible students with disabilities, students covered under Section 504 of the federal Rehabilitation Act, and students with limited English proficiency receive appropriate supplemental educational services with any necessary accommodations or language assistance. (34 CFR 200.46)

(cf. 6159 - Individualized Education Program)

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

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

(cf. 6174 - Education for English Language Learners)

Note: The USDOE guidance clarifies that, if supplemental educational services providers are unable to provide necessary accommodations or language assistance to students with disabilities, students covered under Section 504, or students who are English learners, districts are obligated to provide or contract for such services with accommodations or language assistance, as provided below.

If no provider is able to make the services available to such students, the district shall provide these services with necessary accommodations or language assistance, either directly or through a contract. Supplemental educational services shall be consistent with a student's individualized education program (IEP) or Section 504 services plan.

If available funds are insufficient to provide supplemental educational services to each eligible student whose parents/guardians request those services, priority shall be given to the lowest achieving eligible students. (20 USC 6316)

Note: The USDOE guidance notes that districts should establish fair and equitable procedures for selecting students to receive services if a particular provider does not have the capacity to serve all students who have selected that provider. The guidance encourages districts to consider allocating available spaces consistent with the priority to serve the lowest achieving eligible students. The following paragraph is optional.

If the number of parents/guardians selecting a particular provider exceeds the capacity of that provider, priority shall be given to the lowest achieving eligible students.

Once a provider has been selected by a parent/guardian, the Superintendent or designee shall enter into an agreement with the provider. The agreement shall: (20 USC 6316)

TITLE I PROGRAM IMPROVEMENT SCHOOLS (continued)

1. Require the district to develop, in consultation with the parents/guardians and the provider, a statement of specific achievement goals for the student, how the student's progress will be measured, and a timetable for improving achievement. In the case of a student with disabilities, the statement shall be consistent with the student's IEP.
2. Describe how the student's parents/guardians and teacher(s) will be regularly informed of the student's progress.
3. Provide for the termination of the agreement if the provider is unable to meet such goals and timetables.
4. Contain provisions with respect to the district making payments to the provider.

Note: USDOE correspondence dated August 10, 2007, clarifies that, although providers are prohibited from disclosing student information to third parties without consent, the Family Educational Rights and Privacy Act (20 USC 1232g; 34 CFR 99.1-99.8) does not prohibit providers from using contact information they obtain from the district to notify parents/guardians regarding their services.

5. Prohibit the provider, without written parent/guardian permission, from disclosing to the public the identity of any student eligible for or receiving supplemental educational services.

(cf. 5125.1 - Release of Directory Information)

(3/03 7/04) 3/09

Administrative Regulation

Title I Program Improvement Schools

AR 0520.2

Philosophy, Goals, Objectives and Comprehensive Plans

Definitions

Adequate yearly progress (AYP) encompasses the following four requirements:

1. Annual measurable objectives: Achievement of the statewide annual measurable objectives (AMOs) on English-language arts (ELA) and mathematics assessments (schoolwide/districtwide and subgroups). AMOs are the minimum required percentages of students at proficient or above in each content area.
2. Participation rate: Achievement of 95 percent student participation rate on ELA and mathematics assessments (schoolwide/districtwide and subgroups) or average of 95 percent over a three-year period.
3. Academic Performance Index (API): Growth in the API score of at least one point or a minimum growth API as defined annually by the State Board of Education (SBE) (schoolwide/districtwide).
4. Graduation Rate: Improvement in the graduation rate of at least .1 percent or a graduation rate of 100 percent (schoolwide/districtwide). This applies only to high schools and districts with high school students.

At or above the proficient level, for students in grades 2-8, means the percentage of students scoring at the proficient or advanced level on the California Standards Tests. At the high school level, proficiency is determined by equivalent levels on the California High School Exit Examination as determined by the SBE. For special education students, proficient is limited to the performance on the California Alternate Performance Assessment (CAPA).

(cf. 6162.51 - Standardized Testing and Reporting Program)

(cf. 6162.52 - High School Exit Examination)

Eligibility for supplemental education services is based on family income. (34 CFR 200.45)

Numerically significant subgroups include economically disadvantaged students, students from major racial and ethnic groups, students with disabilities and students with limited English proficiency. For purposes of determining AYP, a significant subgroup is at least 100 students, or 50 students who represent at least 15 percent of the students to be tested.

Program improvement school is a school receiving federal Title I funds that has failed to make AYP for two or more consecutive school years on the same indicator (i.e., AMOs for ELA and mathematics, participation rate, API, graduation rate).

Year One Program Improvement

When any Title I school is identified for Year One Program Improvement: (20 USC 6316)

1. The Superintendent or designee shall provide students enrolled in the school the option of transferring to another district school or charter school that has not been identified for program improvement, as described below under "Student Transfers."

(cf. 0420.4 - Charter Schools)

2. The principal and school community shall develop or revise a two-year improvement plan in accordance with 20 USC 6316, for approval by the Governing Board.

(cf. 0420 - School Plans/Site Councils)

(cf. 6171 - Title I Programs)

Within 45 days of receiving the plan, the Board shall establish a peer review process to assist with the review of the plan, work with the school as necessary, and approve the plan if it meets the requirements of law. (20 USC 6316)

The school shall implement the improvement plan no later than the beginning of the next full school year following the school's identification for program improvement, or, if the plan has not been approved prior to beginning the school year, immediately upon approval of the plan. (20 USC 6316)

As the school develops and implements the school plan, the Superintendent or designee shall ensure that the school receives technical assistance either from the district, the California Department of Education, an institution of higher education, a private organization, an educational service agency or another entity with experience in helping schools improve academic achievement, including assistance in: (20 USC 6316)

1. Analyzing state assessment data and other examples of student work to identify and address problems in instruction and/or problems in implementing Title I requirements pertaining to parent involvement, professional development, or school and district responsibilities identified in the school's Title I plan

2. Identifying and implementing professional development, instructional strategies and methods of instruction that are based on scientifically based research and that have proven effective in addressing the specific instructional issues that caused the school to

be identified for school improvement

3. Analyzing and revising the school's budget so that the school's resources are more effectively allocated to the activities most likely to increase student achievement and to remove the school from program improvement status

Year Two Program Improvement

For any Title I school that fails to make AYP by the end of the first full school year after being identified for Program Improvement, the Superintendent or designee shall: (20 USC 6316)

1. Continue to provide all elements of Year One Program Improvement
2. Arrange for the provision of supplemental educational services to eligible students from low-income families by a provider with a demonstrated record of effectiveness, as described below under "Supplemental Educational Services"
3. Continue to provide for technical assistance

Year Three Program Improvement

When a school continues to fail to make AYP by the end of the second full school year after identification for program improvement (four consecutive years of failure to make AYP), the Superintendent or designee shall continue to provide all elements of Year One and Year Two Program Improvement. In addition, the Board shall take at least one of the following corrective actions: (20 USC 6316)

1. Replace school staff relevant to the failure
2. Implement a new curriculum and related professional development
3. Significantly decrease management authority at the school level
4. Appoint an outside expert to advise the school
5. Extend the school year or school day for the school
6. Restructure the internal organization of the school

Year Four and Beyond Program Improvement

For any school that continues to fail to make AYP after one full year of corrective action, the Superintendent or designee shall continue to provide all elements of Year One and Year Two Program Improvement. In addition, the Board shall implement one of the following options for alternative governance and restructuring, consistent with California

law: (20 USC 6316)

1. Reopen the school as a charter school
2. Replace all or most of the school staff relevant to the failure
3. Enter into a contract with an entity with a demonstrated record of effectiveness to operate the school
4. Turn the operation of the school over to the California Department of Education
5. Institute any other major restructuring of the school's governance arrangements that makes fundamental reforms

Notifications

Whenever a school is identified for program improvement, corrective action or restructuring, the Superintendent or designee shall promptly notify parents/guardians of students enrolled in that school. The notification shall include: (20 USC 6316)

1. An explanation of what the identification means, and how the school compares in terms of academic achievement to other elementary or secondary schools in the district and state
2. The reasons for the identification
3. An explanation of what the school is doing to address the problem of low achievement
4. An explanation of what the district or state is doing to help the school address the achievement problem
5. An explanation of how parents/guardians can become involved in addressing the academic issues that caused the school to be identified for program improvement
6. An explanation of the option to transfer to another district school or charter school or to obtain supplemental educational services

(cf. 5145.6 - Parental Notifications)

The Superintendent or designee shall disseminate information about corrective actions taken at any district school to the parents/guardians of each student in that school and to the public through such means as the Internet, the media and public agencies. (20 USC 6316)

The Superintendent or designee shall promptly notify teachers and parents/guardians

whenever a school is identified for restructuring and shall provide them adequate opportunities to comment before taking action and to participate in developing any plan for restructuring school governance. (20 USC 6316)

All notifications pertaining to program improvement shall be written in an understandable and uniform format and, to the extent practicable, in a language the parents/guardians can understand. (20 USC 6316)

Student Transfers

All students enrolled in a Title I school that is identified for program improvement in Year One and beyond shall be provided an option to transfer to another district school or charter school that: (20 USC 6316; 34 CFR 200.44)

1. Has not been identified for program improvement, corrective action or restructuring
2. Has not been identified by the California Department of Education as a "persistently dangerous" school pursuant to 20 USC 7912

(cf. 0450 - Comprehensive Safety Plan)
(cf. 5116.1 - Intradistrict Open Enrollment)

Among these students, priority shall be given to the lowest achieving students from low-income families, as defined by the district for purposes of allocating Title I funds. (20 USC 6316)

If two or more district schools are eligible to accept transfers based on criteria listed in items #1-2 above, the district shall provide a choice of more than one such school and shall take into account parent/guardian preferences among the choices offered. (34 CFR 200.44)

School capacity shall not be used to deny transfer opportunities to students. However, the Superintendent or designee may consider capacity in selecting schools that will be offered as alternatives for school choice. The Board may increase capacity in eligible district schools to accommodate all students who wish to transfer.

The transfer option shall be offered not later than the first day of the school year following administration of the assessments that resulted in the identification of the school for program improvement, corrective action or restructuring. (34 CFR 200.44)

An explanation of the option to transfer to another public school shall be promptly provided to parents/guardians of each student enrolled in an identified school. Such notice shall be provided in an understandable and uniform format and, to the extent practicable, in a language that the parents/guardians can understand. (20 USC 6316)

Notice of the transfer option shall:

1. Inform parents/guardians that their child is eligible to attend another public school due to the identification of the current school as in need of improvement
2. Identify each public school or public charter school that the parent/guardian can select
3. Explain why the choices made available to them may have been limited
4. Provide information on the academic achievement of the school(s) to which the student may transfer (34 CFR 200.37)
5. Explain the provision of transportation to the new school (34 CFR 200.37)

The notice may include other information about the school(s) to which the student may transfer, such as a description of any special academic programs or facilities, the availability of before- and after-school programs, the professional qualifications of teachers in the core academic subjects, and a description of parent involvement opportunities. (34 CFR 200.37)

In addition to mailing notices directly to parents/guardians, the Superintendent or designee shall provide information about transfer options through broader means, such as the Internet, the media, and public agencies serving students and their families. (34 CFR 200.36)

The Superintendent or designee may establish reasonable timelines for parents/guardians to indicate their intent to transfer their child and for the district to notify parents/guardians of the school assignment.

The Superintendent or designee may require parents/guardians to rank-order their preferences from among schools that are eligible to receive transfer students. Parents/guardians may decline their assigned school and remain in their school of origin.

The district shall provide, or shall pay for the provision of, transportation for the student to the public school that student chooses to attend. (20 USC 6316)

(cf. 3540 - Transportation)

To ensure that transportation may be reasonably provided, the Superintendent or designee may establish transportation zones based on geographic location. Transportation to schools within a zone shall be fully provided, while transportation outside the zone may be partially provided.

Any student who transfers to another school may remain in that school until he/she has completed the highest grade in that school. However, the district shall not be obligated to

provide, or pay for the provision of, transportation for the student after the end of the school year that the school of origin is no longer identified for program improvement, corrective action or restructuring. (20 USC 6316; 34 CFR 200.44)

If all district schools are identified for program improvement, corrective action or restructuring, the Board shall, to the extent practicable, establish a cooperative agreement with other local educational agencies in the area for an interdistrict transfer. (20 USC 6316)

(cf. 5117 - Interdistrict Attendance)

Supplemental Educational Services

When required by law, supplemental educational services shall be provided outside the regular school day and shall be specifically designed to increase achievement of eligible students from low-income families on state academic assessments and to assist them in attaining state academic standards. (20 USC 6316)

(cf. 6011 - Academic Standards)

(cf. 6179 - Supplemental Instruction)

When a school is required to provide supplemental educational services, the Superintendent or designee shall annually notify parents/guardians of:

1. The availability of supplemental educational services (20 USC 6316)
2. The identity of approved providers that are within the district or are reasonably available in neighboring local educational agencies (20 USC 6316)
3. The identity of approved providers that are accessible through technology, such as distance learning
4. The services, qualifications and demonstrated effectiveness of each provider (20 USC 6316)
5. The procedures and timelines that parents/guardians must follow to select a provider

Within a reasonable period of time established by the Superintendent or designee, parents/guardians shall select a service provider from among those approved by the SBE. Upon request, the Superintendent or designee shall assist parents/guardians in choosing a provider. (20 USC 6316)

The Superintendent or designee shall ensure that eligible students with disabilities, students covered under Section 504 and students with limited English proficiency receive appropriate supplemental educational services with any necessary accommodations or

language assistance. (34 CFR 200.46)

If no provider is able to make the services available to such students, the district shall provide these services with necessary accommodations or language assistance, either directly or through a contract. Supplemental educational services shall be consistent with a student's individualized education program or Section 504 plan.

(cf. 6159 - Individualized Education Program)

(cf. 6164.4 - Identification of Individuals for Special Education)

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

(cf. 6174 - Education for English Language Learners)

If available funds are insufficient to provide supplemental educational services to each eligible student whose parents/guardians request those services, priority shall be given to the lowest achieving eligible students. (20 USC 6316)

If the number of parents/guardians selecting a particular provider exceeds the capacity of that provider, priority shall be given to the lowest achieving eligible students.

Once a provider has been selected by a parent/guardian, the Superintendent or designee shall enter into an agreement with the provider. The agreement shall: (20 USC 6316)

1. Require the district to develop, in consultation with the parents/guardians and the provider, a statement of specific achievement goals for the student, how the student's progress will be measured, and a timetable for improving achievement. In the case of a student with disabilities, the statement shall be consistent with the student's individualized education program.
2. Describe how the student's parents/guardians and teacher(s) will be regularly informed of the student's progress.
3. Provide for the termination of the agreement if the provider is unable to meet such goals and timetables.
4. Contain provisions with respect to the district making payments to the provider.
5. Prohibit the provider, without written parent/guardian permission, from disclosing to the public the identity of any student eligible for or receiving supplemental educational services.

Add

CSBA Sample Exhibit

Philosophy-Goals-Objectives and Comprehensive Plans

E(1) 0520.2

TITLE I PROGRAM IMPROVEMENT SCHOOLS

Note: The following sample form is for use when a district school is identified for program improvement, corrective action, or restructuring after failing to make "adequate yearly progress" for two or more consecutive school years. The No Child Left Behind Act of 2001 (20 USC 6316) requires that parents/guardians be promptly notified when a school has been so identified, and be offered the option to transfer to another public school. See the accompanying Board policy and administrative regulation.

PARENT/GUARDIAN TRANSFER REQUEST BASED ON SCHOOL'S PROGRAM IMPROVEMENT STATUS

Instructions: To request a transfer for your child out of a school that has been identified for [program improvement, corrective action or restructuring], please complete the following form and return it by [date] to [the district office or to the principal at your child's school]. You will be notified by [date] regarding your child's school assignment for the next school year and your options if you decide to decline the school assignment at that time.

Child's Name: _____

Parent/Guardian's Name: _____ Signature: _____

School Child Currently Attends: _____

Note: The law does not specify the number of schools that must be offered for transfer, although the district must strive to provide the fullest possible menu of school choices to parents/guardians and must take into account parent/guardian preferences among the choices offered. See the accompanying administrative regulation. The district should list each available school below.

Please write numbers in the boxes below to rank your top [number] choices of available schools:

[] _____ [school name] _____

[] _____ [school name] _____

[] _____ [school name] _____

If you have any questions, please contact the [district office or principal] at [phone number].

(3/03) 3/09

Add

CSBA Sample Exhibit

Philosophy-Goals-Objectives and Comprehensive Plans

E(2) 0520.2

TITLE I PROGRAM IMPROVEMENT SCHOOLS

Note: The following sample form is for use when a district school fails to make "adequate yearly progress" for three or more consecutive school years and is thus required to provide supplemental educational services to eligible students pursuant to the No Child Left Behind Act (20 USC 6316). See the accompanying Board policy and administrative regulation.

PARENT/GUARDIAN SELECTION OF SUPPLEMENTAL EDUCATIONAL SERVICES

Instructions: To select supplemental educational services for your child, please complete the following form and mail, fax, or deliver it to the principal of your child's school or to the district office by [date].

Student's Name: _____ School: _____

Parent/Guardian's Name: _____ Signature: _____

Note: The district should insert the name of each available service provider in the spaces below and add or delete spaces depending on the number of available providers.

Please write numbers in the boxes below to indicate your top [number] choices of service providers:

[] _____ [name of service provider] _____

[] _____ [name of service provider] _____

[] _____ [name of service provider] _____

[] _____ [name of service provider] _____

Once a service provider has been determined for your child, the district will enter into a formal contract with the provider in accordance with law.

If you have any questions or need assistance selecting a provider, please contact [name] at [phone number].

(3/03) 3/09

Delete

Exhibit

Title I Program Improvement Schools

E 0520.2

Philosophy, Goals, Objectives and Comprehensive Plans

Note: The following exhibit is for use when a district school is identified for program improvement, corrective action or restructuring after failing to make "adequate yearly progress" for two or more consecutive school years. The No Child Left Behind Act of 2001 (P.L. 107-110, Section 1116) requires that parents guardians be promptly notified when a school has been so identified and be offered the option to transfer to another public school. This exhibit reflects requirements for the content of the notification contained in 34 CFR 200.44 and U.S. Department of Education draft non-regulatory guidance (Public School Choice, 2002); see BP AR 0520.2.

PARENTAL NOTIFICATION: OPTION TO TRANSFER OUT OF PROGRAM IMPROVEMENT SCHOOL

Dear Parent/Guardian:

The _____ School is a Title I school receiving funds through the federal No Child Left Behind (NCLB) Act of 2001. The NCLB requires schools to be assessed each year to determine if they are making adequate yearly progress toward meeting the states student academic achievement standards. For the past [number] years, the

_____ School has not met the criteria adopted by the State Board of Education and so has been identified as needing [program improvement/corrective action/restructuring].

Federal law requires that all parents/guardians of students in this school be offered an opportunity to transfer their children to another district school or charter school. Such transfers would take effect on [date].

The following schools are available to accept transfers:

Information about the performance and quality of each available school is enclosed, including information on academic achievement.

Note: P.L. 107-110, Section 1116, requires that students be offered an opportunity to transfer to a school that has not been identified for program improvement, corrective action or restructuring. 34 CFR 200.44 additionally requires that schools made available for transfers not include "persistently dangerous" schools as defined by the State Board of Education; see the accompanying administrative regulation.

Other district schools may not appear on this list because either (1) the school is ineligible to accept transfers in accordance with Section 1116 of P.L. 107-110 and 34 CFR 200.44, or (2) the Superintendent has determined that all transfer requests can be accomplished among the above schools.

If you decide you want to transfer your child, please submit your top [number] choices of schools on the enclosed form by [date] to the [district office or the principal at your child's school]. It cannot be guaranteed that your first choice will be available, but your preferences will be considered.

If you choose to transfer your child, the district will [provide transportation for your child to the new school] [reimburse your costs of transporting your child by private or public transportation] during the time your child's current school is designated as needing [program improvement/corrective action/restructuring].

If you decide to leave your child in his/her current school, please be assured that the school will be developing an improvement plan and undergoing a number of steps to improve the school's performance.

TITLE I PROGRAM IMPROVEMENT SCHOOLS

Note: The following exhibit is for use when a district school is identified for program improvement, corrective action or restructuring after failing to make "adequate yearly progress" for two or more consecutive school years. The No Child Left Behind Act of 2001 (P.L. 107-110, Section 1116) requires that parents/guardians be promptly notified when a school has been so identified, and be offered the option to transfer to another public school. See BP/AR/E(1) 0520.2.

PARENT/GUARDIAN TRANSFER REQUEST BASED ON SCHOOLS PROGRAM IMPROVEMENT STATUS

Instructions: To request a transfer for your child out of a school that has been identified for [program improvement, corrective action or restructuring], please complete the following form and return it by [return date] to [the district office or to the principal at your child's school]. You will be notified by [date] regarding your child's school assignment for the next school year and your options if you decide to decline the school assignment at that time.

Child's Name:

Parent/Guardians Name: _____ Signature: _____

School Child Currently Attends: _____

Note: The law does not specify the number of schools that must be offered for transfer, although the district must strive to provide the fullest possible menu of school choices to parents/guardians and must take into account parent/guardian preferences among the choices offered. See the accompanying administrative regulation. Districts should insert the name of each available school in the spaces below and add or delete spaces depending on the number of schools available.

Please write numbers in the boxes below to rank your top [number] choices of available schools:

? _____ [school name] _____
? _____ [school name] _____
? _____ [school name] _____

If you have any questions, please contact the [district office or principal] at [phone number].

TITLE I PROGRAM IMPROVEMENT SCHOOLS

Note: The following exhibit is for use when a district school fails to make "adequate yearly progress" for three or more consecutive school years and thus is required to provide supplemental educational services to eligible students pursuant to the No Child Left Behind Act of 2001 (P.L. 107-110, Section 1116). Section 1116 requires that parents/guardians of students in such schools be annually notified of the availability of services and the procedures and timelines for selecting a service provider; see AR 0520.2 for details regarding the requirements of the notification. The following notice should be revised to reflect district practice.

PARENTAL NOTIFICATION: SUPPLEMENTAL EDUCATIONAL SERVICES

Dear Parent/Guardian:

The _____ School is subject to the accountability requirements of the federal No Child Left Behind Act of 2001 for schools receiving Title I funds that fail to make "adequate yearly progress," as defined by the State Board of Education, toward meeting the states student academic achievement standards. In accordance with those requirements, eligible students in the _____ School may receive supplemental educational services (such as tutoring and other supplemental academic enrichment services outside the regular school day) by a provider with a demonstrated record of effectiveness. The district has determined that your child is eligible based on family income.

You are entitled to select supplementary educational services for your child from a list of service providers approved by the State Board of Education. Approved providers that are within the district, are reasonably available in neighboring local educational agencies or are available through technology are listed below. A brief description of the services, qualifications and demonstrated effectiveness of each such provider is enclosed.

Note: If the district has established a reasonable deadline by which parents/guardians must request services (see AR 0520.2), that deadline should be included in the following paragraph.

Please submit your top [number] choices of service providers on the enclosed form by [date] to [the district office or the principal at your child's school]. It cannot be guaranteed that your first choice will be available. If funding is insufficient to serve all eligible students, or if a particular service provider is unable to serve all students who select that provider, priority will be given to the lowest achieving eligible students in the district.

If you wish assistance in choosing a provider or have any questions about this program, contact

name phone number

TITLE I PROGRAM IMPROVEMENT SCHOOLS

Note: The following sample form is for use when a district school fails to make "adequate yearly progress" for three or more consecutive school years and is thus required to provide supplemental educational services to eligible students pursuant to the No Child Left Behind Act (P.L. 107-110, Section 1116); see BP/AR 0520.2. The following form may be revised as desired.

PARENT/GUARDIAN SELECTION OF SUPPLEMENTAL EDUCATIONAL SERVICES

Instructions: To select supplemental educational services for your child, please complete the following form and mail, fax or deliver it to the principal of your child's school or to the district office by _____
[date]

Students Name: _____ School: _____

Parent/Guardians Name: _____ Signature: _____

Note: Districts should insert the name of each available service provider in the spaces below and add or delete spaces depending on the number of available providers.

Please write numbers in the boxes below to indicate your top [number] choices of service providers:

?	_____	[name of service provider]	_____
?	_____	[name of service provider]	_____
?	_____	[name of service provider]	_____
?	_____	[name of service provider]	_____
?	_____	[name of service provider]	_____

Once a service provider has been determined for your child, the district will enter into a formal contract with the provider in accordance with law.

If you have any questions, please contact

name phone number

ExhibitCENTER UNIFIED SCHOOL DISTRICT
version: June 18, 2003 Antelope, California

CSBA Sample

Board Policy

Business and Noninstructional Operations

BP 3280(a)

SALE OR LEASE OF DISTRICT-OWNED REAL PROPERTY

Note: The following optional policy and accompanying administrative regulation detail the procedures that govern the district's sale or lease of surplus property.

When district properties are not being utilized for school purposes after specific time periods, Education Code 17219-17224 authorize the State Allocation Board (SAB) to charge an "unused site fee." The Office of Public School Construction has developed a guide, the Unused Site Program Handbook, to assist districts with non-use payments.

The Governing Board believes that the district should utilize its facilities and resources in the most economical and practical manner. To that end, the Superintendent or designee shall periodically study the current and projected use of all district facilities in order to ensure the efficient utilization of space and the effective delivery of instruction in order to maximize student learning.

(cf. 1330 - *Use of School Facilities*)
(cf. 7110 - *Facilities Master Plan*)
(cf. 7111 - *Evaluating Existing Buildings*)
(cf. 7160 - *Charter School Facilities*)

Note: Education Code 17455 authorizes the sale of surplus real property or the lease of property, and any personal property located upon that real property, for a term not to exceed 99 years. When the district is selling any property or leasing it with an option to purchase, Education Code 17464 and Government Code 54222 list the public entities that are entitled to priority and the types of notice that the district must provide such entities before disposing of the property. Under certain circumstances, districts may also need to comply with Education Code 17485-17500 (the Naylor Act), which require the granting of priority to public agencies when disposing of any district property that includes a playground, playing field, or land with an outdoor recreational purpose. Pursuant to Education Code 17458, the district may, under certain conditions, grant priority to licensed child care providers or, pursuant to Education Code 17230, for less than fair market value to public entities for recreational purposes.

When proposing the sale or lease of surplus property, the district must also comply with the California Environmental Quality Act (Public Resources Code 21000-21177).

Upon determination that district property is no longer needed or may not be needed until some future time, the Board shall offer to sell or lease district-owned real property in accordance with priorities and procedures specified in law, including, but not limited to, Education Code 17230, 17464, 17485-17500, and Government Code 54222.

(cf. 5148 - *Child Care and Development*)
(cf. 5148.2 - *Before/After School Programs*)
(cf. 5148.3 - *Preschool/Early Childhood Education*)

SALE OR LEASE OF DISTRICT-OWNED REAL PROPERTY (continued)

Note: Prior to the sale or lease of property, Education Code 17388 requires the Governing Board to appoint a district advisory committee to advise the Board regarding the disposition of the property. See the accompanying administrative regulation for details about the membership and duties of this committee. Pursuant to Education Code 17387, this committee is not required for leases or rentals of a district facility to a private school for the purpose of offering summer school. Districts that wish to establish the committee before the Board's decision to sell or lease property has been made, so that the community may have greater opportunity for input, should modify the following paragraph accordingly.

When required by law, the Board shall appoint a district advisory committee to advise the Board in the development of policies and procedures governing the use or disposition of schools or school building space which is not needed for school purposes. (Education Code 17388)

(cf. 1220 - Citizen Advisory Committees)

Before ordering the sale or lease of any real property, the Board shall adopt a resolution by a two-thirds vote of all of its members at a regular, open meeting. The resolution shall describe the property proposed to be sold or leased in such a manner as to identify it, specify the minimum price or rent, describe the terms upon which it will be sold or leased, and specify the commission or rate, if any, which the Board will pay to a licensed real estate broker out of the minimum price or rent. The resolution shall fix a time, not less than three weeks thereafter, for a public meeting, held at the Board's regular meeting place, at which sealed proposals to purchase or lease will be received and considered. (Education Code 17466)

(cf. 9323.2 - Actions by the Board)

The Superintendent or designee shall provide notice of the adoption of the resolution and of the time and place of the meeting by posting copies of the resolution, signed by the Board, in three public places not less than 15 days before the date of the meeting. In addition, the notice shall be published at least once a week for three successive weeks before the meeting, in a newspaper of general circulation published in the county in which the district is located, if such a paper exists. (Education Code 17469)

The Superintendent or designee shall take reasonable steps to provide notification to the former owners of the property of the district's intent to sell it in accordance with Education Code 17470.

At the public meeting specified in the resolution, the Board shall open, examine, and declare all sealed bids. Before accepting any written proposal, the Board shall call for oral bids in accordance with law. The Board may reject any and all bids, either written or oral, and withdraw the properties from sale when the Board determines that rejection is in the best public interest. (Education Code 17472, 17473)

SALE OR LEASE OF DISTRICT-OWNED REAL PROPERTY (continued)

Of the proposals submitted by responsible bidders which conform to all terms and conditions specified in the resolution of intention to sell or lease, the Board shall finally accept the highest bid after deducting the commission, if any, to be paid to a licensed real estate broker, unless the Board accepts a higher oral bid or rejects all bids. (Education Code 17472)

The final acceptance of the bid may be made either at the same meeting specified in the resolution or at any adjourned/continued meeting held within 10 days. Upon acceptance of the bid, the Board may adopt a resolution of acceptance that directs the Board president, or any other Board member, to execute the deed or lease and to deliver the document upon performance and compliance by the successful bidder of all of the terms and conditions of the contract. (Education Code 17472-17478)

(cf. 1431 - Waivers)

(cf. 9320 - Meetings and Notices)

Note: Education Code 17462 requires districts to use the proceeds derived from the sale or lease of property for capital outlay or maintenance, as specified below. Proceeds from the sale or lease with an option to purchase may be deposited in the district's general fund when the Board and SAB determine that the district has no anticipated need for additional sites, building construction, or major deferred maintenance. Thus, districts may not apply for state funding during that time period unless certain conditions specified in Education Code 17462 are satisfied.

In addition, Education Code 17462 specifies that proceeds be used for one-time expenditures and prohibits the use for ongoing expenditures. 2 CCR 1700 defines "ongoing expenditures" as costs paid by a district's general or special funds in support of salaries. However, Register 2008, No. 50, amended 2 CCR 1700 to create an exception and authorize the use of such proceeds, if approved by the SAB, for one-time funding to reduce a district's unfunded liability for postemployment benefits other than pensions. Also see BP 3100 - Budget and AR 3460 - Financial Reports and Accountability.

The Superintendent or designee shall ensure that proceeds from the sale, or lease with an option to purchase, of district surplus property are used in accordance with law. (Education Code 17462; 2 CCR 1700)

Legal Reference: (see next page)

SALE OR LEASE OF DISTRICT-OWNED REAL PROPERTY (continued)

Legal Reference:

EDUCATION CODE

8469.5 *Use of school facilities or grounds for school age child care*
17219-17224 *Acquisition of property not utilized as school site; nonuse payments; exemptions*
17230-17234 *Surplus property*
17385 *Conveyances to and from school districts*
17387-17391 *Advisory committees for use of excess school facilities*
17400-17429 *Leasing property*
17430-17447 *Leasing facilities*
17453 *Lease of surplus district property*
17455-17484 *Sale or lease of real property*
17485-17500 *Surplus school playground (Naylor Act)*
17515-17526 *Joint occupancy*
17527-17535 *Joint use of district facilities*
33050 *Request for waiver*
38130-38139 *Civic Center Act*

GOVERNMENT CODE

54220-54232 *Surplus land*
54222 *Offer to sell or lease property*
54950-54963 *Brown Act, especially:*
54952 *Legislative body, definition*

PUBLIC RESOURCES CODE

21000-21177 *California Environmental Quality Act*

CODE OF REGULATIONS, TITLE 2

1700 *Definitions related to surplus property*

COURT DECISIONS

San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School District, (2006) 139 Cal.App. 4th 1356

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Closing a School Best Practices Guide

OFFICE OF PUBLIC SCHOOL CONSTRUCTION PUBLICATIONS

Unused Site Program Handbook, May 2008

WEB SITES

California Department of Education, School Facilities Planning Division: <http://www.cde.ca.gov/ls/fa>
Coalition for Adequate School Housing: <http://www.cashnet.org>
Office of Public School Construction: <http://www.opsc.dgs.ca.gov>

(9/90 11/06) 3/09

Board Policy

Sale, Lease, Rental Of District-Owned Real Property

BP 3280

Business and Noninstructional Operations

The Governing Board believes that the district should utilize its facilities and resources in the most economical and practical manner. To that end, the Superintendent or designee shall periodically study the current and projected use of all district facilities in order to ensure the efficient utilization of space and the effective delivery of instruction.

(cf. 1330 - Use of School Facilities)

(cf. 7110 - Facilities Master Plan)

(cf. 7111 - Evaluating Existing Buildings)

(cf. 7160 - Charter School Facilities)

Upon determination that district property is no longer needed or may not be needed until some future time, the Board shall offer to sell or lease district-owned real property in accordance with priorities and procedures specified in law, including, but not limited to, Education Code 17230, 17464, 17485-17500, and Government Code 54222.

(cf. 5148 - Child Care and Development)

(cf. 5148.2 - Before/After School Programs)

(cf. 6300 - Preschool/Early Childhood Education)

When required by law, the Board shall appoint a district advisory committee to advise the Board in the development of policies and procedures governing the use or disposition of schools or school building space which is not needed for school purposes. (Education Code 17388)

(cf. 1220 - Citizen Advisory Committees)

Before ordering the sale or lease of any real property, the Board shall adopt a resolution by a two-thirds vote of all of its members at a regular, open meeting. The resolution shall describe the property proposed to be sold or leased in such a manner as to identify it, specify the minimum price or rental, describe the terms upon which it will be sold or leased, and specify the commission or rate, if any, which the Board will pay to a licensed real estate broker out of the minimum price or rental. The resolution shall fix a time, not less than three weeks thereafter, for a public meeting, held at the Board's regular meeting place, at which sealed proposals to purchase or lease will be received and considered. (Education Code 17466)

(cf. 9323.2 - Actions by the Board)

The Superintendent or designee shall ensure that notice of the resolution of intention to sell or lease property is provided in accordance with Education Code 17469-17470.

At the public meeting specified in the resolution, the Board shall open, examine, and declare all sealed bids. Before accepting any written proposal, the Board shall call for oral bids in accordance with law. The Board may reject any and all bids, either written or oral, and withdraw the properties from sale when the Board determines that rejection is for the best public interest. (Education Code 17472, 17473)

Of the proposals submitted by responsible bidders which conform to all terms and conditions specified in the resolution of intention to sell or lease, the Board shall finally accept the highest bid, after deducting commission, if any, to be paid to a licensed real estate broker, unless the Board accepts a higher oral bid or rejects all bids. (Education Code 17472)

The final acceptance of the bid may be made either at the same meeting specified in the resolution or at any adjourned meeting of the same meeting held within 10 days. Upon acceptance of the bid, the Board may adopt a resolution of acceptance that directs the Board president, or any other Board member, to execute the deed or lease and to deliver the document upon performance and compliance by the successful bidder of all of the terms and conditions of the contract. (Education Code 17472-17478)

(cf. 1431 - Waivers)

(cf. 9320 - Meetings and Notices)

The Superintendent or designee shall ensure that proceeds from the sale or lease with an option to purchase of district surplus property are used in accordance with law.

Legal Reference:

EDUCATION CODE

8469.5 Use of school facilities or grounds for school age child care

17219 Acquisition of property not utilized as school site; nonuse payments; exemptions

17230-17234 Surplus property

17385 Conveyances to and from school districts

17387-17391 Advisory committees for use of excess school facilities

17400-17429 Leasing property

17430-17447 Leasing facilities

17453 Lease of surplus district property

17455-17484 Sale or lease of real property

17485-17500 Surplus school playground (Naylor Act)

17515-17526 Joint occupancy

17527-17535 Joint use of district facilities

33050 Request for waiver

38130-38139 Civic Center Act

GOVERNMENT CODE

54220-54232 Surplus land

54222 Offer to sell or lease property

54950-54963 Brown Act, especially:

54952 Legislative body, definition

PUBLIC RESOURCES CODE

21000-21177 California Environmental Quality Act

COURT DECISIONS

San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School District, (2006) 139 Cal.App.4th 1356

Management Resources:

OFFICE OF PUBLIC SCHOOL CONSTRUCTION PUBLICATIONS

Unused Site Program Handbook, October 2004

WEB SITES

Coalition for Adequate School Housing: <http://www.cashnet.org>

Office of Public School Construction: <http://www.dgs.ca.gov/opsc>

Policy CENTER UNIFIED SCHOOL DISTRICT

adopted: May 2, 2007 Antelope, California

CSBA Sample

Board Policy

Business and Noninstructional Operations

BP 3320(a)

CLAIMS AND ACTIONS AGAINST THE DISTRICT

Note: The following optional policy and accompanying administrative regulation reflect the claims procedure in the Government Claims Act, also known as the Tort Claims Act, pursuant to Government Code 810-996.6. The Act details requirements for the filing of claims against public entities such as school districts. It is strongly recommended that this Board policy and administrative regulation be reviewed by district legal counsel prior to adoption by the Governing Board.

The Governing Board intends that the district's operations minimize risk, protect district resources, and promote the safety of students, staff, and the public. Any and all claims for money or damages against the district shall be presented to and acted upon in accordance with Board policy and administrative regulation.

(cf. 3530 - Risk Management/Insurance)

(cf. 5143 - Insurance)

Note: Government Code 935 authorizes a district to establish its own procedure for the processing of claims which are either excluded from the claims procedures in the Government Claims Act or not listed as exceptions to the Act as specified in Government Code 905. A local claims requirement must be similar to and be no more restrictive than those established by the Government Claims Act, including not allowing for a longer time for the Board to take action on a claim. The following optional paragraph is for use by districts that wish to adopt local requirements and should be modified to reflect district practice as well as advice from district legal counsel

Claims for money or damages not governed by the Government Claims Act (Government Code 810-996.6) or excepted by Government Code 905 shall be presented consistent with the manner and time limitations in the Government Claims Act, unless a procedure for processing such claims is otherwise provided by state or federal law. Such compliance is a prerequisite to any court action consistent with the provisions of Government Code 945.4.

Note: Government Code 935.4 authorizes, but does not require, the Board to delegate to any employee the authority to allow, compromise, or settle a claim of \$50,000 or less. The following paragraph is optional and Boards that do not wish to delegate such authority should delete the following paragraph. Boards that wish to delegate this authority may modify the following paragraph to specify a different employee to which the authority is delegated and/or an amount less than \$50,000.

The Board delegates to the Superintendent the authority to allow, compromise, or settle claims of \$50,000 or less. (Government Code 935.4)

This policy is intended to apply retroactively to any existing causes of action and/or claims for money and/or damages.

CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)

Roster of Public Agencies

Note: Government Code 53051 requires public agencies, such as school districts, to register the information specified below, including the names of all Board members, with the Secretary of State and County Clerk. If the information on file is not accurate or if no information is on file, the court may allow a person to proceed with a claim against the district even if the time limit for filing such a claim has expired. Thus, it is imperative that all required information be current and accurate.

The Superintendent or designee shall file the information required for the Roster of Public Agencies with the Secretary of State and the County Clerk. Any changes to such information shall be filed within 10 days after the change has occurred. (Government Code 53051)

This information shall include the name of the school district, the mailing address of the Board, and the names and addresses of the Board presiding officer, the Board clerk or secretary, and other members of the Board. (Government Code 53051)

Legal Reference:

EDUCATION CODE

35200 Liability for debts and contracts

35202 Claims against districts; applicability of Government Code

CODE OF CIVIL PROCEDURE

340.1 Damages suffered as result of childhood sexual abuse

GOVERNMENT CODE

800 Cost in civil actions

810-996.6 Claims and actions against public entities

53051 Information filed with secretary of state and county clerk

PENAL CODE

72 Fraudulent claims

COURT DECISIONS

City of Stockton v. Superior Court, (2007) 42 Cal. 4th 730

Connelly v. County of Fresno, (2006) 146 Cal.App. 4th 29

CSEA v. South Orange Community College District, (2004) 123 Cal.App.4th 574

CSEA v. Azusa Unified School District, (1984) 152 Cal.App.3d 580

Management Resources:

WEB SITES

California Secretary of State's Office: <http://www.sos.ca.gov>

(6/90 3/03) 3/09

Board Policy

Claims And Actions Against The District

BP 3320

Business and Noninstructional Operations

Any and all claims for money or damages against the district shall be presented to and acted upon in accordance with Board policy and administrative regulation.

Compliance with this policy and accompanying administrative regulation is a prerequisite to any court action, unless the claim is governed by statutes or regulations which expressly free the claimant from the obligation to comply with district policies and procedures and the claims procedures set forth in the Government Code.

The Governing Board delegates to the Superintendent the authority to allow, compromise or settle claims of \$50,000 or less. (Government Code 935.4)

This policy is intended to apply retroactively to any existing causes of action and/or claims for money and/or damages.

Roster of Public Agencies

The Superintendent or designee shall file the information required for the Roster of Public Agencies with the Secretary of State and the County Clerk. Any changes to such information shall be filed within 10 days after the change in facts. (Government Code 53051)

This information shall include the name of the school district, the mailing address of the Board, and the names and addresses of the Board presiding officer, the Board clerk or secretary and other members of the Board. (Government Code 53051)

Legal Reference:

EDUCATION CODE

35200 Liability for debts and contracts

35202 Claims against districts; applicability of Government Code

GOVERNMENT CODE

800 Cost in civil actions

810-996.6 Claims and actions against public entities

53051 Information filed with secretary of state and county clerk

PENAL CODE

72 Fraudulent claims

COURT DECISIONS

CSEA v. Azusa Unified School District, (1984) 152 Cal.App.3d 580

Policy CENTER UNIFIED SCHOOL DISTRICT
adopted: June 18, 2003 Antelope, California

CSBA Sample

Administrative Regulation

Business and Noninstructional Operations

AR 3320(a)

CLAIMS AND ACTIONS AGAINST THE DISTRICT

Note: The following optional administrative regulation reflects Government Code 810-996.6 (the Government Claims Act), which sets forth prelitigation requirements and deadlines for claims against public entities, including school districts, as well as statute of limitations and other requirements for lawsuits. In City of Stockton v. Superior Court, the California Supreme Court held that the claim requirements in Government Code 905 also apply to claims for breach of contract. The court also decided that the phrase "Government Claims Act" is more appropriate than the common phrase "Tort Claims Act."

Time Limitations

Note: Pursuant to Government Code 935, a district may establish its own procedure for the presentation of those claims which are either excluded from the claims procedure in the Government Claims Act and are not listed as exceptions to the Act as specified in Government Code 905. See the accompanying Board policy for language establishing such a requirement. When such a claim is received, the district should immediately contact district legal counsel, as well as the district's insurance carrier, to determine the appropriate time limit for filing such a claim.

The following time limitations apply to claims against the district:

1. Claims for money or damages relating to a cause of action for death or for injury to person, personal property, or growing crops shall be presented to the Governing Board not later than six months after the accrual of the cause of action. (Government Code 905, 911.2)

Note: Government Code 905 lists exceptions to the six-month time limitation for the filing of claims and many of the exceptions have specified claim procedures in other statutes. For example, SB 640 (Ch. 383, Statutes of 2008) amended Government Code 905 to specify that claims for the recovery of damages for injuries suffered as a result of childhood sexual abuse are subject to the statute of limitations specified in Code of Civil Procedure 340.1, which allows claims to be filed before the victim is 26 years old or within three years after the victim discovers that his/her psychological injury is a result of the sexual abuse. This amendment applies to claims arising from conduct occurring on or after January 1, 2009.

2. Claims for money or damages as authorized in Government Code 905 and not included in item #1 above, including claims for damages to real property, shall be filed not later than one year after the accrual of the cause of action. (Government Code 905, 911.2)

Late Claims

Note: When a claim must be submitted within six months pursuant to item #1 above, Government Code 911.4 requires claimants who have missed the deadline to file an application to file a late claim not later than one year after the accrual of the cause of action.

CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)

Any person presenting a claim under item #1 above later than six months after the accrual of the cause of action shall present, along with the claim, an application to file a late claim. Such claim and application to file a late claim shall be filed not later than one year after the accrual of the cause of action. (Government Code 911.4)

Note: If the claim is filed late and not accompanied by an application to file a late claim, the Governing Board or its agent should notify the claimant that "no action" was taken because the claim was filed late. See E(4) 3320. If the Board were to state that the claim was "rejected," this would indicate that the Board had accepted the filing of the late claim and taken action to reject it.

If a claim under item #1 is filed late and is not accompanied by an application to file a late claim, the Board or Superintendent shall, within 45 days, give written notice that the claim was not filed timely and that it is being returned without further action.

The Board or Superintendent shall grant or deny the application to file a late claim within 45 days after it is presented. This 45-day period may be extended by written agreement of the claimant and the Board or Superintendent provided that such agreement is made before the expiration of the 45-day period. (Government Code 911.6)

The Board or Superintendent shall grant the application to file a late claim under any one of the following circumstances: (Government Code 911.6)

1. The failure to present the claim was through mistake, inadvertence, surprise, or excusable neglect and the district was not prejudiced in its defense of the claim by the failure to present the claim within the time limit.
2. The person who sustained the alleged injury, damage, or loss was a minor during all of the time specified for presentation of the claim.
3. The person who sustained the alleged injury, damage, or loss was physically or mentally incapacitated during all of the time specified for presentation of the claim and the disability was the reason he/she failed to present the claim.
4. The person who sustained the alleged injury, damage, or loss died before the expiration of the time specified for the presentation of the claim.

Note: See E(5) 3320 for a sample form to be used to notify a claimant of the denial of an application to file a late claim.

If the application to present a late claim is denied, the claimant shall be given notice in the form set forth in Government Code 911.8. (Government Code 911.8)

CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)

If the Board or Superintendent does not take action on the application to file a late claim within 45 days, the application shall be deemed to have been denied on the 45th day unless the time period has been extended, in which case it shall be denied on the last day of the period specified in the extension agreement. (Government Code 911.6)

Delivery of Claims

Note: Government Code 53051 requires public agencies to file information about the names of officers for the "Roster of Public Agencies" with the Secretary of State and County Clerk. If the information on file is not accurate or if no information is on file, a court may allow a person to proceed with a claim against the district even if the time limit for filing such a claim has expired, since the person could not "deliver" the claim. See the accompanying Board policy.

A claim, any amendment thereto, or an application to present a late claim shall be deemed presented and received when delivered to the office of the Superintendent or deposited in a post office, subpost office, substation, or mail chute or other like facility maintained by the U.S. Government, in a sealed envelope properly addressed to the district office with postage paid or when otherwise actually received in the district office or by the Board secretary or clerk. (Government Code 915, 915.2)

Claim Form

Note: Government Code 910.4 requires districts to provide claim forms containing information specified in law. See E(1) 3320 for a sample of such a form.

Claims shall be submitted on the district claim form. The Board or Superintendent may return a claim not using the district's claim form and the claim may be resubmitted using the district's form. (Government Code 910.4)

Notice of Claim Insufficiency

The Superintendent shall review all claims for sufficiency of information.

Note: Pursuant to Government Code 911, if the district fails to give notice that the claim is insufficient, as specified below, then the district may not later raise that issue as a defense to the claim. See E(3) 3320 for a sample of a form to be used as notice of claim insufficiency.

If the claim is found insufficient or found not to satisfy the form requirements under Government Code 910.4, the Board or Superintendent may, within 20 days of receipt of the claim, either personally deliver or mail to the claimant, at the address stated in the claim or application, a notice stating with particularity the defects or omission in the claim. (Government Code 910.8, 915.4)

CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)

Note: Districts should be cautious before rejecting a claim because of insufficiency of information and consult legal counsel, as appropriate. Courts have held that a claim is sufficient as long as enough information is disclosed to allow the district to adequately conduct an investigation of the claim's merits.

The Superintendent or Board shall not act upon the claim until at least 15 days after such notice is given. (Government Code 910.8)

Amendment to Claims

Claims may be amended within the time limits provided under the section entitled "Time Limitations" above or prior to final action by the Board, whichever is later, if the claim, as amended, relates to the same transaction or occurrence which gave rise to the original claim. (Government Code 910.6)

Action on Claims

Note: If the Board formally acts to reject a claim and provides notice of such rejection, the claimant has only six months from the rejection to initiate a lawsuit. If the Board takes no action, the claim is considered to be rejected, but the claimant then has two years to initiate a suit against the district. The notice of rejection must comply with the notification requirements of Government Code 913 unless the claim has no address on it.

Within 45 days after the presentation or amendment of a claim, the Board shall take action on the claim. This time limit may be extended by written agreement before the expiration of the 45-day period. If the 45-day period has expired, the time limit may be extended if legal action has not been commenced or barred by legal limitations. (Government Code 912.4)

The Board may act on the claim in one of the following ways: (Government Code 912.6)

1. If the Board finds that the claim is not a proper charge against the district, the claim shall be rejected.
2. If the Board finds that the claim is a proper charge against the district and is for an amount justly due, the claim shall be allowed.
3. If the Board finds that the claim is a proper charge against the district but is for an amount greater than is justly due, the Board shall either reject the claim or allow it in the amount justly due and reject it as to the balance.
4. If legal liability of the district or the amount justly due is disputed, the Board may reject or compromise the claim.

CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)

If the Board allows the claim in whole, or in part, or compromises the claim and the claimant accepts the amount allowed or offered to settle the claim, the Board may require the claimant to accept it in settlement of the entire claim. (Government Code 912.6)

Note: See E(6) 3320 for a sample of a form that can be used to provide notice of action taken.

The Superintendent or designee shall transmit to the claimant written notice of action taken or of inaction which is deemed rejection. The notice shall be in the form set forth in Government Code 913 and shall either be personally delivered or mailed to the address stated in the claim or application. (Government Code 913, 915.4)

(6/90 3/03) 3/09

Administrative Regulation

Claims And Actions Against The District

AR 3320

Business and Noninstructional Operations

Time Limitations

The following time limitations apply to claims against the district:

1. Claims for money or damages relating to a cause of action for death or for injury to person, personal property or growing crops shall be presented to the Governing Board not later than six months after the accrual of the cause of action. (Government Code 905, 911.2)
2. Claims for money or damages specifically excepted from Government Code 905 shall be filed not later than six months after the accrual of the cause of action. (Government Code 905, 911.2, 935)
3. Claims for money or damages as authorized in Government Code 905 and not included in item #1 above, including claims for damages to real property, shall be filed not later than one year after the accrual of the cause of action. (Government Code 905, 911.2)

Late Claims

Any person presenting a claim under item #1 or #2 above later than six months after the accrual of the cause of action shall present, along with the claim, an application to file a late claim. Such claim and application to file a late claim shall be filed not later than one year after the accrual of the cause of action. (Government Code 911.4)

If a claim under item #1 or #2 is filed late and is not accompanied by an application to file a late claim, the Board or Superintendent shall, within 45 days, give written notice that the claim was not filed timely and that it is being returned without further action.

The Board or Superintendent shall grant or deny the application to file a late claim within 45 days after it is presented. This 45-day period may be extended by written agreement of the claimant and the Board or Superintendent provided that such agreement is made before the expiration of the 45-day period. (Government Code 911.6)

The Board or Superintendent shall grant the application to file a late claim under any one of the following circumstances: (Government Code 911.6)

1. The failure to present the claim was through mistake, inadvertence, surprise or

excusable neglect and the district was not prejudiced in its defense of the claim by the failure to present the claim within the time limit.

2. The person who sustained the alleged injury, damage or loss was a minor during all of the time specified for presentation of the claim.

3. The person who sustained the alleged injury, damage or loss was physically or mentally incapacitated during all of the time specified for presentation of the claim and the disability was the reason he/she failed to present the claim.

4. The person who sustained the alleged injury, damage or loss died before the expiration of the time specified for the presentation of the claim.

If the application to present a late claim is denied, the claimant shall be given notice in the form set forth in Government Code 911.3. (Government Code 911.3)

If the Board or Superintendent does not take action on the application to file a late claim within 45 days, the application shall be deemed to have been denied on the 45th day unless such time period has been extended, in which case it shall be denied on the last day of the period specified in the extension agreement. (Government Code 911.6)

Delivery and Form of Claim

A claim, any amendment thereto, or an application to present a late claim shall be deemed presented and received when delivered to the office of the Superintendent or deposited in a post office, subpost office, substation, or mail chute or other like facility maintained by the U.S. Government, in a sealed envelope properly addressed to the district office with postage paid. (Government Code 915, 915.2)

Claims shall be submitted on the district claim form. The Board or Superintendent may return a claim not using the districts claim form and the claim may be resubmitted using the districts form. (Government Code 910.4)

Notice of Claim Insufficiency

The Superintendent shall review all claims for sufficiency of information.

If the claim is found insufficient or found not to satisfy the form requirements under Government Code 910.4, the Board or Superintendent may, within 20 days of receipt of the claim, either personally deliver or mail to the claimant, at the address stated in the claim or application, a notice stating with particularity the defects or omission in the claim. (Government Code 910.8, 915.4)

The Superintendent or Board shall not act upon the claim until at least 15 days after such notice is given. (Government Code 910.8)

Amendments to Claim

Claims may be amended within the time limits provided under the section entitled "Time Limitations" above or prior to final action by the Board, whichever is later, if the claim, as amended, relates to the same transaction or occurrence which gave rise to the original claim. (Government Code 910.6)

Action on Claim

Within 45 days after the presentation or amendment of a claim, the Board shall take action on the claim. This time limit may be extended by written agreement before the expiration of the 45-day period. If the 45-day period has expired, the time limit may be extended if legal action has not been commenced or barred by legal limitations. (Government Code 912.4)

The Board may act on the claim in one of the following ways: (Government Code 912.6)

1. If the Board finds that the claim is not a proper charge against the district, the claim shall be rejected.
2. If the Board finds that the claim is a proper charge against the district and is for an amount justly due, the claim shall be allowed.
3. If the Board finds that the claim is a proper charge against the district but is for an amount greater than is justly due, the Board shall either reject the claim or allow it in the amount justly due and reject it as to the balance.
4. If legal liability of the district or the amount justly due is disputed, the Board may reject or compromise the claim.

If the Board allows the claim in whole or in part or compromises the claim and the claimant accepts the amount allowed or offered to settle the claim, the Board may require the claimant to accept it in settlement of the entire claim. (Government Code 912.6)

The Superintendent or designee shall transmit to the claimant written notice of action taken or inaction which is deemed rejection. The notice shall be in the form set forth in Government Code 913 and shall either be personally delivered or mailed to the address stated in the claim or application. (Government Code 913, 915.4)

Regulation CENTER UNIFIED SCHOOL DISTRICT
approved: June 18, 2003 Antelope, California

CSBA Sample Exhibit

Business and Noninstructional Operations

E(6) 3320

CLAIMS AND ACTIONS AGAINST THE DISTRICT

NOTICE OF ACTION TAKEN ON CLAIM Government Code Section 913

Note: Government Code 913 requires districts to provide written notice of action taken or of inaction deemed rejection on any claim for money or damages against the district. Government Code 913 requires that the following language be used in the notice. Districts should consult legal counsel before modifying this language.

Dear _____:

Notice is hereby given that the claim you presented to the [district name] on [date] was [rejected, allowed, allowed in the amount of \$ _____ and rejected to the balance, rejected by operation of law or other appropriate language, whichever is applicable] on [date of action or rejection by operation of law].

Note: If the claim is rejected either in whole or in part, Government Code 913 requires that the following warning be included.

WARNING

Subject to certain exceptions, you have only six (6) months from the date this letter was personally delivered or deposited in the mail to file a court action on this claim. See Government Code Section 945.6.

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

Dated: _____

Signature

Printed Name and Title of Officer

(3/88 3/03) 3/09

NOTICE OF ACTION TAKEN ON CLAIM
Government Code 913

Dear : _____

Notice is hereby given that the claim you presented to the [district name] on [date] was [rejected, allowed, allowed in the amount of \$ and rejected to the balance, rejected by operation of law or other appropriate language, whichever is applicable] on [date of action or rejection by operation of law].

WARNING

Subject to certain exceptions, you have only six months from the date this letter was personally delivered or deposited in the mail to file a court action on this claim. See Government Code 945.6.

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

Dated: _____

Signature

Typed Title of Officer

ExhibitCENTER UNIFIED SCHOOL DISTRICT
version: June 18, 2003 Antelope, California

CSBA Sample Board Policy

All Personnel

BP 4111.2
4211.2
4311.2

LEGAL STATUS REQUIREMENT

The Governing Board shall ensure that the district employs only those individuals who are lawfully authorized to work in the United States.

The Superintendent or designee shall verify the employment eligibility of all persons hired by completing the U.S. Citizenship and Immigration Services Form I-9, Employment Eligibility Verification, for each individual hired and ensure that the district does not knowingly hire or continue to employ any person not authorized to work in the United States. (8 USC 1324a)

In accordance with law, the Superintendent or designee shall ensure that district employment practices do not unlawfully discriminate on the basis of citizenship status or national origin, including, but not limited to, discrimination against any refugees, grantees of asylum, or persons qualified for permanent or temporary residency.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 4030 - Nondiscrimination in Employment)
(cf. 4111 - Recruitment and Selection)
(cf. 4211 - Recruitment and Selection)
(cf. 4311 - Recruitment and Selection)

Legal Reference:

UNITED STATES CODE, TITLE 8
1324a Unlawful employment of aliens
1324b Unfair immigrant-related employment practices
CODE OF FEDERAL REGULATIONS, TITLE 8
274a.1-274a.14 Control of Employment of Aliens

Management Resources:

U.S. CITIZENSHIP AND IMMIGRATION SERVICES PUBLICATIONS
Handbook for Employers: Instructions for Completing Form I-9, April 2009
WEB SITES
U.S. Citizenship and Immigration Services: <http://www.uscis.gov>

(9/92 3/00) 3/09

Board Policy

Legal Status Requirement

BP 4111.2, 4211.2, 4311.2

Personnel

The district shall hire only citizens and aliens who are lawfully authorized to work in the United States. The Superintendent or designee shall ensure that district employment practices do not unlawfully discriminate on the basis of citizenship status or national origin, including but not limited to, discrimination against any refugees, grantees of asylum, or persons qualified for permanent or temporary residency.

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

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4111 - Recruitment and Selection)

(cf. 4211 - Recruitment and Selection)

(cf. 4311 - Recruitment and Selection)

All new employees shall show appropriate documents which certify that they are legally eligible to work in the United States, as required by law and in accordance with administrative regulation.

Legal Reference:

UNITED STATES CODE, TITLE 8

1324a Unlawful employment of aliens

1324b Unfair immigrant-related employment practices

CODE OF FEDERAL REGULATIONS, TITLE 8

274a.1-a.14 Control of Employment of Aliens

Management Resources:

WEB SITES

U.S. Citizenship and Immigration Service: <http://www.uscis.gov>

Policy CENTER UNIFIED SCHOOL DISTRICT

adopted: August 2, 2000 Antelope, California

CSBA Sample

Administrative Regulation

All Personnel

AR 4111.2(a)

4211.2

LEGAL STATUS REQUIREMENT

4311.2

Note: The following administrative regulation is optional.

The U.S. Citizenship and Immigration Services (USCIS) Form I-9 lists documents that are acceptable as evidence of identity and/or employment authorization. 73 Fed. Reg. 243 amended 8 CFR 274a.2 to prohibit employers from accepting expired documents to verify employment authorization on Form I-9. This amendment is effective April 3, 2009 and, from that time, districts must use the revised Form I-9, which will be available on the USCIS website. Pursuant to 8 CFR 274a.1, I-9 forms are not needed for persons who are independent contractors or who are employed by a contractor providing contract services.

In order to ensure compliance with the Americans with Disabilities Act, employers may need to provide assistance in completing Form I-9 to individuals who need accommodation, such as those individuals who cannot read, write, or who need the form translated. Pursuant to 8 CFR 274a.2, the preparer or translator must then complete the appropriate portion of the form. In addition, preparers/translators should be careful to give only procedural assistance and offer no counsel with regard to the individual's status. See AR 4032 - Reasonable Accommodation.

Within three business days of hire, the Superintendent or designee shall physically examine the documentation presented by the employee establishing his/her identity and employment authorization as set forth in U.S. Citizenship and Immigration Services Form I-9. The employee may present either an original document which establishes both employment authorization and identity or two separate original documents which establish authorization and identity. Only unexpired documents are acceptable. (8 CFR 274a.2)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

The Superintendent or designee shall: (8 CFR 274a.2)

1. Ensure that the documents presented appear to be genuine and relate to the individual
2. Complete the "Employer Review and Verification" section and sign the attestation with a handwritten signature or electronic signature on Form I-9

Persons employed for three business days or less must provide such documentation on their first day. (8 CFR 274a.2)

If unable to provide satisfactory documentation because the document was lost, stolen, or damaged, the employee shall furnish a receipt indicating that a replacement document has been requested. This receipt must be presented within three business days of the hire, and the replacement document must be provided within 90 days of the hire. (8 CFR 274a.2)

LEGAL STATUS REQUIREMENT (continued)

If an individual's employment authorization expires, the Superintendent or designee must reverify Form I-9, by noting the document's identification number and expiration date on the form, no later than the date the work authorization expires. The employee shall present a document that shows either continuing employment authorization or a new grant of work authorization. (8 CFR 274a.2)

Note: 8 USC 1324a authorizes employers to retain an individual's Form I-9 in an electronic format in addition to the other choices of paper, microfilm, or microfiche retention.

The district shall retain an individual's Form I-9 for three years after the date of the hire or for one year after the date his/her employment is terminated, whichever is later. (8 CFR 274a.2)

(cf. 3580 - District Records)

Note: Pursuant to 8 CFR 274a.2, the district may, but is not required to, make a copy of any documents presented by the employee for verification when completing Form I-9. If copies of the documents are made, they must be retained with Form I-9. In addition, districts are not allowed to only copy the documents of individuals of certain national origins or citizenship statuses.

The following optional paragraph is for use by districts that retain copies of the verification documents and should be modified to reflect district practice. Specific procedures apply for employers that retain these documents on microfilm; see 8 CFR 274a.2.

The Superintendent or designee shall copy documents presented by an individual for verification and shall retain them with the individual's Form I-9. The documents shall be kept confidential and used only as needed to help justify the district's past decision to accept the documents as valid.

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

Administrative Regulation

Legal Status Requirement

AR 4111.2, 4211.2, 4311.2

Personnel

Within three business days of hire, the Superintendent or designee shall physically examine the documentation presented by the employee establishing his/her identity and employment eligibility as set forth in INS Form I-9. The Superintendent or designee shall (1) ensure that the documents presented appear to be genuine and relate to the individual and (2) complete the "Employer Review and Verification" section of the Form I-9. (8 CFR 274a.2)

Persons employed for three days or less must provide such documentation on their first day. (8 CFR 274a.2)

If unable to provide satisfactory documentation because the document was lost, stolen, or damaged, the employee shall furnish a receipt indicating that a replacement document has been requested. This receipt must be presented within three days of the hire, and the replacement document must be provided within 90 days of the hire. (8 CFR 274a.2)

If an individual's employment authorization expires, the Superintendent or designee must reverify the I-9 form, by noting the document's identification number and expiration date on the form, no later than the date the work authorization expires. The employee shall present a document that either shows continuing employment eligibility or a new grant of work authorization. (8 CFR 274a.2)

After examining the documents presented, the Superintendent or designee shall copy them. Such copies shall be retained with the individual's I-9 form. The documents shall be kept confidential and used only as needed to help justify the district's past decision to accept the documents as valid.

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

The district shall retain the I-9 forms for three years after the date of the hire or for one year after the date the individual's employment is terminated, whichever is later. (8 CFR 274a.2)

Regulation CENTER UNIFIED SCHOOL DISTRICT
approved: August 2, 2000 Antelope, California

CSBA Sample

Board Policy

Certificated Personnel

BP 4113(a)

ASSIGNMENT

Note: Education Code 35035 gives the Superintendent or designee the authority to assign personnel subject to Governing Board approval. The following optional policy may be revised to reflect district practice.

In order to serve the best interests of students and the educational program, the Governing Board authorizes the Superintendent or designee to assign certificated personnel to positions for which their preparation, certification, professional experience, and aptitude qualify them.

(cf. 4112.2 - Certification)

(cf. 4112.21 - Interns)

(cf. 4112.22 - Staff Teaching Students of Limited English Proficiency)

(cf. 4112.23 - Special Education Staff)

(cf. 4112.8/4212.8/4312.8 - Employment of Relatives)

Teachers may be assigned to any school within the district in accordance with the collective bargaining agreement or Board policy.

(cf. 4141/4241 - Collective Bargaining Agreement)

Assignment to Courses/Classes

The Superintendent or designee shall assign teachers to courses based on the grade level and subject matter authorized by their credentials.

When there is no credential authorization requirement for teaching an elective course, the Superintendent or designee shall select the credentialed teacher whose knowledge and skills best prepare him/her to provide instruction in that subject.

Note: All teachers assigned to teach core academic subjects are required to fulfill qualifications for "highly qualified teachers" (HQT) specified in the No Child Left Behind Act pursuant to 20 USC 6319 and 7801, 34 CFR 200.55-200.57, and 5 CCR 6100-6126; see BP/AR/E 4112.24 - Teacher Qualifications Under the No Child Left Behind Act.

Teachers who are assigned to teach core academic subjects shall meet the requirements of the No Child Left Behind Act (NCLB) pertaining to qualifications of highly qualified teachers. (20 USC 6319, 7801; 5 CCR 6100-6126)

(cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind Act)

Note: The Commission on Teacher Credentialing's (CTC) Administrator's Assignment Manual describes "local teaching assignment options" available to the district when assigning a teacher outside his/her credential authorization. See the accompanying administrative regulation for requirements pertaining to

ASSIGNMENT (continued)

assignments to departmentalized classes in grades K-12 (Education Code 44258.3) or elective courses (Education Code 44258.7).

According to the manual, it is inappropriate to use a "local teaching assignment option" for individuals who hold an emergency permit, provisional internship permit (PIP), or short-term staff permit (STSP). For information about the circumstances under which persons holding these permits may be employed, see BP/AR 4112.2 - Certification. If a district uses a local teaching assignment option for a holder of an internship credential, the CTC cautions that the district must ensure that the individual meets the specific requirements of the teaching assignment option as well as the requirements of the internship credential; see BP/AR 4112.21 - Interns for further information about internship programs.

The CTC manual indicates that the district may use the options at its discretion. The following paragraph may be revised to reflect options available in the district.

The Superintendent or designee may assign a teacher, with his/her consent, to a position outside his/her credential authorization when specifically authorized by law or regulation, and in accordance with the local teaching assignment options described in the Commission on Teacher Credentialing's Administrator's Assignment Manual. Assignments made pursuant to Education Code 44256, 44258.2, and 44263 shall be annually approved by Board resolution. In such cases, the Superintendent or designee shall reference in district records the statute or regulation under which the assignment is authorized.

(cf. 3580 - District Records)

Note: Education Code 44258.9 provides that the County Superintendent of Schools is responsible for monitoring district assignment practices and vacancies, as defined in Education Code 33126, and reporting the results to the CTC. Pursuant to Education Code 44258.9, the County Superintendent must annually monitor and review assignment practices in (1) schools and districts likely to have problems with teacher misassignment (i.e., placement of a certificated employee in a position for which he/she does not hold a legally recognized certificate or credential or is not otherwise authorized by statute to hold) and vacancies based on past experience and other available information and (2) schools ranked in deciles 1-3 on the statewide Academic Performance Index. In all other schools, such review of assignment practices must be on a four-year cycle. In counties in which there is a single school district, the CTC is responsible for monitoring teacher assignments.

Education Code 44265.1, as amended by AB 2302 (Ch. 41, Statutes of 2008), expands the reporting requirement to include a report when students with autism are taught by a teacher whose credential authorizes instruction to students with mild/moderate disabilities rather than moderate/severe disabilities; see AR 4112.23 - Special Education Staff.

Education Code 33126 requires that vacancies and misassignments be reported on the School Accountability Report Card. Also, Education Code 35186 requires districts to develop procedures by which a parent/guardian can file a complaint related to teacher misassignments or vacancies. See AR/E 1312.4 - Williams Uniform Complaint Procedures.

Pursuant to Education Code 44258.9, the County Superintendent is required to notify any certificated administrator responsible for a misassignment and advise him/her to correct it within 30 calendar days. The County Superintendent is also required to notify the Superintendent of any district where five percent or

ASSIGNMENT (continued)

more of the certificated teachers in the secondary schools are misassigned, advising him/her to correct the misassignments within 120 calendar days. If a teacher believes he/she has been misassigned, he/she is authorized, after exhausting any local remedies, to file a written notification with the County Superintendent, who must advise the teacher as to the legality of the assignment within 15 working days.

The Superintendent or designee shall periodically report to the Board on teacher assignments and vacancies, including the number and type of assignments made outside a teacher's credential authorization through a local teaching assignment option. Whenever district misassignments and vacancies are reviewed by the County Superintendent of Schools or Commission on Teacher Credentialing, as applicable, the Superintendent or designee shall report the results to the Board and shall provide recommendations for remedying any identified issues.

(cf. 1312.4 - Williams Uniform Complaint Procedures)

Equitable Distribution of Qualified Teachers

Note: Items #1-4 below reflect actions required under California's approved Revised State Plan for the No Child Left Behind Act, developed pursuant to 20 USC 6311, to ensure that poor, minority, and/or underperforming students are not taught by inexperienced, underqualified, or out-of-field teachers at higher rates than are other students in the district. As a part of these efforts, the California Department of Education (CDE) may require districts to develop a Board policy that addresses the assignment of interns and persons holding a PIP or STSP, as provided in items #2 and 3 below.

In order to ensure that highly qualified and experienced teachers are equitably distributed among district schools, including those with higher than average levels of low-income, minority, and/or academically underperforming students, the Superintendent or designee shall:

1. Verify that all teachers of core academic subjects possess the qualifications of highly qualified teachers as required by NCLB or develop immediate and long-term solutions for ensuring that all core academic classes will be taught by highly qualified teachers
2. Not assign teachers with provisional internship permits, short-term staffing permits, or credential waivers to schools that have 40 percent or higher poverty or are ranked in deciles 1-3 on the statewide Academic Performance Index
3. Not place interns in high-poverty, low-performing schools in greater numbers than in schools with low poverty or higher academic achievement
4. Compare teacher retention rates across district schools and develop strategies to recruit and retain experienced and effective teachers in hard-to-staff schools

(cf. 4111 - Recruitment and Selection)

ASSIGNMENT (continued)

Note: All districts are required to submit to the CDE a worksheet, available on the web site of the Santa Clara County Office of Education's Personnel Management Assistance Team, listing teachers' education levels, years of teaching experience, credential types and authorizations, and compliance with HQT requirements when applicable. Additional worksheets may need to be submitted and additional actions taken depending on whether the district is fully compliant with HQT requirements and has met adequate yearly progress (AYP) requirements; see definition of AYP in AR 0520.2 - Title I Program Improvement Schools. In accordance with criteria developed by the CDE, Level A districts, those that are not fully compliant with HQT requirements but have met AYP, are not required to submit an equitable distribution plan. Level B districts, those that have failed to meet AYP and HQT for two consecutive years, must submit an equitable distribution plan. Level C districts, those that have failed to meet AYP and HQT for three consecutive years, must fully implement their equitable distribution plan and must develop a Title II, Part A budget in agreement with the CDE.

The following **optional** paragraph may be revised to reflect district practice.

The Superintendent or designee shall annually report to the Board and the California Department of Education (CDE) comparisons of teacher qualifications across district schools. When required by the CDE, the Superintendent or designee shall develop an equitable distribution plan to identify strategies for recruiting, developing, and retaining highly qualified teachers in low-performing schools. As needed, the Board may direct the Superintendent to transfer teachers to high-need schools in accordance with law and the collective bargaining agreement, and/or may align district resources to improve the skills and qualifications of teachers at those schools.

(cf. 4114 - Transfers)

(cf. 4131 - Staff Development)

(cf. 4131.1 - Beginning Teacher Support/Induction)

(cf. 4138 - Mentor Teachers)

Note: Contingent upon state funding, Education Code 44395 provides a \$20,000 award to teachers who have attained certification from the National Board for Professional Teaching Standards and agree to teach for four years in a high-priority school, defined as one that is in the bottom half of all schools statewide based on the Academic Performance Index; see BP 4112.2 - Certification.

Legal Reference: (see next page)

ASSIGNMENT (continued)

Legal Reference:

EDUCATION CODE

33126 School accountability report card
35035 Additional powers and duties of superintendent
35186 Complaint process
37616 Assignment of teachers to year-round schools
44225.6 Commission report to the legislature re: teachers
44250-44277 Credentials and assignments of teachers
44314 Subject matter programs, approved subjects
44395-44398 Incentives for assigning NBPTS-certified teachers to high-priority schools
44824 Assignment of teachers to weekend classes
44955 Reduction in number of employees

GOVERNMENT CODE

3543.2 Scope of representation

CODE OF REGULATIONS, TITLE 5

6100-6126 Teacher qualifications, No Child Left Behind Act
80003-80005 Credential authorizations
80020-80020.5 Additional assignment authorizations
80335 Performance of unauthorized professional services
80339-80339.6 Unauthorized certificated employee assignment

UNITED STATES CODE, TITLE 20

6311 State plan
6319 Highly qualified teachers
6601-6651 Teacher and Principal Training and Recruiting Fund
7801 Definitions, highly qualified teacher
CODE OF FEDERAL REGULATIONS, TITLE 34
200.55-200.57 Highly qualified teachers

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Revised State Plan for the No Child Left Behind Act, rev. September 2008

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

The Administrator's Assignment Manual, rev. September 2007

U.S. DEPARTMENT OF EDUCATION GUIDANCE

Improving Teacher Quality State Grants: ESEA Title II, Part A, rev. October 5, 2006

WEB SITES

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

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

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

Santa Clara County Office of Education, Personnel Management Assistance Team:
<http://www.sccoe.org/depts/pmat>

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

(3/04 11/04) 3/09

Board Policy

Assignment

BP 4113

Personnel

In order to serve the best interests of students and the educational program, the Governing Board authorizes the Superintendent or designee to assign certificated personnel to positions for which their preparation, certification, experience, and aptitude qualify them.

(cf. 4112.2 - Certification)

(cf. 4112.21 - Interns)

(cf. 4112.22 - Staff Teaching Students of Limited English Proficiency)

(cf. 4112.23 - Special Education Staff)

(cf. 4112.8/4212.8/4312.8 - Employment of Relatives)

Teachers may be assigned to any school within the district in accordance with the collective bargaining agreement.

(cf. 4141/4241- Collective Bargaining Agreement)

The Board encourages the assignment of experienced and fully credentialed teachers, including those who have attained National Board for Professional Teaching Standards certification, to schools with the greatest need to improve student achievement.

Teachers shall be assigned to teach core academic subjects in Title I and non-Title I programs in accordance with the requirements of the No Child Left Behind Act pertaining to teacher qualifications. (20 USC 6319, 7801; 5 CCR 6100-6126)

(cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind Act)

(cf. 6171 - Title I Programs)

The Superintendent or designee may assign holders of a credential other than an emergency permit, with their consent, to teach subjects outside their credential authorization in departmentalized classes. The Superintendent or designee shall, with the assistance of subject matter specialists, develop procedures to verify the subject matter knowledge of the teacher before any such assignment is made. (Education Code 44258.3)

The Superintendent or designee shall periodically report to the Board on any teacher misassignments or vacancies. He/she shall report to the Board the results of the County Superintendent's review of district misassignments and vacancies, and shall provide recommendations for remedying any identified issues.

(cf. 1312.4 - Williams Uniform Complaint Procedures)

Committee on Assignments

The Superintendent or designee may establish a committee on assignments which may grant approval for the voluntary assignment of full-time teachers to teach one or more elective courses outside their credential authorization in an area for which they have special skills or preparation. (Education Code 44258.7)

Legal Reference:

EDUCATION CODE

33126 School accountability report card

35035 Additional powers and duties of superintendent

35186 Complaint process

37616 Assignment of teachers to year-round schools

44225.6 Commission report to the legislature re: teachers

44250-44277 Credentials and assignments of teachers

44395-44398 Incentives for assigning NBPTS-certified teachers to high-priority schools

44824 Assignment of teachers to weekend classes

44955 Reduction in number of employees

GOVERNMENT CODE

3543.2 Scope of representation

CODE OF REGULATIONS, TITLE 5

6100-6126 Teacher qualifications, No Child Left Behind Act

UNITED STATES CODE, TITLE 20

6319 Highly qualified teachers

7801 Definitions, highly qualified teacher

CODE OF FEDERAL REGULATIONS, TITLE 34

200.55-200.57 Highly qualified teachers

Management Resources:

WEB SITES

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

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

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

Policy CENTER UNIFIED SCHOOL DISTRICT

adopted: March 2, 2005 Antelope, California

CSBA Sample Administrative Regulation

Certificated Personnel

AR 4113(a)

ASSIGNMENT

Assignment to Departmentalized Classes Outside Credential Authorization

Note: Education Code 44258.3 allows the Governing Board to assign the holder of a credential (including a provisional internship permit or short-term staff permit, but not an emergency permit) to teach any subject in departmentalized classes in any of grades K-12 provided that the Board first verifies that the teacher has adequate knowledge of each subject to be taught. If the district chooses to make such assignments, Education Code 44258.3 mandates the Board to establish policies and procedures, with specified components, for verifying the adequacy of these teachers' subject matter knowledge. Subject matter specialists as identified below must be involved in the development and implementation of these procedures. For further information, see the Commission on Teacher Credentialing's (CTC) Administrator's Assignment Manual.

Any holder of a credential other than an emergency permit may be assigned, with his/her consent, to teach departmentalized classes in grades K-12 regardless of the designations on his/her teaching credential, provided that their subject matter knowledge is verified prior to the assignment. (Education Code 44258.3)

Procedures for verifying a teacher's subject matter knowledge shall be developed and implemented by the Superintendent or designee with the involvement of appropriate subject matter specialists, including curriculum specialists, resource teachers, classroom teachers certified to teach the subject, staff assigned to regional subject matter projects or curriculum institutes, or college faculty. (Education Code 44258.3)

Note: Items #1-2 below may be revised to reflect procedures and criteria established by the district.

Procedures to be used for this purpose shall specify: (Education Code 44258.3)

1. One or more of the following ways in which subject matter competence shall be assessed:
 - a. Observation by subject matter specialists
 - b. Oral interviews
 - c. Demonstration lessons
 - d. Presentation of curricular portfolios
 - e. Written examinations

ASSIGNMENT (continued)

2. Specific criteria and standards for verifying subject matter knowledge by any of the above methods. These criteria shall include, but need not be limited to, evidence of the individual's knowledge of the subject matter to be taught, including demonstrated knowledge of the curriculum framework for the subject and the specific content of the district's course of study for the subject at the grade level to be taught.

(cf. 4115 - Evaluation/Supervision)

Whenever a teacher is assigned to teach departmentalized classes pursuant to Education Code 44258.3, the Superintendent or designee shall notify the exclusive representative of the district's certificated employees. (Education Code 44258.3)

(cf. 4140/4240 - Bargaining Units)

Assignment to Elective Courses Outside Credential Authorization

Note: The following section is **optional**. Education Code 44258.7 authorizes districts to assign a teacher to an elective course outside his/her credential authorization provided that the teacher has special skills and preparation in that subject area and the assignment is approved by a local committee on assignments.

In order to make such assignments, the district must submit a plan to the County Superintendent of Schools which includes, but is not limited to, statements signed by the Board president or chair and the Superintendent approving the establishment of the committee, procedures for the selection of committee members, term of office for committee members, and criteria for determining teachers' qualifications for these assignments.

Pursuant to Education Code 44258.7, an "elective course" for this purpose is a course other than English, mathematics, science, or social science. The CTC's Administrator's Assignment Manual clarifies that whether a course is considered to be within these subject areas or an elective depends on whether students in the class receive graduation credit for the subject area. For instance, if a drama, speech, or journalism course grants graduation credit for English, then it cannot be taught by a teacher outside of his/her credential authorization under this option. However, if the course does not grant credit for English, then a teacher may be approved by the committee on assignments to teach the course outside his/her credential authorization.

A full-time teacher with special skills and preparation outside his/her credential authorization may, with his/her consent and the prior approval of a district committee on assignments, be assigned to teach an elective course in the area of the special skills or preparation, excluding a course in English, mathematics, science, or social studies. (Education Code 44258.7)

The Superintendent or designee shall establish a committee on assignments, consisting of an equal number of teachers selected by teachers and school administrators selected by school administrators, to approve such assignments. (Education Code 44258.7)

Note: The following two paragraphs are **optional** and may be revised to reflect district practice.

ASSIGNMENT (continued)

Committee members shall serve a two-year term but may be reappointed using the same procedure as the initial appointment.

When determining whether a teacher is qualified for an assignment pursuant to Education Code 44258.7, the committee may consider the teacher's education, prior experience, observation by subject matter specialists, oral interviews, demonstration lessons, presentation of curricular portfolios, and/or written examinations.

Assignments approved by the committee shall be for a maximum of one school year, but may be extended by action of the committee upon application by the principal and teacher. (Education Code 44258.7)

Assignment to Special Schedules

Note: The following paragraph is for use by districts that operate one or more schools with year-round schedules in addition to schools with traditional schedules.

The Superintendent or designee shall make every reasonable effort to accommodate the preferences of certificated staff when assigning them to schools with year-round or regular schedules. (Education Code 37616)

(cf. 6117 - Year-Round Schedules)

Note: The following paragraph is for use by districts that have established weekend classes; see AR 6176 - Weekend/Saturday Classes.

Full-time probationary or permanent classroom teachers employed by the district prior to implementation of weekend classes shall not, without their written consent, be required to teach for more than 180 full days during a school year or for more than the number of full days during the preceding school year, whichever is greater. No teacher shall be assigned to work on a Saturday or Sunday if he/she objects in writing that such assignment would conflict with his/her religious beliefs or practices. (Education Code 44824)

(cf. 6176 - Weekend/Saturday Classes)

(3/01 3/04) 3/09

Administrative Regulation

Assignment

AR 4113

Personnel

Procedures for Verifying Subject Matter Knowledge

With the involvement of appropriate subject matter specialists, the Superintendent or designee shall develop and employ procedures for verifying the subject matter knowledge of teachers assigned to teach in departmentalized classes outside their credential authorization pursuant to Education Code 44258.3. For the purposes of these procedures, subject matter specialists are curriculum specialists, resource teachers, classroom teachers certified to teach a subject, staff to regional subject matter projects or curriculum institutes, or college faculty. (Education Code 44258.3)

(cf. 4112.2 - Certification)

(cf. 4112.21 - Interns)

(cf. 4112.22 - Staff Teaching Students of Limited English Proficiency)

(cf. 4112.23 - Special Education Staff)

Procedures to be used for this purpose shall specify: (Education Code 44258.3)

1. One or more of the following ways in which subject matter competence shall be assessed:

- a. Observation by subject matter specialists
- b. Oral interviews
- c. Demonstration lessons
- d. Presentation of curricular portfolios
- e. Written examinations

2. Specific criteria and standards for verifying subject matter knowledge by any of the above methods. These criteria shall include, but need not be limited to, evidence of the individual's knowledge of the subject matter to be taught, including demonstrated knowledge of the curriculum framework for the subject and the specific content of the district's course of study for the subject at the grade level to be taught.

Whenever a teacher is assigned to teach departmentalized classes pursuant to Education Code 44258.3, the Superintendent or designee shall notify the exclusive representative of

the district's certificated employees. (Education Code 44258.3)

(cf. 4140/4240 - Bargaining Units)

Verification of the subject matter competence of teachers assigned to core academic subjects in Title I and non-Title I programs shall be based on procedures and criteria specified in 5 CCR 6100-6115.

(cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind Act)

Assignment to Special Schedules

The Superintendent or designee shall make every reasonable effort to accommodate the preferences of certificated staff when assigning them to schools with year-round or regular schedules. (Education Code 37616)

(cf. 6117 - Year-Round Schedules)

Full-time probationary or permanent classroom teachers employed by the district prior to implementation of weekend classes shall not, without their written consent, be required to teach for more than 180 full days during a school year or for more than the number of full days during the preceding school year, whichever is greater. No teacher shall be assigned to work on a Saturday or Sunday if he/she objects in writing that such assignment would conflict with his/her religious beliefs or practices. (Education Code 44824)

(cf. 6176 - Weekend/Saturday Classes)

Regulation CENTER UNIFIED SCHOOL DISTRICT
approved: June 23, 2004 Antelope, California

CSBA Sample

Administrative Regulation

All Personnel

AR 4161.8(a)

4261.8

FAMILY CARE AND MEDICAL LEAVE

4361.8

Note: Both federal and state law provide for family care and medical leave (29 USC 2601-2654, the Family and Medical Leave Act of 1993 (FMLA), and Government Code 12945.1-12945.2, the California Family Rights Act (CFRA)). In most situations, entitlements under both laws overlap; however, where there is a conflict between state and federal law, the law that grants greater benefits generally controls. In these situations, legal counsel should be consulted as appropriate.

This regulation may be subject to collective bargaining agreements. Districts that include such provisions in their agreements may delete the following optional administrative regulation.

Definitions

Child means a biological, adopted, or foster child; a stepchild; a legal ward; or a child of a person standing in loco parentis as long as the child is under 18 years of age or an adult dependent child. (29 USC 2611; Government Code 12945.2)

Eligible employee means an employee who has at least 12 months of service with the district and who has at least 1,250 hours of service with the district during the previous 12-month period. *Full-time teachers* are deemed to meet the 1,250 hours of service requirement. (29 USC 2611; 29 CFR 825.110; Government Code 12945.2)

Full-time teacher means an employee whose principal function is to teach and instruct students in a class, a small group, or individual setting and includes athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. (29 CFR 825.800)

Parent means a biological, foster, or adoptive parent; a stepparent; a legal guardian; or another person who stood in loco parentis to the employee when the employee was a child. Parent does not include a spouse's parents. (29 USC 2611; 29 CFR 825.122; Government Code 12945.2; 2 CCR 7297.0)

Serious health condition means an illness, injury, impairment, or physical or mental condition that involves either of the following: (29 USC 2611; 29 CFR 825.113, 825.114, 825.115; Government Code 12945.2)

1. Inpatient care in a hospital, hospice, or residential health care facility
2. Continuing treatment or continuing supervision by a health care provider, including one or more of the following:
 - a. A period of incapacity of more than three consecutive full days

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- b. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition
- c. For purposes of leave under the Family and Medical Leave Act (FMLA), any period of incapacity due to pregnancy or for prenatal care
- d. Any period of incapacity which is permanent or long term due to a condition for which treatment may not be effective
- e. Any period of absence to receive multiple treatments, including recovery, by a health care provider

Note: Pursuant to Family Code 297.5, registered domestic partners have the same rights, protections, and benefits as spouses under state law. This law was not affected by the passage of Proposition 8 on the 2008 ballot which defines marriage in California as a "union between a man and a woman," nor will it be affected should Proposition 8 be ruled unconstitutional in the future.

However, the federal Defense of Marriage Act (1 USC 7) defines marriage for purposes of the benefits under federal law as a "union between a man and a woman." Thus, in those instances where the FMLA grants greater rights than the CFRA (i.e., military caregiver leave, qualified exigencies military family leave), it is questionable whether those rights also extend to registered domestic partners. Districts with questions about the status of benefits for registered domestic partners or spouses of same-sex marriages should consult legal counsel as appropriate.

Spouse means a partner in marriage as defined in Family Code 300 or 1 USC 7. In addition, for purposes of rights under the California Family Rights Act (CFRA), a registered domestic partner shall have the same rights, protections, and benefits as a spouse and protections provided to a spouse's child shall also apply to a child of a registered domestic partner. (29 CFR 825.122; Family Code 297.5; 2 CCR 7297.0)

Eligibility

Note: Pursuant to Government Code 12945.2 and 29 USC 2601, a district is required to grant family care and medical leave to an eligible employee for any of the reasons stated in items #1-3 below, except where the district employs fewer than 50 employees within 75 miles of the worksite where the employee requesting the leave is employed. The determination of whether 50 employees are employed within 75 miles is made at the time the employee gives notice of the need for the leave (e.g., if the district employs 51 people in August when the employee requests leave, but anticipates having 48 employees in October, the district is subject to FMLA/CFRA for purposes of that employee's request).

The district shall grant family care and medical leave to eligible employees for the following reasons: (29 USC 2612; 29 CFR 825.112; Family Code 297.5; Government Code 12945.2)

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1. Because of the birth of a child of the employee or placement of a child with the employee in connection with the adoption or foster care of the child by the employee.
2. To care for the employee's child, parent, or spouse with a serious health condition.
3. Because of the employee's own serious health condition that makes him/her unable to perform one or more essential functions of his/her position. However, for purposes of leave under the CFRA, this does not include leave taken for disability on account of pregnancy, childbirth, or related medical conditions.
4. To care for a covered servicemember with a serious injury or illness if the employee is the spouse, child, parent, or designated next of kin of the servicemember.
5. Because of any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation.

The district shall not interfere with, restrain, or deny the exercise of any right provided to an eligible employee under the law. Also, the district shall not discharge or discriminate against any employee for opposing any practice made unlawful by, or because of, his/her involvement in any inquiry or proceeding related to the family care and medical leave. (29 USC 2615; Government Code 12945.2)

(cf. 4030 - Nondiscrimination in Employment)

Terms of Leave

Except in the case of leave to care for a covered servicemember, an eligible employee shall be entitled to a total of 12 work weeks of family care and medical leave during any 12-month period. (29 USC 2612; Government Code 12945.2)

Note: To determine the 12-month period in which the leave entitlement occurs, the district may use any of the methods specified in Options #1-4 below which are examples listed in 29 CFR 825.200. However, a district may choose not to use any of these options and may instead choose some other fixed 12-month period. Whatever option is selected must be applied uniformly to all employees.

~~OPTION 1:~~ ~~This 12-month period shall coincide with the calendar year. (29 CFR 825.200)~~

~~OPTION 2:~~ ~~This 12-month period shall coincide with the fiscal year. (29 CFR 825.200)~~

OPTION 3: This 12-month period shall be measured forward from the date the employee's first family care and medical leave begins. (29 CFR 825.200)

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~~**OPTION 4:** This 12-month period shall be measured backward from the date an employee uses any family care and medical leave. (29 CFR 825.200)~~

In the case of leave taken pursuant to the FMLA for the purpose of caring for a covered servicemember with a serious injury or illness, an eligible employee shall be entitled to a total of 26 work weeks of family care and medical leave during a single 12-month period measured forward from the date an employee's first FMLA leave to care for the covered servicemember begins.

Note: Except in the situations described below, Government Code 12945.2 provides that leave granted under the state CFRA must run concurrently with leave granted under the federal FMLA. Thus, CFRA leave may not be combined with FMLA leave and the total leave may not exceed 12 weeks.

Leave taken pursuant to the CFRA shall run concurrently with leave taken pursuant to the FMLA, except in the following circumstances:

1. Leave taken to care for a registered domestic partner or a child of a domestic partner. Such leave shall count as leave under the CFRA only. (Family Code 297.5)

Note: Pursuant to 2 CCR 7297.6, an employee's right to take pregnancy disability leave under Government Code 12945 is separate from her right to take leave under the CFRA.

2. Leave taken under the FMLA for disability on account of pregnancy, childbirth, or related medical conditions. In addition to federal family care and medical leave, an employee may be entitled to take California pregnancy disability leave of up to four months. During the otherwise unpaid portion of pregnancy disability leave, the employee may use any accrued vacation, sick time, or other paid leave. Such FMLA leave shall run concurrently with any pregnancy disability leave taken by the employee, except that CFRA leave shall not commence until the expiration of the pregnancy disability leave. (Government Code 12945, 12945.2; 2 CCR 7297.6)

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)
(cf. 4261.1 - Personal Illness/Injury Leave)

Note: The following paragraph reflects the provisions of 29 USC 2612, indicating that leave taken for the birth or placement of a child must be concluded (not initiated) within one year of the child's birth or placement.

Leave taken for the birth or placement of a child must be concluded within the 12-month period beginning on the date of the birth or placement of the child. Such leave does not need to be taken in one continuous period of time. The basic minimum duration of the leave for

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birth or placement of a child shall be two weeks. However, the district shall grant a request for leave of less than two weeks' duration on any two occasions. (29 USC 2612; 2 CCR 7297.3)

Note: The following **optional** paragraph is for use by districts that limit family care and medical leave related to the birth or placement of the child to a total of 12 weeks when both parents work for the district.

If both parents of a child work for the district, their family care and medical leave related to the birth or placement of the child shall be limited to a combined total of 12 weeks. This restriction shall apply whether the parents are married, registered domestic partners, or not married. (29 USC 2612; Government Code 12945.2)

Note: The district may require employees (Option 1) or give employees discretion (Option 2) to substitute paid leave for the unpaid family care and medical leave, so that the paid leave and unpaid family care and medical leave would run concurrently. Paid leave may be substituted only to the extent that the employee would otherwise be eligible to take the leave. However, for pregnancy disability leave under the CFRA, the district can only require an employee to use accrued sick leave and cannot require the employee to use accrued vacation or personal time off.

OPTION 1: Except for pregnancy disability leave, during the period of family care and medical leave, the district shall require the employee to use his/her accrued vacation leave, other accrued time off, and any other paid or unpaid time off negotiated with the district. During pregnancy disability leave, the employee may elect to use her accrued vacation leave or other accrued time off. If the leave is because of the employee's own serious health condition, the employee shall use accrued sick leave pursuant to the collective bargaining agreement and/or Board policy. (29 USC 2612; Government Code 12945.2)

~~**OPTION 2:** During the period of family care and medical leave or pregnancy disability leave, the employee may elect to use his/her accrued vacation leave, other accrued time off, or any other paid or unpaid time off negotiated with the district. If the leave is because of the employee's own serious health condition or pregnancy, the employee may use accrued sick leave pursuant to the collective bargaining agreement and/or Board policy. (29 USC 2612; Government Code 12945.2)~~

(cf. 4141/4241 - Collective Bargaining Agreement)
(cf. 4161/4261/4361 - Leaves)

Intermittent Leave/Reduced Leave Schedule

Leave related to the serious health condition of the employee or his/her child, parent, or spouse may be taken intermittently or on a reduced leave schedule when medically

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necessary, as determined by the health care provider of the person with the serious health condition. However, the district may limit leave increments to the shortest period of time that the district's payroll system uses to account for absences or use of leave. (29 USC 2612; 2 CCR 7297.3)

If an employee needs intermittent leave or leave on a reduced work schedule that is foreseeable based on planned medical treatment for the employee or a family member, the district may require the employee to transfer temporarily to an available alternative position. This alternative position must have equivalent pay and benefits, the employee must be qualified for the position, and the position must better accommodate recurring periods of leave than the employee's regular job. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced leave schedule. (29 USC 2612; 2 CCR 7297.3)

(cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)

Request for Leave

Note: In Faust v. California Portland Cement Company, the California Court of Appeal held against an employer, highlighting the fact that an employee need not specifically mention the CFRA (or the FMLA for that matter) to trigger his/her right to CFRA leave. The court found that the burden rests with the employer to make that determination, and, if appropriate, provide the employee with the appropriate benefits.

An employee shall provide at least verbal notice sufficient to make the district aware that he/she needs family care and medical leave and the anticipated timing and duration of the leave. The employee need not expressly assert or mention FMLA/CFRA to satisfy this requirement; however, he/she must state the reason the leave is needed (e.g., birth of child, medical treatment). If more information is necessary to determine whether the employee is eligible for family care and medical leave, the Superintendent or designee shall inquire further and obtain the necessary details of the leave to be taken. (2 CCR 7297.4)

Note: Both 29 CFR 825.300 and 2 CCR 7297.4 require the district to provide an employee with notice of the designation of leave as either qualifying for CFRA or FMLA protection. See section entitled "Notifications" below for further requirements of this "designation" notice, as well as other required notifications.

Based on the information provided by the employee or his/her spokesperson, the Superintendent or designee shall designate the leave, paid or unpaid, as FMLA/CFRA qualifying leave and shall give notice of such designation to the employee. (2 CCR 7297.4)

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Note: Pursuant to 2 CCR 7297.4, the district may require an employee to provide at least 30 days advance notice of the need for the leave if the need is foreseeable based on an expected birth, adoption, or a planned medical treatment. If a district requires such advance notice from employees, then the district's notification of FMLA/CFRA rights must so specify; see section entitled "Notifications." Districts that do not require 30 days advance notice should modify the following paragraph accordingly.

When the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or a family member, the employee shall provide the district with at least 30 days advance notice before the leave. The employee shall consult with the district and make a reasonable effort to schedule, subject to the health care provider's approval, any planned medical treatment or supervision so as to minimize disruption to district operations. (Government Code 12945.2; 2 CCR 7297.4)

When the 30 days notice is not practicable because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, the employee shall provide the district with notice as soon as practicable. (2 CCR 7297.4)

Certification of Health Condition

Note: The following optional section is for use by districts that require the employee to submit a medical certification of the need for leave along with his/her request for leave for his/her own serious health condition or to care for a child, parent, or spouse with a serious health condition. In order to help avoid claims of discrimination, the district should generally treat all employees uniformly; thus, districts using this section should request a medical certification from all employees.

A request by an employee for family care and medical leave for his/her serious health condition, or to care for a child, parent, or spouse with a serious health condition, shall be supported by a certification from the health care provider of the employee or such other person as applicable. The certification shall include the following: (29 USC 2613; Government Code 12945.2; 2 CCR 7297.0)

1. The date on which the serious health condition began
2. The probable duration of the condition
3. If the employee is requesting leave to care for a child, parent, or spouse with a serious health condition, both of the following:
 - a. Statement that the serious health condition warrants the participation of a family member to provide care during a period of the treatment or supervision of the child, parent, or spouse

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- b. Estimated amount of time the health care provider believes the employee needs to care for the child, parent, or spouse

Note: 2 CCR 7297.0 provides that the health care provider's certification need not identify the serious health condition involved. Where an employee is requesting leave for his/her own serious health condition, the employee may provide this information at his/her option.

4. If the employee is requesting leave because of his/her own serious health condition, a statement that due to the serious health condition, he/she is unable to work at all or is unable to perform one or more essential functions of his/her job
5. If the employee is requesting leave for intermittent treatment or is requesting leave on a reduced leave schedule for planned medical treatment, a statement of the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave

At the time of the employee's request for leave or within five business days, the Superintendent or designee shall request that the employee provide certification of the need for leave. Upon receiving the district's request, the employee shall provide the certification within 15 days, unless either the Superintendent or designee provides additional time or it is not practicable under the particular circumstances, despite the employee's diligent, good faith efforts. (29 CFR 825.305; 2 CCR 7297.4)

When the employee has provided sufficient medical certification to enable the district to determine whether the employee's leave request is FMLA-eligible, the district shall notify the employee within five business days whether the leave is FMLA-eligible. The district may also retroactively designate leave as FMLA/CFRA as long as there is no individualized harm to the employee. (29 CFR 825.301)

If the Superintendent or designee doubts the validity of a certification that accompanies a request for leave for the employee's own serious health condition, he/she may require the employee to obtain a second opinion from a district-approved health care provider, at district expense. If the second opinion is contrary to the first, the Superintendent or designee may require the employee to obtain a third medical opinion from a third health care provider approved by both the employee and the district, again at district expense. The opinion of the third health care provider shall be final and binding. (29 USC 2613; Government Code 12945.2)

Note: Government Code 12945.2 and 29 USC 2613 allow districts to require subsequent recertification on a reasonable basis and in the same manner as outlined above.

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If additional leave is needed when the time estimated by the health care provider expires, the district may require the employee to provide recertification in the manner specified in items #1-5 above. (29 USC 2613; Government Code 12945.2)

Fitness for Duty Upon Return to Work

Note: Pursuant to Government Code 12945.2 and 29 CFR 825.312, as renumbered and amended by 73 Fed. Reg. 222, the district may require an employee to submit a fitness-for-duty certification upon returning to work when the following two conditions are met: (1) the leave was a result of the employee's own serious health condition, and (2) the district has adopted a policy that is applied uniformly to all similarly situated employees (i.e., same occupation, same serious health condition). However, if the district's collective bargaining agreement governs the employee's return to work, the collective bargaining agreement shall supersede any policy requirements.

The following optional section is for use by districts that choose to require a fitness-for-duty certification and may be modified to list the specific positions for which certification is required.

Upon expiration of leave taken for his/her own serious health condition, an employee shall present certification from his/her health care provider that he/she is able to resume work.

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

Note: Pursuant to 29 CFR 835.312, as renumbered and amended by 73 Fed. Reg. 222, when the health care provider certifies that the employee is able to resume work, the district may also require the health care provider to address the employee's ability to perform the essential functions of the job. If such a requirement is imposed, then the district must provide the employee with a list of the essential functions of his/her job with the "designation notice"; see section entitled "Notifications" below.

The following paragraph is optional and should be deleted by districts that do not require certification of an employee's ability to perform the essential functions of the job.

The certification from the employee's health care provider shall address the employee's ability to perform the essential functions of his/her job.

Rights to Reinstatement and Maintenance of Benefits

Note: Pursuant to Government Code 12945.2 and 29 USC 2614, an employee on family care and medical leave has the right to be reinstated to the same or a comparable position when he/she returns from such leave, with certain exceptions as described below.

Upon granting an employee's request for family care and medical leave, the Superintendent or designee shall guarantee to reinstate the employee in the same or a comparable position when the leave ends. (29 USC 2614; Government Code 12945.2)

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However, the district may refuse to reinstate an employee returning from leave to the same or a comparable position if all of the following apply: (29 USC 2614; Government Code 12945.2)

1. The employee is a salaried "key employee" who is among the highest paid 10 percent of those district employees who are employed within 75 miles of the employee's worksite.
2. The refusal is necessary to prevent substantial and grievous economic injury to district operations.
3. The district informs the employee of its intent to refuse reinstatement at the time it determines that the refusal is necessary, and the employee fails to immediately return to service.

An employee who takes leave has no greater right to reinstatement or to other benefits and conditions of employment than if he/she had been continuously employed during the leave period. If an employee is laid off or was hired for a specific term or to perform work on a discrete project during the leave period, he/she is not entitled to reinstatement or maintenance of group health plan benefits, provided the district has no continuing obligations under a collective bargaining agreement or otherwise. (29 CFR 825.216; 2 CCR 7297.2)

(cf. 4117.3 - Personnel Reduction)
(cf. 4217.3 - Layoff/Rehire)

During the period when an employee is on family care and medical leave, he/she shall maintain his/her status with the district and the leave shall not constitute a break in service for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan. (29 USC 2614; Government Code 12945.2)

For a period of 12 weeks, the district shall continue to provide an eligible employee on family care and medical leave the group health plan coverage that was in place before he/she took the leave. The employee shall reimburse the district for premiums paid during the family care and medical leave if he/she fails to return to district employment after the expiration of the leave and the failure is for any reason other than the continuation, recurrence, or onset of a serious health condition, or other circumstances beyond his/her control. (29 USC 2614; 29 CFR 825.213; Government Code 12945.2)

(cf. 4154/4254/4354 - Health and Welfare Benefits)

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In addition, during the period when an employee is on family care and medical leave, he/she shall be entitled to continue to participate in other employee benefit plans including life insurance, short-term or long-term disability insurance, accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as apply to an unpaid leave taken for any other purpose. However, for purposes of pension and retirement plans, the district shall not be required to make plan payments for an employee during the leave period and the leave period shall not be counted for purposes of time accrued under the plan. (Government Code 12945.2)

Military Caregiver Leave

Note: 29 USC 2612, effective January 28, 2008, authorizes an employee to take up to 26 work weeks of unpaid military caregiver leave, as defined below. Implementing regulations were added by 73 Fed. Reg. 222 and became effective on January 16, 2009. As is the case with other leaves granted under the FMLA, these amendments apply to districts that employ at least 50 employees within 75 miles of the worksite where the employee requesting the leave is employed; see the section entitled "Eligibility" above.

29 USC 2612 and 29 CFR 825.127 authorize an eligible employee to take up to 26 work weeks of leave during a "single 12-month period." According to the Department of Labor's Military Leave Provisions of the FMLA Frequently Asked Questions, if an employee does not use the entire 26-week entitlement, unused weeks cannot be carried over into another 12-month period. However, the employee may qualify for nonmilitary FMLA leave.

The district shall grant up to a total of 26 work weeks of leave during a single 12-month period, measured forward from the first date of leave taken, to an eligible employee to care for a covered servicemember with a serious illness or injury. In order to be eligible for such military caregiver leave, an employee must be the spouse, son, daughter, parent, or next of kin of the covered servicemember. This 26-week period is not in addition to the up to 12-weeks of leave that may be taken for other FMLA qualifying reasons, but rather is inclusive of such 12 weeks. (29 USC 2611, 2612; 29 CFR 825.127)

Covered servicemember means a current member, or member who is on the temporary disability retired list, of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty while on active duty for which he/she is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for that injury or illness. (29 USC 2611, 2612; 29 CFR 825.127)

Note: Unlike the provisions for other FMLA/CFRA leave, 29 CFR 825.127, as amended by 73 Fed. Reg. 222, places no age limit on the definition of "son or daughter," as detailed below. In addition, 29 CFR 825.127, as amended, lists the priority of relatives defining the "next of kin" of a covered servicemember.

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Son or daughter of a covered servicemember means the biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered servicemember stood in loco parentis, and who is of any age. (29 CFR 825.127)

Parent of a covered servicemember means the covered servicemember's biological, adopted, step or foster parent, or any other individual who stood in loco parentis to the covered servicemember (except "parents in law"). (29 CFR 825.127)

Next of kin means the nearest blood relative to that individual, or as designated in writing by the covered servicemember. (29 USC 2611, 2612)

Outpatient status means the status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. (29 USC 2611; 29 CFR 825.127)

Serious injury or illness means an injury or illness incurred by the member in the line of duty while on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating. (29 USC 2611; 29 CFR 825.127)

Note: As is the case for other types of family care and medical leave, 29 CFR 825.302 and 825.303, as amended by 73 Fed. Reg. 222, require the employee, when the need for the leave is foreseeable, to provide 30 days advance notice to the district before the leave is to begin.

The employee shall provide reasonable and practicable notice of the need for the leave in accordance with the procedures in the section entitled "Request for Leave" above.

Note: 29 CFR 825.310, as amended by 73 Fed. Reg. 222, authorizes the district to require the employee to provide certification of the need for the leave, which is to be completed by an authorized health care provider of the covered servicemember. 29 CFR 825.310 defines "authorized health care provider" for this purpose to include a Department of Defense or Department of Veterans Affairs health care provider and specifies the information that may be requested. However, unlike other types of family care and medical leave, a district may not require second and third opinions from other health care providers and may not require recertification of the need for the military caregiver leave.

The following paragraph is **optional**. In order to help avoid claims of discrimination, the district should generally treat all employees uniformly; thus, districts using this paragraph should request a medical certification from all employees requesting such leave.

An employee requesting leave to care for a covered servicemember with a serious injury or illness shall provide the Superintendent or designee with certification from an authorized

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health care provider of the servicemember that contains the information specified in 29 CFR 825.310.

Note: Pursuant to 29 CFR 825.127, as amended by 73 Fed. Reg. 222, an employee may take up to a total of 26 work weeks of leave for both regular FMLA and military caregiver leave FMLA during the 12-month leave entitlement period. However, the employee may not take more than 12 weeks for regular FMLA leave. For example, according to the Department of Labor's Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers, an employee could take 12 weeks of FMLA leave to care for a newborn child and 14 weeks of military caregiver leave, but could not take 16 weeks to care for a newborn and 10 weeks of military caregiver leave. If the leave qualifies as both military caregiver leave and leave to care for a family member with a serious health condition, 29 CFR 825.127 specifies that the district must first designate the leave as military caregiver leave.

The leave may be taken intermittently or on a reduced schedule when medically necessary. An employee taking military caregiver leave in combination with other leaves pursuant to this administrative regulation shall be entitled to a combined total of 26 work weeks of leave during a single 12-month period. When both spouses work for the district and both wish to take such leave, the spouses are limited to a maximum combined total of 26 work weeks during a single 12-month period. (29 USC 2612)

Note: Pursuant to 29 USC 2612 and 29 CFR 825.207, the district has the option whether to require or give employees discretion to substitute paid leave when taking FMLA/CFRA leave; see Options #1 and 2 in section entitled "Terms of Leave" above. Whichever option is selected by the district with regards to FMLA/CFRA leave is also applicable to military caregiver leave.

During the period of military caregiver leave, the district's rule specified in "Terms of Leave" above, regarding an employee's use of his/her accrued vacation leave and other accrued paid or unpaid time off, shall apply.

Military Family Leave Resulting from Qualifying Exigencies

Note: 29 USC 2612 authorizes an employee to take up to 12 work weeks of unpaid leave to attend to an "exigency" arising out of the fact that a spouse, child, or parent of the employee is on active duty or call to active duty status. This provision became effective on January 16, 2009 upon adoption of implementing regulations by the Department of Labor pursuant to 73 Fed. Reg. 222.

Pursuant to 29 CFR 825.200, as amended by 73 Fed. Reg. 222, an employee is entitled to 12 work weeks of qualifying exigency leave during each 12-month period established by the district; see section of this regulation entitled "Terms of Leave." According to the Department of Labor's Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers, an employee may take all 12 weeks of his/her FMLA leave entitlement as a qualifying exigency leave or the employee may take a combination of 12 weeks of leave for both qualifying exigency leave and other FMLA leave, such as leave for a serious health condition.

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29 CFR 825.126, as amended by 73 Fed. Reg. 222, specifies that leave because of qualifying exigencies, unlike the leave for military caregivers, applies only to families of members of the National Guard and Reserves and certain retired military, but not to families of servicemembers in the regular Armed Forces.

An eligible employee may take up to 12 work weeks of unpaid leave during the 12-month period established by the district while a covered military member is on active duty or call to active duty status for one or more qualifying exigencies. (29 CFR 825.126)

Covered military member means the employee's spouse, son, daughter, or parent on active duty or call to active duty status. *Active duty or call to active duty status* means a member of the National Guard or Reserves who is under a call or order to active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation. (29 CFR 825.126)

Note: 29 CFR 825.126, as amended by 73 Fed. Reg. 222, defines "qualifying exigencies" as activities in seven broad categories, as listed below, and provides specific examples for each category. In addition, a "qualifying exigency" includes "any other event" as agreed to by the district and the employee. As an example of such other event, the Department of Labor's Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers lists leave to spend time with the covered military member either prior to or post deployment or to attend to household emergencies that would normally have been handled by the covered military member.

Qualifying exigencies include time needed to (1) address issues arising from short notice deployment (up to seven calendar days from the date of receipt of call or order of short notice deployment); (2) attend military events and related activities, such as any official ceremony or family assistance program related to the active duty or call to active duty status; (3) arrange childcare or attend school activities arising from the active duty or call to active duty, such as arranging for alternative childcare, enrolling or transferring a child to a new school, or attending meetings; (4) make or update financial and legal arrangements to address a covered military member's absence; (5) attend counseling provided by someone other than a health care provider; (6) spend time (up to five days of leave per instance) with a covered military member who is on short-term temporary rest and recuperation leave during deployment; (7) attend to certain post-deployment activities, such as arrival ceremonies or reintegration briefings; and (8) address any other event that the employee and district agree is a qualifying exigency. (29 CFR 825.126)

The employee shall provide the Superintendent or designee with notice of the need for the qualifying exigency leave as soon as practicable, regardless of how far in advance such leave is foreseeable. (29 CFR 825.302)

Note: 29 CFR 825.309, as amended by 73 Fed. Reg. 222, authorizes a district to require the employee to provide a copy of the covered military member's active duty order or other military documentation the first time that the employee requests the leave. In addition, the district may require the employee to provide

FAMILY CARE AND MEDICAL LEAVE (continued)

certification of the qualifying exigency containing the information specified in 29 CFR 825.309. The Department of Labor has developed a form for employees and employers to use for this purpose, Appendix G, 73 Fed. Reg. 222, page 68127.

The following paragraph is optional and should be deleted by those districts that do not require such documentation. In order to help avoid claims of discrimination, the district should generally treat all employees uniformly; thus, districts using this paragraph should request certification from all employees requesting such leave.

An employee who is requesting such leave for the first time shall provide the Superintendent or designee with a copy of the covered military member's active duty orders, or other documentation issued by the military, and the dates of the service. In addition, the employee shall provide the Superintendent or designee with certification of the qualifying exigency necessitating the leave which contains the information specified in 29 CFR 825.309.

The employee's qualifying exigency leave may be taken on an intermittent or reduced leave schedule basis. (29 CFR 825.302)

Note: Pursuant to 29 USC 2612 and 29 CFR 825.207, the district has the option to require or give employees discretion to substitute paid leave when taking FMLA/CFRA leave; see Options #1 and 2 in section entitled "Terms of Leave" above. Whichever option is selected by the district with regards to FMLA/CFRA leave is also applicable to qualified exigency leave.

During the period of qualified exigency leave, the district's rule specified in "Terms of Leave" above, regarding an employee's use of his/her accrued vacation leave and any other accrued paid or unpaid time off, shall apply.

Notifications

Note: Both state and federal law (2 CCR 7297.9 and 29 CFR 825.300) require employers to provide general notification to employees of their rights under the FMLA/CFRA as well as specific notifications when an employee has requested leave, as detailed below.

Samples of notices which describe an employee's rights are available on the web sites of the state Department of Fair Employment and Housing and the federal Department of Labor. 2 CCR 7297.9 further requires that if the workforce at any facility contains 10 percent or more of persons with a primary language other than English, the posted notice of state law must be translated into the language(s) these employees speak.

The Superintendent or designee shall provide the following notifications about state and federal law related to FMLA/CFRA:

FAMILY CARE AND MEDICAL LEAVE (continued)

1. **General Notice:** Information shall be posted in a conspicuous place on district premises or electronically explaining the provisions of the FMLA/CFRA and information about employee rights and obligations shall be included in employee handbooks. (29 USC 2619; 2 CCR 7297.9)

Note: Pursuant to 2 CCR 7297.4, a district may require an employee, when the need for the leave is foreseeable, to provide at least 30 days advance notice before the leave is to begin; see section entitled "Request for Leave" above. 2 CCR 7297.4 specifies that districts that require such notice from employees must give employees "reasonable advance notice" of their obligation and that incorporation of the requirement into the general notice satisfies the "advance notice" requirement.

The following **optional** paragraph is for use by districts that require employees to provide advance notice.

The general notice shall also explain an employee's obligation to provide the Superintendent or designee with at least 30 days notice of the need for the leave, when the need for the leave is reasonably foreseeable. (2 CCR 7297.4)

Note: 29 CFR 825.300, as amended by 73 Fed. Reg. 222, requires a district to notify an employee of his/her eligibility to take FMLA/CFRA leave, as specified below. See section entitled "Request for Leave" above.

2. **Eligibility Notice:** When an employee requests leave or when the Superintendent or designee acquires knowledge that an employee's leave may be for an FMLA/CFRA qualifying reason, the Superintendent or designee shall provide notification, within five business days, to the employee of his/her eligibility to take such leave (i.e., whether the employee has met the months of employment, hours of service, and worksite requirements). (29 CFR 825.300)
3. **Rights and Responsibilities Notice:** Each time the eligibility notice is provided to an employee, the Superintendent or designee shall provide written notification explaining the specific expectations and obligations of the employee, including any consequences for a failure to meet those obligations. Such notice shall include, as appropriate: (29 CFR 825.300)
 - a. A statement that the leave may be designated and counted against the employee's annual FMLA/CFRA leave entitlement, if qualifying

Note: Item #b below is for use by districts that require medical certification to the effect that the employee is able to resume work. See section entitled "Fitness for Duty Upon Return to Work" above.

FAMILY CARE AND MEDICAL LEAVE (continued)

- b. Any requirements for the employee to furnish medical certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of active duty or call to active duty status and the consequences of failing to provide the certification
- c. The employee's right to substitute paid leave, whether the district will require substitution of paid leave, conditions related to any substitution, and the employee's entitlement to take unpaid leave if the employee does not meet the conditions for paid leave
- d. Any requirements for the employee to make any premium payments to maintain health benefits, the arrangement for making such payments, and the possible consequences of failure to make payments on a timely basis
- e. If applicable, the employee's status as a "key employee" and information related to restoration of that status
- f. The employee's right to maintenance of benefits during the leave and restoration to the same or an equivalent job upon return from leave
- g. The employee's potential liability for health benefits should the employee not return to service

Any time the information provided in the above notice changes, the Superintendent or designee shall, within five business days, provide the employee with a Rights and Responsibilities Notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

Note: 29 CFR 825.300, as amended by 73 Fed. Reg. 222, requires the designation notice to specify whether the district requires paid leave to be substituted for unpaid family care and medical leave, whether the district requires an employee to present a fitness-for-duty certification, and whether that certification must address the employee's ability to perform the essential functions of the job. See sections entitled "Terms of Leave" and "Fitness for Duty Upon Return to Work" above.

- 4. **Designation Notice:** When the Superintendent or designee has information (e.g., sufficient medical certification) to determine whether the leave qualifies as FMLA/CFRA leave, he/she shall provide written notification, within five business days, designating the leave as FMLA/CFRA qualifying or, if the leave will not be so designated, the reason for that determination. (29 CFR 825.300)

AR 4161.8(r)
4261.8
4361.8

FAMILY CARE AND MEDICAL LEAVE (continued)

If the amount of leave needed is known, the notice shall include the number of hours, days, or weeks that will be counted against the employee's FMLA/CFRA entitlement. If it is not possible to provide that number at the time of the designation notice, notification shall be provided of the amount of leave counted against the employee's entitlement upon request by the employee and at least once in every 30-day period if leave was taken in that period. (29 CFR 825.300)

If the district requires paid leave to be substituted for unpaid family care and medical leave, the notice shall so specify. If the district requires an employee to present a fitness-for-duty certification that addresses the employee's ability to perform the essential functions of the job, the notice shall also specify.

Any time the information provided in the Designation Notice changes, the Superintendent or designee shall, within five business days, provide the employee with written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

Records

Note: Government Code 12946, 29 USC 2616, and 29 CFR 825.500 require districts to maintain records of, among other things, applications, dates, and personnel and employment action related to family care and medical leave.

The Superintendent or designee shall maintain records pertaining to an individual employee's use of family care and medical leave in accordance with law. (29 USC 2616; 29 CFR 825.500; Government Code 12946)

Legal Reference: (see next page)

AR 4161.8(s)
4261.8
4361.8

FAMILY CARE AND MEDICAL LEAVE (continued)

Legal Reference:

FAMILY CODE

297-297.5 *Rights, protections and benefits under law; registered domestic partners*

300 *Validity of marriage*

GOVERNMENT CODE

12940 *Unlawful employment practices*

12945 *Pregnancy; childbirth or related medical condition; unlawful practice*

12945.1-12945.2 *California Family Rights Act*

CODE OF REGULATIONS, TITLE 2

7291.2-7291.16 *Sex discrimination: pregnancy and related medical conditions*

7297.0-7297.11 *Family care leave*

UNITED STATES CODE, TITLE 1

7 *Definition of marriage, spouse*

UNITED STATES CODE, TITLE 29

2601-2654 *Family and Medical Leave Act of 1993, as amended*

CODE OF FEDERAL REGULATIONS, TITLE 29

825.100-825.800 *Family and Medical Leave Act of 1993*

COURT DECISIONS

Faust v. California Portland Cement Company, (2007) 150 Cal.App. 4th 864

Tellis v. Alaska Airlines, (9th Cir., 2005) 414 F.3d 1045

Management Resources:

FEDERAL REGISTER

Final Rule and Supplementary Information, November 17, 2008. Vol. 73, No. 222, pages 67934-68133

U.S. DEPARTMENT OF LABOR PUBLICATIONS

Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers

WEB SITES

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

U.S. Department of Labor, FMLA: <http://www.dol.gov/esa/whd/fmla>

(7/06 3/08) 3/09

Administrative Regulation

Family Care And Medical Leave

AR 4161.8

Personnel

Definitions

Child means a biological, adopted, or foster child; a stepchild; a legal ward; or a child of a person standing in loco parentis as long as the child is under 18 years of age or an adult dependent child. (29 USC 2611; Government Code 12945.2)

Eligible employee means an employee who has at least 12 months of service with the district and who has at least 1,250 hours of service with the district during the previous 12-month period. Full-time teachers are deemed to meet the 1,250 hours of service requirement. (29 USC 2611; 29 CFR 825.110; Government Code 12945.2)

Full-time teacher means an employee whose principal function is to teach and instruct students in a class, a small group, or individual setting. (29 CFR 825.800)

Parent means a biological, foster, or adoptive parent; a stepparent; a legal guardian; or another person who stood in loco parentis to the employee when the employee was a child. (29 USC 2611; Government Code 12945.2)

Serious health condition means an illness, injury, impairment, or physical or mental condition that involves either of the following: (29 USC 2611; 29 CFR 825.114; Government Code 12945.2)

1. Inpatient care in a hospital, hospice, or residential health care facility
2. Continuing treatment or continuing supervision by a health care provider, including one or more of the following:
 - a. A period of incapacity of more than three consecutive days
 - b. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition
 - c. For purposes of leave under the Family and Medical Leave Act (FMLA), any period of incapacity due to pregnancy or for prenatal care

Eligibility

The district shall grant family care and medical leave to eligible employees for the

following reasons: (29 USC 2612; Family Code 297.5; Government Code 12945.2)

1. Because of the birth of a child of the employee or placement of a child with the employee in connection with the adoption or foster care of the child by the employee.
2. To care for the employee's child, parent, spouse, registered domestic partner, or child of a registered domestic partner with a serious health condition.
3. Because of the employee's own serious health condition that makes him/her unable to perform one or more essential functions of his/her position. However, for purposes of leave under the California Family Rights Act(CFRA), this does not include leave taken for disability on account of pregnancy, childbirth, or related medical conditions.

The district shall not interfere with, restrain, or deny the exercise of any right provided to an eligible employee under the law. Also, the district shall not discharge or discriminate against any employee for opposing any practice made unlawful by, or because of, his/her involvement in any inquiry or proceeding related to the family care and medical leave. (29 USC 2615; Government Code 12945.2)

(cf. 4030 - Nondiscrimination in Employment)

Terms of Leave

An eligible employee shall be entitled to a total of 12 work weeks of leave during any 12-month period. (29 USC 2612; Government Code 12945.2)

This 12-month period shall coincide with the fiscal year. (29 CFR 825.200)

Leave taken pursuant to the CFRA shall run concurrently with leave taken pursuant to the FMLA, except in the following circumstances:

1. Leave taken to care for a registered domestic partner or a child of a domestic partner. Such leave shall count as leave under the CFRA. (Family Code 297.5)
2. Leave taken under the FMLA for disability on account of pregnancy, childbirth, or related medical conditions. In addition to family care and medical leave, an employee may be entitled to take pregnancy disability leave of up to four months. During the otherwise unpaid portion of pregnancy disability leave, the employee may use any accrued vacation, sick time, or other paid leave. Such FMLA leave shall run concurrently with any pregnancy disability leave taken by the employee, except that CFRA leave shall not commence until the expiration of the pregnancy disability leave. (Government Code 12945, 12945.2; 2 CCR 7297.6)

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)

(cf. 4261.1 - Personal Illness/Injury Leave)

Leave taken for the birth or placement of a child must be concluded within the 12-month period beginning on the date of the birth or placement of the child. Such leave does not have to be taken in one continuous period of time. The basic minimum duration of the leave for birth or placement of a child shall be two weeks. However, the district shall grant a request for leave of less than two weeks' duration on any two occasions. (29 USC 2612; 2 CCR 7297.3)

If both parents of a child work for the district, their family care and medical leave related to the birth or placement of the child shall be limited to a total of 12 weeks. This restriction shall apply whether the parents are married, registered domestic partners, or not married. (29 USC 2612; Government Code 12945.2)

During the period of family care and medical leave, the district shall require the employee to use his/her accrued vacation leave, other accrued time off, and any other paid or unpaid time off negotiated with the district. If the leave is because of the employee's own serious medical condition, the employee shall use accrued sick leave pursuant to collective bargaining agreements and/or Board policy. (29 USC 2612; Government Code 12945.2)

(cf. 4141/4241 - Collective Bargaining Agreement)
(cf. 4161/4261 - Leaves)

Intermittent Leave/Reduced Leave Schedule

Leave related to the serious health condition of the employee or his/her child, parent, spouse, or registered domestic partner may be taken intermittently or on a reduced leave schedule when medically necessary, as determined by the health care provider of the person with the serious medical condition. However, the district may limit leave increments to the shortest period of time that the district's payroll system uses to account for absences or use of leave. (29 USC 2612; 2 CCR 7297.3)

If an employee needs intermittent leave or leave on a reduced work schedule that is foreseeable based on planned medical treatment for the employee or a family member, the district may require the employee to transfer temporarily to an available alternative position. This alternative position must have equivalent pay and benefits, the employee must be qualified for the position, and the position must better accommodate recurring periods of leave than the employee's regular job. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced leave schedule. (29 USC 2612; 2 CCR 7297.3)

(cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)

Request for Leave

If an employee's need for leave is foreseeable, the employee shall provide the district

with reasonable advance notice for the leave. If an employee's need for leave is foreseeable due to a planned medical treatment or supervision, the employee shall make a reasonable effort to schedule the treatment or supervision to avoid disruption of district operations. This scheduling shall be subject to the health care provider's approval. (Government Code 12945.2)

Certification of Health Condition

A request by an employee for family care and medical leave for his/her serious health condition, or to care for a child, parent, spouse, registered domestic partner, or child of a registered domestic partner with a serious health condition, shall be supported by a certification from the health care provider of the employee or such other person as applicable. The certification shall include the following: (29 USC 2613; Government Code 12945.2; 2 CCR 7297.0)

1. The date on which the serious health condition began
2. The probable duration of the condition
3. If the employee is requesting leave to care for a child, parent, spouse, registered domestic partner, or child of a registered domestic partner with a serious health condition, the health care provider's certification of both of the following:
 - a. Estimated amount of time the health care provider believes the employee needs to care for the child, parent, spouse, registered domestic partner, or child of the registered domestic partner
 - b. Statement that the serious health condition warrants the participation of a family member to provide care during a period of the treatment or supervision of the child, parent, spouse, registered domestic partner, or child of a registered domestic partner
4. If the employee is requesting leave because of his/her own serious health condition, a statement that due to the serious health condition, he/she is unable to work at all or to perform one or more essential functions of his/her job
5. If the employee is requesting leave for intermittent treatment or is requesting leave on a reduced leave schedule for planned medical treatment, a statement of the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave

If the district doubts the validity of a certification that accompanies a request for leave, the Superintendent or designee may require the employee to obtain a second opinion from a district-approved health care provider, at district expense. If the second opinion is contrary to the first, the Superintendent or designee may require the employee to obtain a third medical opinion from a third health care provider approved by both the employee and the district, again at district expense. The opinion of the third health care provider

shall be final and binding. (29 USC 2613; Government Code 12945.2)

If additional leave is needed when the time estimated by the health care provider expires, the district may require the employee to provide recertification in the manner specified in items #1-5 above. (29 USC 2613; Government Code 12945.2)

Fitness for Duty

Employees who take family care and medical leave for their own serious health conditions shall present certification from their health care provider to the effect that they are able to resume work.

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

Rights to Reinstatement and Maintenance of Benefits

Upon granting an employee's request for family care and medical leave, the Superintendent or designee shall guarantee to reinstate the employee in the same or a comparable position when the leave ends. (29 USC 2614; Government Code 12945.2)

The district may refuse to reinstate an employee returning from leave to the same or a comparable position if all of the following apply: (29 USC 2614; Government Code 12945.2)

1. The employee is a salaried "key employee" who is among the highest paid 10 percent of those district employees who are employed within 75 miles of the employee's worksite.
2. The refusal is necessary to prevent substantial and grievous economic injury to district operations.
3. The district informs the employee of its intent to refuse reinstatement at the time it determines that the refusal is necessary, and the employee fails to immediately return to service.

An employee who takes leave has no greater right to reinstatement than if he/she had been continuously employed during the leave period. If the district reduces its work force during the leave period and the employee is laid off for legitimate reasons at that time or if the employee is terminated for reasons unrelated to the leave, he/she is not entitled to reinstatement, provided the district has no continuing obligations under a collective bargaining agreement or otherwise. (29 CFR 825.216)

(cf. 4117.3 - Personnel Reduction)

(cf. 4217.3 - Layoff/Rehire)

During the period when an employee is on family care and medical leave, he/she shall

maintain his/her status with the district and the leave shall not constitute a break in service for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan. (29 USC 2614; Government Code 12945.2)

For a period of 12 weeks, the district shall continue to provide an eligible employee on family care and medical leave the group health plan coverage that was in place before he/she took the leave. The employee shall reimburse the district for premiums paid during the family care and medical leave when he/she fails to return to district employment after the expiration of the leave and the failure is for any reason other than the continuation, recurrence, or onset of a serious health condition, or other circumstances beyond his/her control. (29 USC 2614; 29 CFR 825.213; Government Code 12954.2)

(cf. 4154/4254/4354 - Health and Welfare Benefits)

In addition, during the period when an employee is on family care and medical leave, he/she shall be entitled to continue to participate in other employee benefit plans including life, short-term or long-term disability, or accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as apply to an unpaid leave taken for any other purpose. However, for purposes of pension and retirement plans, the district shall not be required to make plan payments for an employee during the leave period and the leave period shall not be counted for purposes of time accrued under the plan. (Government Code 12945.2)

Notifications

The Superintendent or designee shall post notices about federal and state law related to family care and medical leave in a conspicuous place. Information about employee rights and obligations related to such leaves shall also be included in employee handbooks. (29 USC 2619; 2 CCR 7297.9)

At least the first time in each six-month period that an employee requests family care and medical leave, the Superintendent or designee shall provide written notice detailing specific expectations and obligations, and explaining any consequences of a failure to meet these obligations. The notice shall include: (29 CFR 825.301)

1. A statement that the leave will be counted against the employee's annual family care and medical leave entitlement
2. Any requirements for the employee to furnish medical certification of a serious health condition and the consequences of failing to provide the notice
3. The employee's right to substitute paid leave, conditions related to any substitution, and whether the district requires this substitution
4. Health benefit arrangements

5. If applicable, the employee's status as a "key employee" and information related to restoration of that status
6. The employee's right to restoration to the same or an equivalent job
7. The employee's potential liability for health benefits should the employee not return to service
8. The district's requirement that the employee, upon return, present medical certification to the effect that he/she is able to resume work

Records

The Superintendent or designee shall maintain records pertaining to an individual employee's use of family care and medical leave in accordance with law.

Servicemember Family Leave

The district shall grant up to a total of 26 work weeks of leave during a single 12-month period to an employee to care for a covered servicemember who is his/her spouse, child, parent, or next of kin. (29 USC 2611, 2612)

Covered servicemember means a member of the Armed Forces, including a member of the National Guard or Reserves, who has suffered a serious injury or illness and who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for that injury or illness. (29 USC 2611, 2612)

Next of kin means the nearest blood relative to that individual. (29 USC 2611, 2612)

Outpatient status means the status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. (29 USC 2611)

Serious injury or illness means an injury or illness incurred by the member in the line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating. (29 USC 2611)

The employee shall provide reasonable and practicable notice of the need for the leave when the necessity for the leave is foreseeable. (29 USC 2612)

The leave can be taken intermittently or on a reduced schedule when medically necessary. An employee taking servicemember leave in combination with other leaves pursuant to this regulation shall be entitled to a combined total of 26 work weeks of leave

during a single 12-month period. When both spouses work for the district and both wish to take such leave, the spouses are limited to a maximum combined total of 26 work weeks during a single 12-month period. (29 USC 2612)

During the period of servicemember leave, the district shall require the employee to use his/her accrued vacation leave, other accrued time off, and any other paid or unpaid time off negotiated with the district. (29 USC 2612)

Legal Reference:

FAMILY CODE

297-297.5 Rights, protections and benefits under law; registered domestic partners

GOVERNMENT CODE

12940 Unlawful employment practices

12945 Pregnancy; childbirth or related medical condition; unlawful practice

12945.1-12945.2 California Family Rights Act

CODE OF REGULATIONS, TITLE 2

7291.2-7291.16 Sex discrimination: pregnancy and related medical conditions

7297.0-7297.11 Family care leave

UNITED STATES CODE, TITLE 29

2601-2654 Family and Medical Leave Act of 1993, as amended

CODE OF FEDERAL REGULATIONS, TITLE 29

825.100-825.800 Family and Medical Leave Act of 1993

COURT DECISIONS

Tellis v. Alaska Airlines, (9th Cir., 2005) 414 F.3d 1045

Management Resources:

WEB SITES

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

U.S. Department of Labor, Compliance Assistance, FMLA:

<http://www.dol.gov/esa/whd/fmla>

Regulation CENTER UNIFIED SCHOOL DISTRICT

approved: June 18, 2008 Antelope, California

CSBA Sample Board Policy

Students

BP 5125(a)

STUDENT RECORDS

Note: Student records are governed by both federal and state law (Family Educational Rights and Privacy Act (FERPA) pursuant to 20 USC 1232g and 34 CFR 99.1-99.8; Education Code 49069 and 5 CCR 430-433). Federal regulations implementing FERPA were amended December 9, 2008, pursuant to 73 Fed. Reg. 237.

The Governing Board recognizes the importance of keeping accurate, comprehensive student records as required by law. The Superintendent or designee shall ensure that the district's administrative regulation and school site procedures for maintaining the confidentiality of student records are consistent with state and federal law.

Note: Pursuant to 5 CCR 431, districts are mandated to establish policies and procedures related to the identification, description, and security of student records and to guaranteeing access to these records for authorized persons. Education Code 49069 mandates procedures related to parental review of student records. See the accompanying administrative regulation for language implementing these mandates.

The Superintendent or designee shall establish regulations governing the identification, description, and security of student records, as well as timely access for authorized persons. These regulations shall ensure parental rights to review, inspect, and copy student records and shall protect the student and his/her family from invasion of privacy.

(cf. 3580 - District Records)
(cf. 4040 - Employee Use of Technology)
(cf. 5125.1 - Release of Directory Information)
(cf. 5125.2 - Withholding Grades, Diploma or Transcripts)
(cf. 5125.3 - Challenging Student Records)

The Superintendent or designee shall designate a certificated employee to serve as custodian of records with responsibility for student records at the district level. At each school, the principal or a certificated designee shall act as custodian of records for students enrolled at that school. The custodian of records shall be responsible for implementing Board policy and administrative regulation regarding student records. (5 CCR 431)

Legal Reference: (see next page)

STUDENT RECORDS (continued)

Legal Reference:

EDUCATION CODE

48201 Student records for transfer students who have been suspended/expelled

48904-48904.3 Withholding grades, diplomas, or transcripts

48918 Rules governing expulsion procedures

49060-49079 Student records

49091.14 Parental review of curriculum

51747 Independent study programs

56050 Surrogate parents

56055 Foster parents

CODE OF CIVIL PROCEDURE

1985.3 Subpoena duces tecum

FAMILY CODE

3025 Access to records by noncustodial parents

GOVERNMENT CODE

6252-6260 Inspection of public records

HEALTH AND SAFETY CODE

120440 Immunizations; disclosure of information

WELFARE AND INSTITUTIONS CODE

681 Truancy petitions

16010 Health and education records of a minor

CODE OF REGULATIONS, TITLE 5

430-438 Individual student records

16020-16027 Destruction of records of school districts

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy

300.501 Opportunity to examine records for parents of student with disability

Management Resources:

FEDERAL REGISTER

Final Rule and Analysis of Comments and Changes, Family Educational Rights and Privacy,
December 9, 2008, Vol. 73, No. 237, pages 74806-74855

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Joint Guidance on the Application of FERPA and HIPAA to Student Health Records, November 2008

WEB SITES

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

U.S. Department of Education, Family Policy Compliance Office,

<http://www.ed.gov/policy/gen/guid/fpco/index.html>

(7/99 11/00) 3/09

Board Policy

Student Records

BP 5125

Students

The Governing Board recognizes the importance of keeping accurate, comprehensive student records as required by law. Procedures for maintaining the confidentiality of student records shall be consistent with state and federal law.

The Superintendent or designee shall establish regulations governing the identification, description and security of student records, as well as timely access for authorized persons. These regulations shall ensure parental rights to review, inspect and copy student records and shall protect the student and the student's family from invasion of privacy.

(cf. 3580 - District Records)

(cf. 4040 - Employee Use of Technology)

(cf. 5125.1 - Release of Directory Information)

(cf. 5125.2 - Withholding Grades, Diploma or Transcripts)

(cf. 5125.3 - Challenging Student Records)

The Superintendent or designee shall designate a certificated employee to serve as custodian of records, with responsibility for student records at the district level. At each school, the principal or a certificated designee shall act as custodian of records for students enrolled at that school. The custodian of records shall be responsible for implementing Board policy and administrative regulation regarding student records. (5 CCR 431)

Legal Reference:

EDUCATION CODE

48201 Student records for transfer students who have been suspended/expelled

48904-48904.3 Withholding grades, diplomas, or transcripts of pupils causing property damage or injury; transfer of pupils to new school districts; notice to rescind decision to withhold

48918 Rules governing expulsion procedures

49060-49079 Pupil records

49091.14 Parental review of curriculum

51747 Independent study programs

56050 Surrogate parents

56055 Foster parents

CODE OF CIVIL PROCEDURE

1985.3 Subpoena duces tecum

FAMILY CODE

3025 Access to records by noncustodial parents

GOVERNMENT CODE

6252-6260 Inspection of public records

HEALTH AND SAFETY CODE

120440 Immunizations; disclosure of information

WELFARE AND INSTITUTIONS CODE

681 Truancy petitions

16010 Health and education records of a minor

CODE OF REGULATIONS, TITLE 5

430-438 Individual pupil records

16020-16027 Destruction of records of school districts

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy

300.500 Definition of "personally identifiable"

300.501 Opportunity to examine records for parents of student with disability

300.573 Destruction of information

COURT DECISIONS

Falvo v. Owasso Independent School District, 220 F.3d. 1200 (10th Cir. 2000)

Management Resources:

WEB SITES

U.S. Department of Education, Family Policy Compliance Office:

<http://www.ed.gov/policy/gen/guid/fpc/index.html>

Policy CENTER UNIFIED SCHOOL DISTRICT

adopted: May 16, 2001 Antelope, California

CSBA Sample Administrative Regulation

Students

AR 5125(a)

STUDENT RECORDS

Definitions

Student means any individual who is or has been in attendance at the district and regarding whom the district maintains student records. (34 CFR 99.3)

Note: 73 Fed. Reg. 237 amended the definition of "attendance" in 34 CFR 99.3 to include additional situations in which a student attends classes but is not physically present, as specified below.

Attendance includes, but is not limited to, attendance in person or by paper correspondence, videoconference, satellite, Internet, or other electronic information and telecommunication technologies for students who are not physically present in the classroom, and the period during which a person is working under a work-study program. (34 CFR 99.3)

Note: In November 2008, the U.S. Department of Education (USDOE) and U.S. Department of Health and Human Services issued guidance regarding the application of the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act (HIPAA) to student health records. The guidance clarifies that a student's immunization and health record maintained by the district is a "student record" subject to FERPA, such as health and medical records maintained by a school nurse who is employed by or under contract with a district. See BP/AR 5141.6 - School Health Services.

Student records are any items of information (in handwriting, print, tape, film, computer, or other medium) gathered within or outside the district that are directly related to an identifiable student and maintained by the district, required to be maintained by an employee in the performance of his/her duties, or maintained by a party acting for the district. Any information maintained for the purpose of second-party review is considered a student record. Student records include the student's health record. (34 CFR 99.3; Education Code 49061, 49062; 5 CCR 430)

Student records do not include: (34 CFR 99.3; Education Code 49061, 49062; 5 CCR 430)

1. Directory information

(cf. 5125.1 - Release of Directory Information)

2. Informal notes compiled by a school officer or employee which remain in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a substitute

Note: USDOE guidance (Balancing Student Privacy and School Safety) clarifies that records created by the district's law enforcement unit, as specified in item #3 below, are not considered student records under

STUDENT RECORDS (continued)

FERPA as long as the records are created for a law enforcement purpose. Thus, according to the guidance, student images appearing on security videotapes maintained by the district's law enforcement unit are not subject to FERPA.

3. Records of the law enforcement unit of the district, subject to the provisions of 34 CFR 99.8

(cf. 3515 - Campus Security)

(cf. 3515.3 - District Police/Security Department)

Note: 73 Fed. Reg. 237 amended 34 CFR 99.3 to specify that post-enrollment records and peer-graded papers are not "student records" as specified in items #4 and 5 below.

4. Records created or received by the district after an individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student
5. Grades on peer-graded papers before they are collected and recorded by a teacher

Mandatory permanent student records are those records which are maintained in perpetuity and which schools have been directed to compile by state law, regulation, or administrative directive. (5 CCR 430)

Mandatory interim student records are those records which the schools are directed to compile and maintain for stipulated periods of time and are then destroyed in accordance with state law, regulation, or administrative directive. (5 CCR 430)

Permitted student records are those records having clear importance only to the current educational process of the student. (5 CCR 430)

Access means a personal inspection and review of a record, an accurate copy of a record or receipt of an accurate copy of a record, an oral description or communication of a record, and a request to release a copy of any record. (Education Code 49061)

Note: As amended by 73 Fed. Reg. 237, 34 CFR 99.3 excludes from the definition of "disclosure" the return of a record to the district that provided or created the record. According to the Analysis of Comments and Changes (73 Fed. Reg. 237, page 74810), the goal of this amendment is to allow a district to access information about a district student that has been sent to a statewide data system and to also allow a district that has received a questionable document (e.g., falsified transcript) to return it to the ostensible sending district for verification.

Disclosure means to permit access to, or the release, transfer, or other communication of, personally identifiable information contained in education records to any party, except the party that provided or created the record, by any means including oral, written, or electronic. (34 CFR 99.3)

STUDENT RECORDS (continued)

Note: 73 Fed. Reg. 237 amended the definition of "personally identifiable information" in 34 CFR 99.3 as specified below. This revised definition is relevant in the determination of whether "de-identified" records can be released without consent; see section below entitled "De-Identification of Records."

Personally identifiable information includes, but is not limited to: (34 CFR 99.3)

1. The student's name
2. The name of the student's parent/guardian or other family members
3. The address of the student or student's family
4. A personal identifier, such as the student's social security number, student number, or biometric record (e.g., fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting)
5. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name
6. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty
7. Information requested by a person who the district reasonably believes knows the identity of the student to whom the student record relates

Adult student is a person who is or was enrolled in school and who is at least 18 years of age. (5 CCR 430)

Parent/guardian means a natural parent, an adopted parent, legal guardian, surrogate parent, or foster parent. (Education Code 49061, 56050, 56055)

Note: Pursuant to Education Code 49063 and 34 CFR 99.31, a district may allow "school officials and employees" to have access to students' records without consent when the official or employee has a "legitimate educational interest" in the information. Education Code 49063 requires districts that disclose information under this exception to list in their annual student record notice the criteria for defining "school officials" and for determining "legitimate educational interest"; see section of this regulation entitled "Notification of Parents/Guardians."

As amended by 73 Fed. Reg. 237, 34 CFR 99.31 expands the definition of "school officials" to include contractors, consultants, or volunteers used by a district to perform district services so that such parties can access the record without parent/guardian consent. 34 CFR 99.31 specifies that these parties must be under the "direct control" of the district and be subject to the conditions on use, maintenance, and redisclosure of

STUDENT RECORDS (continued)

records applicable to district employees (i.e., only individuals with a "legitimate educational interest" have access). In the Analysis of Comments and Changes (73 Fed. Reg. 237, page 74814), the USDOE clarifies that this exception, consistent with long-standing USDOE interpretation, applies only to outside parties "acting for" the district, such as an attorney or parent volunteer in the district office, and not to contractors selling products or services, such as an insurance provider offering students discounted insurance.

The criteria in the following two paragraphs should be revised to reflect any definitions developed by the district.

School officials and employees are officials or employees whose duties and responsibilities to the district, whether routine or as a result of special circumstances, require that they have access to student records. *School officials and employees* include contractors, consultants, volunteers, or other parties to whom the district has outsourced district functions and who perform services for which the district would otherwise use employees.

A *legitimate educational interest* is one held by school officials and employees whose duties and responsibilities to the district, whether routine or as a result of special circumstances, require that they have access to student records.

Custodian of records is the employee responsible for the security of student records maintained by the district and for devising procedures for assuring that access to such records is limited to authorized persons. (5 CCR 433)

County placing agency means the county social service department or county probation department. (Education Code 49061)

Persons Granted Access Without Prior Written Consent

The following persons or agencies shall have absolute access to any and all student records in accordance with law:

1. Parents/guardians of students younger than age 18 (Education Code 49069)

Access to student records and information shall not be denied to a parent because he/she is not the child's custodial parent. (Family Code 3025)

2. An adult student age 18 or older or a student under the age of 18 who attends a postsecondary institution, in which case the student alone shall exercise rights related to his/her student records and grant consent for the release of records (34 CFR 99.3, 99.5)
3. Any person, agency, or organization authorized in compliance with a court order or lawfully issued subpoena (Education Code 49077)

STUDENT RECORDS (continued)

Note: As specified below, 5 CCR 435 requires a district to give the parent/guardian three days' notice prior to releasing records in compliance with a court order or subpoena, except when the court has ordered that such notice must not be provided. As amended by 73 Fed. Reg. 237, 34 CFR 99.31 specifies that parent/guardian notice is not required prior to a district's disclosure in response to a court order issued under the USA Patriot Act regarding investigations of domestic or international terrorism.

Unless otherwise instructed by the court, the Superintendent or designee shall, prior to disclosing a record pursuant to a court order or subpoena, give the parent/guardian or adult student at least three days' notice of the name of the requesting agency and the specific record requested, if lawfully possible within the requirements of the judicial order. (34 CFR 99.31; 5 CCR 435)

In addition, the following persons or agencies shall have access to those particular records that are relevant to their legitimate educational interest: (34 CFR 99.31; Education Code 49076)

1. Parents/guardians of a dependent student age 18 or older
2. Students who are age 16 or older or who have completed the 10th grade
3. School officials and employees (consistent with criteria defined by the district)
4. Members of a school attendance review board (SARB) and any volunteer aide age 18 or older who has been investigated, selected, and trained by the SARB to provide follow-up services to a referred student

(cf. 5113.1 - Truancy)

Note: As amended by 73 Fed. Reg. 237, 34 CFR 99.31 clarifies that districts may send, or continue sending, a student's record to a student's new school once he/she has actually enrolled, as long as the disclosure is for purposes related to the student's enrollment or transfer.

5. Officials and employees of other public schools, school systems, or postsecondary institutions where the student intends or is directed to enroll, including local, county, or state correctional facilities where educational programs leading to high school graduation are provided, or where the student is already enrolled, as long as the disclosure is for purposes related to the student's enrollment or transfer

Note: 34 CFR 99.34 requires the district to make a reasonable attempt to notify the parent/guardian or adult student at the last known address when the district discloses certain information as described in the following paragraph. However, if the district includes a statement in its annual parental notification that the district may forward education records under these circumstances, it is not obligated to make this effort to individually notify parents/guardians or adult students. The following optional paragraph may be deleted by districts that include such a statement in their annual parental notifications. See section below entitled "Notification of Parents/Guardians."

STUDENT RECORDS (continued)

When the district discloses personally identifiable information to officials of another school, school system, or postsecondary institution where the student seeks or intends to enroll, the Superintendent or designee shall make a reasonable attempt to notify the parent/guardian or adult student at his/her last known address, provide a copy of the record that is disclosed, and give the parent/guardian or adult student an opportunity for a hearing to challenge the record. (34 CFR 99.34)

6. Federal, state, and local officials, as needed for program audits or compliance with law
7. Any district attorney who is participating in or conducting a truancy mediation program or participating in the presentation of evidence in a truancy petition or a prosecuting agency for consideration against a parent/guardian for failure to comply with compulsory education laws
8. Any probation officer or district attorney for the purposes of conducting a criminal investigation or an investigation in regards to declaring a person a ward of the court or involving a violation of a condition of probation
9. Any judge or probation officer for the purpose of conducting a truancy mediation program for a student or for the purpose of presenting evidence in a truancy petition pursuant to Welfare and Institutions Code 681

Upon releasing student information to a judge or probation officer in such cases, the Superintendent or designee shall inform, or provide written notification to, the student's parent/guardian within 24 hours. (Education Code 49076)

10. Any county placing agency for the purpose of fulfilling educational case management responsibilities required by the juvenile court or by law pursuant to Welfare and Institutions Code 16010 and to assist with the school transfer or enrollment of a student

(cf. 6173.1 - Education for Foster Youth)

Foster family agencies with jurisdiction over currently enrolled or former students may access those students' records of grades and transcripts and any individualized education program (IEP) developed and maintained by the district with respect to such students. (Education Code 49069.3)

(cf. 6159 - Individualized Education Program)

STUDENT RECORDS (continued)

When authorized by law to assist law enforcement in investigations of suspected kidnapping, the Superintendent or designee shall provide information about the identity and location of the student as it relates to the transfer of that student's records to another public school district or California private school. The information shall be released only to designated peace officers, federal criminal investigators, and federal law enforcement officers whose names have been submitted in writing by their law enforcement agency in accordance with the procedures specified in Education Code 49076.5. (Education Code 49076.5)

Note: As amended by 73 Fed. Reg. 237, 34 CFR 99.36 authorizes a district to disclose personally identifiable information in connection with an emergency to any person whose knowledge of the information is necessary to protect the health or safety of students or others (see item #1 below). The Analysis of Comments and Changes (73 Fed. Reg. 237, page 74839) clarifies that this exception permits district disclosure to persons necessary to assist in the emergency, such as mental health professionals, law enforcement, potential victims and their parents/guardians, officials at schools the student previously attended, or current or former peers of the student who can provide the district with appropriate information.

The Superintendent or designee may release information from a student's records to the following: (34 CFR 99.31, 99.36; Education Code 49076)

1. Appropriate persons, including parents/guardians of a student, in an emergency, if the health and safety of the student or other persons are at stake
2. Accrediting associations

Note: 34 CFR 99.31 and Education Code 49076 authorize a district to disclose information to an organization conducting a study. As amended by 73 Fed. Reg. 237, 34 CFR 99.31 requires a district making such a disclosure to enter into a written agreement that contains specified components.

3. Under the conditions specified in Education Code 49076 and 34 CFR 99.31, organizations conducting studies on behalf of educational institutions or agencies for the purpose of developing, validating, or administering predictive tests, administering student aid programs, or improving instruction, provided that:
 - a. The study is conducted in a manner that does not permit personal identification of parents/guardians and students by individuals other than representatives of the organization who have legitimate interests in the information.
 - b. The information is destroyed when no longer needed for the purposes for which the study is conducted.
 - c. The district enters into a written agreement with the organization that includes the information in 34 CFR 99.31.

STUDENT RECORDS (continued)

4. Officials and employees of private schools or school systems where the student is enrolled or intends to enroll

Note: Items #5 and 6 below are for use by districts that maintain high schools.

5. Agencies or organizations in connection with the student's application for or receipt of financial aid

However, information permitting the personal identification of a student or his/her parents/guardians for these purposes may be disclosed only as may be necessary to determine the eligibility of the student for financial aid, determine the amount of financial aid, determine the conditions which will be imposed regarding the financial aid, or enforce the terms or conditions of the financial aid.

6. County elections officials for the purpose of identifying students eligible to register to vote and offering such students an opportunity to register

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

Note: Health and Safety Code 120440 authorizes a district to release limited, specific information about a student's immunization record to local and state health departments, as long as the student's parent/guardian is notified prior to the release.

The Superintendent or designee may release information specified in law regarding a student's immunization record to local health departments operating countywide or regional immunization information and reminder systems and the California Department of Public Health. Prior to releasing such information, the Superintendent or designee shall notify the parent/guardian of his/her rights in accordance with law. (Health and Safety Code 120440)

Persons Granted Access With Prior Written Consent

Persons, agencies, or organizations not afforded access rights by law may be granted access only through written permission of the parent/guardian or adult student, or by judicial order. (Education Code 49075)

Only a parent/guardian having legal custody of the student may consent to the release of records to others. Either parent may grant consent if both parents notify the district, in writing, that such an agreement has been made. (Education Code 49061)

(cf. 5021 - Noncustodial Parents)

Any person or agency granted access is prohibited from releasing information to another person or agency without written permission from the parent/guardian or adult student. (Education Code 49076)

STUDENT RECORDS (continued)

Access to Records by Authorized Persons

Note: Education Code 49069 mandates procedures for notifying parents/guardians of the location of all official student records if not centrally located. The following paragraph may be expanded to include specific notification procedures.

Student records shall be maintained in a central file at the school attended by the student or, when records are maintained in different locations, a notation shall be placed in the central file indicating where other records may be found. Parents/guardians shall be notified of the location of student records if not centrally located. (Education Code 49069; 5 CCR 433)

The custodian of records shall be responsible for the security of student records and shall assure that access is limited to authorized persons. (5 CCR 433)

Note: As amended by 73 Fed. Reg. 237, 34 CFR 99.31 requires districts to use "reasonable methods" to ensure that school officials, employees, and outside contractors obtain access to only those records, both paper and electronic, in which they have a "legitimate educational interest." The amended regulations also clarify that a district must use "reasonable methods" to identify and authenticate the identity of parents/guardians, students, school officials, and any other party to whom the district discloses personally identifiable information from education records. In addition, 34 CFR 99.31, as amended, specifies that a district that does not use physical or technological access controls (e.g., a locked file cabinet or computer security limiting access) must ensure that its administrative policy for controlling access is effective and remains in compliance with the "legitimate educational interest" requirement.

The Analysis to Comments and Changes (73 Fed. Reg. 237, page 74817) suggests a balance of physical, technological, and administrative controls to prevent unauthorized access and to ensure that school officials do not have unrestricted access to the records of all students. The Analysis also clarifies that the "reasonableness" of the method depends, in part, on the potential harm involved. For example, high-risk records, such as social security numbers or other information that could be used for identity theft, should receive greater and more immediate protection.

5 CCR 431 mandates districts to establish written procedures to assure the security of student records. The following three paragraphs reflect this mandate and should be modified to reflect any specific physical, technological, or administrative controls developed by the district.

The custodian of records shall develop reasonable methods, including physical, technological, and administrative controls, to ensure that school officials and employees obtain access to only those student records in which they have legitimate educational interests. (34 CFR 99.31)

To inspect, review, or obtain copies of student records, authorized persons shall submit a request to the custodian of records. For those individuals for whom the law requires that access be granted based on a legitimate educational interest, the request shall specify such interest involved. Prior to granting the request, the custodian of records shall authenticate the individual's identity.

STUDENT RECORDS (continued)

When prior written consent is required by law, the parent/guardian shall provide a signed and dated written consent before the district discloses the student record. Such consent may be given through electronic means in those cases where it can be authenticated. The district's consent form shall specify the records that may be disclosed, state the purpose of the disclosure, and identify the party or class of parties to whom the disclosure may be made. Upon request by the parent/guardian, the district shall provide him/her a copy of the records disclosed. (34 CFR 99.30)

Note: Education Code 49069 and 5 CCR 431 mandate the district to adopt procedures for granting parent/guardian requests to inspect, review, and obtain copies of records.

Within five business days following the date of request, a parent/guardian or other authorized person shall be granted access to inspect, review, and obtain copies of student records during regular school hours. (Education Code 49069)

Note: Education Code 49069 mandates procedures for the availability of qualified certificated personnel to interpret records when requested. The following paragraph may be expanded to include specific procedures for persons to request and receive the assistance of certificated personnel.

Qualified certificated personnel shall be available to interpret records when requested. (Education Code 49069)

The custodian of records or the Superintendent or designee shall prevent the alteration, damage, or loss of records during inspection. (5 CCR 435)

Access Log

A log shall be maintained for each student's record which lists all persons, agencies, or organizations requesting or receiving information from the records and the legitimate educational interest of the requester. (Education Code 49064)

In every instance of inspection by persons who do not have assigned educational responsibility, the custodian of records shall make an entry in the log indicating the record inspected, the name of the person granted access, the reason access was granted, and the time and circumstances of inspection. (5 CCR 435)

Note: Although Education Code 49064 does not require the district to record access by individuals specified in items #1-5 below, the district may consider recording access by all individuals as part of the reasonable administrative controls required by 34 CFR 99.31, as amended; see section above entitled "Access to Records by Authorized Persons." The following paragraph is optional.

The log does not need to include record of access by: (Education Code 49064)

1. Parents/guardians or adult students

STUDENT RECORDS (continued)

2. Students who are 16 years of age or older or who have completed the 10th grade
3. Parties obtaining district-approved directory information

(cf. 5125.1 - Release of Directory Information)

4. Parties who provide written parental consent, in which case the consent notice shall be filed with the record pursuant to Education Code 49075
5. School officials and employees who have a legitimate educational interest

The log shall be accessible only to the parent/guardian, adult student, dependent adult student, student age who is 16 years or older or who has completed the 10th grade, custodian of records, and certain state/federal officials. (Education Code 49064; 5 CCR 432)

De-Identification of Records

Note: FERPA (20 USC 1232(g)) authorizes a district to release a student record without consent after the removal of all "personally identifiable information" provided that the district has made a reasonable determination that a student's identity is not "personally identifiable" through single or multiple releases. Pursuant to 34 CFR 99.3, as amended by 73 Fed. Reg. 237, "personally identifiable information" includes information that, alone or in combination, is linked to a specific student that would allow a reasonable person in the school community who does not have personal knowledge of the relevant circumstances to identify the student with reasonable certainty, as well as information requested by a person who the district reasonably believes knows the identity of the student to whom the record relates. 34 CFR 99.31, as amended, lists objective standards under which districts may release information from "de-identified" records. These standards are applicable to both requests for individual, redacted records and requests for statistical information from multiple records.

In the Analysis to Comments and Changes (73 Fed. Reg. 237, page 74832), USDOE lists as an example a request to release statistics on penalties imposed on students for cheating on a test, arising from an incident at school that received much attention from the local media. The district would not be authorized to release that statistical information or redacted record(s) since the information is now personally identifiable to students because of the publicity in the community.

California law does not include a process for "de-identification" of records. Districts should consult legal counsel prior to releasing information pursuant to this section.

The Superintendent or designee may release information from a student record without prior consent of the parent/guardian or adult student after the removal of all personally identifiable information, provided that he/she has made a reasonable determination that the student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information. (34 CFR 99.31)

STUDENT RECORDS (continued)

Note: 34 CFR 99.31, as amended by 73 Fed. Reg. 237, authorizes the release of de-identified, disaggregated data for educational research purposes by allowing the district to attach a code to each record so that the researcher can match multiple information received from the district (e.g., so that the researcher can match data on district graduation rates with rates of English language learners).

The Superintendent or designee may release de-identified student data from education records for the purpose of educational research in accordance with the conditions specified in 34 CFR 99.31.

Duplication of Student Records

Note: Education Code 49069 mandates that the district adopt procedures for granting parent/guardian requests for copies of student records pursuant to Education Code 49065.

To provide copies of any student record, the district shall charge a reasonable fee not to exceed the actual cost of providing the copies. No charge shall be made for providing up to two transcripts or up to two verifications of various records for any former student. No charge shall be made to locate or retrieve any student record. (Education Code 49065)

Changes to Student Records

No additions except routine updating shall be made to a student's record after high school graduation or permanent departure without prior consent of the parent/guardian or adult student. (5 CCR 437)

Only a parent/guardian having legal custody of the student or an adult student may challenge the content of a record or offer a written response to a record. (Education Code 49061)

(cf. 5125.3 - Challenging Student Records)

Retention and Destruction of Student Records

Note: 5 CCR 431 mandates a district to establish written policies and procedures regarding the signing and dating of anecdotal information, as specified below.

All anecdotal information and assessment reports maintained as student records shall be dated and signed by the individual who originated the data. (5 CCR 431)

The following *mandatory permanent student records* shall be kept indefinitely: (5 CCR 432, 437)

1. Legal name of student
2. Date and place of birth and method of verifying birth date

STUDENT RECORDS (continued)

(cf. 5111 - Admission)

3. Sex of student
4. Name and address of parent/guardian of minor student
 - a. Address of minor student if different from the above
 - b. Annual verification of parent/guardian's name and address and student's residence

(cf. 5111.1 - District Residency)

(cf. 5111.12 - Residency Based on Parent/Guardian Employment)

(cf. 5111.13 - Residency for Homeless Children)

5. Entrance and departure dates of each school year and for any summer session or other extra session
6. Subjects taken during each year, half-year, summer session, or quarter, and marks or credits given

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

7. Verification of or exemption from required immunizations

(cf. 5141.31 - Immunizations)

8. Date of high school graduation or equivalent

Mandatory interim student records, unless forwarded to another district, shall be maintained subject to destruction during the third school year following a determination that their usefulness has ceased or the student has left the district. These records include: (Education Code 48918, 51747; 5 CCR 432, 437, 16027)

1. Expulsion orders and the causes therefor

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

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

2. A log identifying persons or agencies who request or receive information from the student record
3. Health information, including verification or waiver of the health screening for school entry

STUDENT RECORDS (continued)

(cf. 5141.32 - Health Screening for School Entry)

4. Information on participation in special education programs, including required tests, case studies, authorizations, and evidence of eligibility for admission or discharge

(cf. 6159 - Individualized Education Program)

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

5. Language training records

(cf. 6174 - Education for English Language Learners)

6. Progress slips/notices required by Education Code 49066 and 49067

7. Parental restrictions/stipulations regarding access to directory information

8. Parent/guardian or adult student rejoinders to challenged records and to disciplinary action

9. Parent/guardian authorization or denial of student participation in specific programs

10. Results of standardized tests administered within the past three years

(cf. 6162.51 - Standardized Testing and Reporting Program)

(cf. 6162.52 - High School Exit Examination)

11. Written findings resulting from an evaluation conducted after a specified number of missed assignments to determine whether it is in a student's best interest to remain in independent study

(cf. 6158 - Independent Study)

Permitted student records may be destroyed six months after the student completes or withdraws from the educational program, including: (5 CCR 432, 437)

1. Objective counselor and/or teacher ratings
2. Standardized test results older than three years

3. Routine disciplinary data

(cf. 5144 - Discipline)

4. Verified reports of relevant behavioral patterns

STUDENT RECORDS (continued)

5. All disciplinary notices
6. Supplementary attendance records

Records shall be destroyed in a way that assures they will not be available to possible public inspection in the process of destruction. (5 CCR 437)

Transfer of Student Records

If a student transfers into this district from any other school district or a private school, the Superintendent or designee shall inform the parent/guardian of his/her rights regarding student records, including the right to review, challenge, and receive a copy of student records. (Education Code 49068; 5 CCR 438)

Note: Education Code 48201 requires districts to request records of a transferring student regarding acts that resulted in the student's suspension or expulsion from the previous school, as specified below. Once the record is received, the Superintendent or designee must inform the student's teachers of the acts; see AR 4158/4258/4358 - Employee Security.

When a student transfers into this district from another district, the Superintendent or designee shall request that the student's previous district provide any records, either maintained by that district in the ordinary course of business or received from a law enforcement agency, regarding acts committed by the transferring student that resulted in his/her suspension or expulsion. (Education Code 48201)

(cf. 4158/4258/4358 - Employee Security)
(cf. 5119 - Students Expelled From Other Districts)

When a student transfers from this district to another school district or to a private school, the Superintendent or designee shall forward a copy of the student's mandatory permanent record as requested by the other district or private school. The original record or a copy shall be retained permanently by this district. If the transfer is to another California public school, the student's entire mandatory interim record shall also be forwarded. If the transfer is out of state or to a private school, the mandatory interim record may be forwarded. Permitted student records may be forwarded to any other district or private school. (Education Code 48918; 5 CCR 438)

Upon receiving a request from a county placing agency to transfer a student in foster care out of a district school, the Superintendent or designee shall transfer the student's records to the next educational placement within two business days. (Education Code 49069.5)

(cf. 6173.1 - Education for Foster Youth)

All student records shall be updated before they are transferred. (5 CCR 438)

STUDENT RECORDS (continued)

Student records shall not be withheld from the requesting district because of any charges or fees owed by the student or parent/guardian. (5 CCR 438)

If the district is withholding grades, diploma, or transcripts from the student because of his/her damage or loss of school property, this information shall be sent to the requesting district along with the student's records.

(cf. 5125.2 - Withholding Grades, Diploma or Transcripts)

Notification of Parents/Guardians

Upon any student's initial enrollment, and at the beginning of each school year thereafter, the Superintendent or designee shall notify parents/guardians and eligible students, in writing, of their rights related to student records. Insofar as practicable, the district shall provide these notices in the student's home language and shall effectively notify parents/guardians or eligible students who are disabled. (34 CFR 99.7; Education Code 49063)

(cf. 5145.6 - Parental Notifications)

The notice shall include: (34 CFR 99.7, 99.34; Education Code 49063)

1. The types of student records kept by the district and the information contained therein
2. The title(s) of the official(s) responsible for maintaining each type of record
3. The location of the log identifying those who request information from the records
4. District criteria for defining school officials and employees and for determining legitimate educational interest
5. District policies for reviewing and expunging student records
6. The right to inspect and review student records and the procedures for doing so
7. The right to challenge and the procedures for challenging the content of a student record that the parent/guardian or student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights

(cf. 5125.3 - Challenging Student Records)

8. The cost, if any, charged for duplicating copies of records
9. The categories of information defined as directory information pursuant to Education Code 49073

STUDENT RECORDS (continued)

10. The right to consent to disclosures of personally identifiable information contained in the student's records except when disclosure without consent is authorized by law
11. The availability of the curriculum prospectus developed pursuant to Education Code 49091.14 containing the titles, descriptions, and instructional aims of every course offered by the school

(cf. 5020 - Parent Rights and Responsibilities)

12. Any other rights and requirements set forth in Education Code 49060-49078, and the right of parents/guardians to file a complaint with the United States Department of Education concerning an alleged failure by the district to comply with 20 USC 1232g

Note: Pursuant to 34 CFR 99.34, if the district's annual notification contains the information described in optional item #13 below, the district does not need to attempt to individually notify a parent/guardian or adult student when the district discloses an education record to officials of another school, school system, or postsecondary institution. See section above entitled "Persons Granted Access Without Prior Written Consent."

13. A statement that the district forwards education records to other agencies or institutions that request the records and in which the student seeks or intends to enroll or is already enrolled as long as the disclosure is for purposes related to the student's enrollment

(3/06 3/08) 3/09

Administrative Regulation

Student Records

AR 5125
Students

Definitions

Student records are any items of information gathered within or outside the district that are directly related to an identifiable student and maintained by the district or required to be maintained by an employee in the performance of his/her duties. Any information maintained for the purpose of second-party review is considered a student record. A student record may be recorded in handwriting, print, computer media, video or audio tape, film, microfilm, microfiche, or by other means. Student records include the student's health record. (34 CFR 99.3; Education Code 49061, 49062; 5 CCR 430)

Student records do not include: (34 CFR 99.3; Education Code 49061, 49062)

1. **Directory information**

(cf. 5125.1 - Release of Directory Information)

2. **Informal notes compiled by a school officer or employee which remain in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a substitute**

3. **Records of the law enforcement unit of the district, subject to the provisions of 34 CFR 99.8**

(cf. 3515 - Campus Security)

(cf. 3515.3 - District Police/Security Department)

Mandatory permanent student records are those records which are maintained in perpetuity and which schools have been directed to compile by state law, regulation, or administrative directive. (5 CCR 430)

Mandatory interim student records are those records which the schools are directed to compile and maintain for stipulated periods of time and are then destroyed in accordance with state law, regulation, or administrative directive. (5 CCR 430)

Permitted student records are those records having clear importance only to the current educational process of the student. (5 CCR 430)

Access means a personal inspection and review of a record, an accurate copy of a record

or receipt of an accurate copy of a record, an oral description or communication of a record, and a request to release a copy of any record. (Education Code 49061)

Disclosure means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records, to any party, by any means including oral, written, or electronic means. (34 CFR 99.3)

Personally identifiable information includes, but is not limited to, the student's name, the name of the student's parent/guardian or other family member, the address of the student or student's family, a personal identifier such as the student's social security number or student number, and a list of personal characteristics or other information that would make the student's identity easily traceable. (34 CFR 99.3)

Adult student is a person who is or was enrolled in school and who is at least 18 years of age. (5 CCR 430)

Parent/guardian means a natural parent, an adopted parent, legal guardian, surrogate parent, or foster parent. (Education Code 49061, 56050, 56055)

School officials and employees are officials or employees whose duties and responsibilities to the district, whether routine or as a result of special circumstances, require that they have access to student records.

Custodian of records is the employee responsible for the security of student records maintained by the district and for devising procedures for assuring that access to such records is limited to authorized persons. (5 CCR 433)

A legitimate educational interest is one held by school officials or employees whose duties and responsibilities to the district, whether routine or as a result of special circumstances, require that they have access to student records.

County placing agency means the county social service department or county probation department. (Education Code 49061)

Persons Granted Access to Student Records Without Prior Written Consent

Persons, agencies, or organizations specifically granted access rights to student records pursuant to law shall have access without prior written parental consent or judicial order. (Education Code 49076)

The following persons or agencies shall have absolute access to any and all student records in accordance with law:

1. Parents/guardians of students younger than age 18 (Education Code 49069)

Access to student records and information shall not be denied to a parent because

he/she is not the child's custodial parent. (Family Code 3025)

2. An adult student age 18 or older or a student under the age of 18 who attends a postsecondary institution, in which case the student alone shall exercise rights related to his/her student records and grant consent for the release of records (34 CFR 99.3, 99.5)

3. Any person, agency, or organization authorized in compliance with a court order or lawfully issued subpoena (Education Code 49077)

In addition, the following persons or agencies shall have access to those particular records that are relevant to the legitimate educational interest of the requester: (Education Code 49076)

1. Parents/guardians of a dependent student age 18 or older

2. Students age 16 or older or who have completed the 10th grade

3. School officials and employees

4. Members of a school attendance review board and any volunteer aide age 18 or older who has been investigated, selected, and trained by such a board to provide follow-up services to a referred student

(cf. 5113.1 - Truancy)

5. Officials and employees of other public schools or school systems where the student intends or is directed to enroll, including local, county, or state correctional facilities where educational programs leading to high school graduation are provided

6. Federal, state, and local officials, as needed for program audits or compliance with law

7. Any district attorney who is participating in or conducting a truancy mediation program or participating in the presentation of evidence in a truancy petition

8. A prosecuting agency for consideration against a parent/guardian for failure to comply with compulsory education laws

9. Any probation officer or district attorney for the purposes of conducting a criminal investigation or an investigation in regards to declaring a person a ward of the court or involving a violation of a condition of probation

10. Any judge or probation officer for the purpose of conducting a truancy mediation program for a student, or for purposes of presenting evidence in a truancy petition pursuant to Welfare and Institutions Code 681

11. Any county placing agency for the purpose of fulfilling educational case management responsibilities required by the juvenile court or by law pursuant to Welfare and Institutions Code 16010 and to assist with the school transfer or enrollment of a student

(cf. 6173.1 - Education for Foster Youth)

Foster family agencies with jurisdiction over currently enrolled or former students may access those students' records of grades and transcripts and any individualized education program (IEP) developed and maintained by the district with respect to such students. (Education Code 49069.3)

(cf. 6159 - Individualized Education Program)

When authorized by law to assist law enforcement in investigations of suspected kidnapping, the Superintendent or designee shall provide information about the identity and location of the student as it relates to the transfer of that student's records to another public school district or California private school. The information shall be released only to designated peace officers, federal criminal investigators, and federal law enforcement officers whose names have been submitted in writing by their law enforcement agency in accordance with the procedures specified in Education Code 49076.5. (Education Code 49076.5)

The Superintendent or designee may release information from a student's records to the following: (34 CFR 99.36; Education Code 49076)

1. Appropriate persons in an emergency if the health and safety of the student or other persons are at stake
2. Accrediting associations
3. Under the conditions specified in Education Code 49076, organizations conducting studies on behalf of educational institutions or agencies for the purpose of developing, validating, or administering predictive tests, administering student aid programs, or improving instruction
4. Officials and employees of private schools or school systems where the student is enrolled or intends to enroll
5. Agencies or organizations in connection with the student's application for or receipt of financial aid

However, information permitting the personal identification of a student or his/her parents/guardians for these purposes may be disclosed only as may be necessary to determine the eligibility of the student for financial aid, to determine the amount of financial aid, to determine the conditions which will be imposed regarding the financial

aid, or to enforce the terms or conditions of the financial aid.

6. County elections officials for the purpose of identifying students eligible to register to vote and offering such students an opportunity to register

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

The Superintendent or designee may release a student's immunization record information to local health departments operating countywide or regional immunization information and reminder systems and the California Department of Public Health. Prior to releasing such information, the Superintendent or designee shall notify the parent/guardian of his/her right to refuse to share the information as well the other information specified in law. The following information may be released: (Health and Safety Code 120440)

1. Name of the student and the student's parent/guardian
2. Student's gender
3. Student's date and place of birth
4. Types and dates of immunizations received
5. Manufacturer and lot number of the immunization received
6. Adverse reaction to the immunization
7. Other nonmedical information necessary to establish the student's unique identity and record

Persons Granted Access to Student Records With Prior Written Consent

Persons, agencies, or organizations not afforded access rights by law may be granted access only through written permission of the parent/guardian or adult student, or by judicial order. (Education Code 49075)

Only a parent/guardian having legal custody of the student may consent to the release of records to others. Either parent may grant consent if both parents notify the district, in writing, that such an agreement has been made. (Education Code 49061)

(cf. 5021 - Noncustodial Parents)

Any person or agency granted access is prohibited from releasing information to another person or agency without written permission from the parent/guardian or adult student. (Education Code 49076)

Access to Records by Authorized Persons

Student records shall be maintained in a central file at the school attended by the student or, when records are maintained in different locations, a notation shall be placed in the central file indicating where other records may be found. Parents/guardians shall be notified of the location of student records if not centrally located. (Education Code 49069; 5 CCR 433)

To inspect, review, or obtain copies of student records, authorized persons shall submit a request to the custodian of records.

Authorized persons, organizations, or agencies from outside the school whose access requires consent from the parent/guardian or adult student shall submit their request, together with any required authorization, to the Superintendent or designee or the custodian of records. (5 CCR 435)

When prior written consent is required by law, the parent/guardian shall provide a signed and dated written consent before the district discloses the student record. Such consent may be given through electronic means in those cases where it can be authenticated. The consent shall specify the records that may be disclosed, state the purpose of the disclosure, and identify the party or class of parties to whom the disclosure may be made. Upon request by the parent/guardian, the district shall provide him/her a copy of the records disclosed. (34 CFR 99.30)

Within five business days following the date of request, a parent/guardian or other authorized person shall be granted access to inspect, review, and obtain copies of student records during regular school hours. (Education Code 49069)

Qualified certificated personnel shall be available to interpret records when requested. (Education Code 49069)

The custodian of records shall be responsible for the security of student records and shall assure that access is limited to authorized persons. (5 CCR 433)

The custodian of records or the Superintendent or designee shall prevent the alteration, damage, or loss of records during inspection. (5 CCR 435)

Prior to disclosing a record pursuant to a court order or subpoena, the Superintendent or designee shall, unless otherwise instructed by the court, give the parent/guardian or adult student at least three days' notice of the name of the requesting agency and the specific record requested if lawfully possible within the requirements of the judicial order. (34 CFR 99.31; 5 CCR 435)

When the district discloses personally identifiable information to officials of another school, school system, or postsecondary institution where the student seeks or intends to enroll, the Superintendent or designee shall make a reasonable attempt to notify the parent/guardian or adult student at his/her last known address, provide a copy of the

record that was disclosed, and give him/her an opportunity for a hearing to challenge the record. (34 CFR 99.34)

Upon releasing student information to a judge or probation officer for the purpose of conducting a truancy mediation program or presenting evidence in a truancy petition, the Superintendent or designee shall inform, or provide written notification to, the student's parent/guardian within 24 hours. (Education Code 49076)

If the district is planning to release a student's immunization information to the county health department or California Department of Public Health, the Superintendent or designee shall inform the student's parents/guardians of the following: (Health and Safety Code 120440)

1. The type of information that will be shared
2. The name and address of the agency with which the district will share the information
3. That any shared information shall be treated as confidential and shall be used to share only with each other and, upon request, with health care providers, child care facilities, family child care homes, service providers for the Women, Infants and Children (WIC) food program, county welfare departments, foster care agencies, and health care plans
4. That the information may be used only to provide immunization service; to provide or facilitate third-party payer payments for immunizations; and/or to compile and disseminate statistical information on immunization status on groups of people, without identifying the student
5. That the parent/guardian has the right to examine any immunization-related information shared in this manner and to correct any errors
6. That the parent/guardian may refuse to allow this information to be shared

Access Log

A log shall be maintained for each student's record which lists all persons, agencies, or organizations requesting or receiving information from the records and the legitimate educational interest of the requester. (Education Code 49064)

In every instance of inspection by persons who do not have assigned educational responsibility, the custodian of records shall make an entry in the log indicating the record inspected, the name of the person granted access, the reason access was granted, and the time and circumstances of inspection. (5 CCR 435)

The log does not need to record access by: (Education Code 49064)

1. Parents/guardians or adult students
2. Students 16 years of age or older or who have completed the 10th grade
3. Parties obtaining district-approved directory information

(cf. 5125.1 - Release of Directory Information)

4. Parties who provide written parental consent, in which case the consent notice shall be filed with the record pursuant to Education Code 49075
5. School officials or employees who have a legitimate educational interest

The log shall be accessible only to the parent/guardian, adult student, dependent adult student, student age 16 years or older or who has completed the 10th grade, custodian of records, and certain state/federal officials. (Education Code 49064; 5 CCR 432)

Duplication of Student Records

To provide copies of any student record, the district shall charge a reasonable fee not to exceed the actual cost of furnishing the copies. No charge shall be made for providing up to two transcripts or up to two verifications of various records for any former student. No charge shall be made to locate or retrieve any student record. (Education Code 49065)

Changes to Student Records

No additions except routine updating shall be made to a student's record after high school graduation or permanent departure without prior consent of the parent/guardian or adult student. (5 CCR 437)

Only a parent/guardian having legal custody of the student or an adult student may challenge the content of a record or offer a written response to a record. (Education Code 49061)

(cf. 5125.3 - Challenging Student Records)

Retention and Destruction of Student Records

All anecdotal information and assessment reports maintained as student records shall be dated and signed by the individual who originated the data. (5 CCR 431)

The following mandatory permanent student records shall be kept indefinitely: (5 CCR 432, 437)

1. Legal name of student

2. Date and place of birth and method of verifying birth date

(cf. 5111 - Admission)

3. Sex of student

4. Name and address of parent/guardian of minor student

- a. Address of minor student if different from the above

- b. Annual verification of parent/guardian's name and address and student's residence

(cf. 5111.1 - District Residency)

(cf. 5111.12 - Residency Based on Parent/Guardian Employment)

(cf. 5111.13 - Residency for Homeless Children)

5. Entrance and departure date of each school year and for any summer session or other extra session

6. Subjects taken during each year, half-year, summer session, or quarter, and marks or credits given

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

7. Verification of or exemption from required immunizations

(cf. 5141.31 - Immunizations)

8. Date of high school graduation or equivalent

Mandatory interim student records, unless forwarded to another district, shall be maintained subject to destruction during the third school year following a determination that their usefulness has ceased or the student has left the district. These records include: (Education Code 48918, 51747; 5 CCR 432, 437, 16027)

1. Expulsion orders and the causes therefor

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

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

2. A log identifying persons or agencies who request or receive information from the student record

3. Health information, including verification or waiver of the health screening for school entry

(cf. 5141.32 - Health Screening for School Entry)

4. Information on participation in special education programs, including required tests, case studies, authorizations, and evidence of eligibility for admission or discharge

(cf. 6159 - Individualized Education Program)

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

5. Language training records

(cf. 6174 - Education for English Language Learners)

6. Progress slips/notices required by Education Code 49066 and 49067
7. Parental restrictions/stipulations regarding access to directory information
8. Parent/guardian or adult student rejoinders to challenged records and to disciplinary action
9. Parent/guardian authorization or denial of student participation in specific programs

10. Results of standardized tests administered within the past three years

(cf. 6162.51 - Standardized Testing and Reporting Program)

(cf. 6162.52 - High School Exit Examination)

11. Written findings resulting from an evaluation conducted to determine whether it is in a student's best interest to remain in independent study

(cf. 6158 - Independent Study)

Permitted student records may be destroyed six months after the student completes or withdraws from the educational program, including: (5 CCR 432, 437)

1. Objective counselor/teacher ratings
2. Standardized test results older than three years
3. Routine disciplinary data

(cf. 5144 - Discipline)

4. Verified reports of relevant behavioral patterns

5. All disciplinary notices
6. Supplementary attendance records

Records shall be destroyed in a way that assures they will not be available to possible public inspection in the process of destruction. (5 CCR 437)

Transfer of Student Records

If a student transfers into this district from any other school district or a private school, the Superintendent or designee shall inform the parent/guardian of his/her rights regarding student records, including the right to review, challenge, and receive a copy of student records. (Education Code 49068; 5 CCR 438)

When a student transfers into this district from another, the Superintendent or designee shall request that the student's previous district provide any records, either maintained by that district in the ordinary course of business or received from a law enforcement agency, regarding acts committed by the transferring student that resulted in his/her suspension or expulsion. (Education Code 48201)

(cf. 4158/4258/4358 - Employee Security)

When a student transfers from this district to another school district or to a private school, the Superintendent or designee shall forward a copy of the student's mandatory permanent record as requested by the other district or private school. The original record or a copy shall be retained permanently by this district. If the transfer is to another California public school, the student's entire mandatory interim record shall also be forwarded. If the transfer is out of state or to a private school, the mandatory interim record may be forwarded. Permitted student records may be forwarded to any other district or private school. (5 CCR 438)

Upon receiving a request from an admitting school for a student's records, the district shall also forward any expulsion order and the causes for the expulsion. (Education Code 48918)

Upon receiving a request from a county placing agency to transfer a student in foster care out of a district school, the Superintendent or designee shall transfer the student's records to the next educational placement within two business days. (Education Code 49069.5)

All student records shall be updated before they are transferred. (5 CCR 438)

Student records shall not be withheld from the requesting district because of any charges or fees owed by the student or parent/guardian. (5 CCR 438)

If the district is withholding grades, diploma, or transcripts from the student because of his/her damage or loss of school property, this information shall be sent to the requesting

district along with the student's records.

(cf. 5125.2 - Withholding Grades, Diploma or Transcripts)

Notification of Parents/Guardians

Upon any student's initial enrollment, and at the beginning of each year thereafter, the Superintendent or designee shall notify parents/guardians and eligible students, in writing, of their rights related to student records. Insofar as practicable, the district shall provide these notices in the student's home language and shall effectively notify parents/guardians or eligible students who are disabled. (34 CFR 99.7; Education Code 49063)

(cf. 5145.6 - Parental Notifications)

The notice shall include: (34 CFR 99.7, 99.34; Education Code 49063)

1. The types of student records kept by the district and the information contained therein
2. The title(s) of the official(s) responsible for maintaining each type of record
3. The location of the log identifying those who request information from the records
4. District criteria for defining school officials and employees and for determining legitimate educational interest
5. District policies for reviewing and expunging student records
6. The right to inspect and review student records and the procedures for doing so
7. The right to challenge and the procedures for challenging the content of a student record that the parent/guardian or student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights

(cf. 5125.3 - Challenging Student Records)

8. The cost, if any, charged for duplicating copies of records
9. The categories of information defined as directory information pursuant to Education Code 49073
10. The right to consent to disclosures of personally identifiable information contained in the student's records except when disclosure without consent is authorized by law

11. The availability of the curriculum prospectus developed pursuant to Education Code 49091.14 containing the titles, descriptions, and instructional aims of every course offered by the school

(cf. 5020 - Parent Rights and Responsibilities)

12. Any other rights and requirements set forth in Education Code 49060-49078, and the right of parents/guardians to file a complaint with the United States Department of Education concerning an alleged failure by the district to comply with 20 USC 1232g

13. A statement that the district forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll

Regulation CENTER UNIFIED SCHOOL DISTRICT
approved: June 18, 2008 Antelope, California

CSBA Sample

Administrative Regulation

Students

AR 5125.1(a)

RELEASE OF DIRECTORY INFORMATION

Definition

Note: Education Code 49073 mandates that school districts adopt a policy identifying those categories of directory information, as defined in Education Code 49061, which may be released. Directory information is also defined in 34 CFR 99.3, the implementing regulations to the Family Educational Rights and Privacy Act (FERPA). As amended by 73 Fed. Reg. 237, 34 CFR 99.3 clarifies that a district may not designate a student's social security number or other student identification number as directory information.

Pursuant to Education Code 49063, the district must annually notify parents/guardians and eligible students, in writing, of their rights related to student records, including the categories of records considered to be "directory information." See also AR 5125 - Student Records. Therefore, the following paragraph should be modified to reflect those categories of information defined by the district as "directory information"; those items the district does not intend to release as directory information should be deleted.

Directory information means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. Such student information includes: (34 CFR 99.3; Education Code 49061)

1. Name
2. Address
3. Telephone number

Note: Although 34 CFR 99.3 includes electronic mail address and photograph in the definition of "directory information," state law has not yet been amended to conform to federal law. Item #4 below includes email address, which is analogous to a home address and phone number, in the definition of directory information. Districts with questions should consult legal counsel.

4. Email address
5. Date and place of birth
6. Major field of study
7. Participation record in officially recognized activities and sports
8. Weight and height of athletic team members
9. Dates of attendance
10. Degrees and awards received

RELEASE OF DIRECTORY INFORMATION (continued)

11. Most recent previous school attended

Notification to Parents/Guardians

Note: See the accompanying Exhibit for a sample parent/guardian notification from the U.S. Department of Education (USDOE).

At the beginning of each school year, all parents/guardians shall be notified as to the categories of directory information the school or district plans to release and the recipients of the information. The notification shall also inform parents/guardians of their right to refuse to let the district designate any or all types of information as directory information and the period of time within which a parent/guardian must notify the district in writing that he/she does not want a certain category of information designated as directory information. (34 CFR 99.37; Education Code 49063, 49073)

(cf. 5125 - Student Records)

(cf. 5145.6 - Parental Notifications)

Note: The following paragraph applies to districts with secondary school students that receive funds under the Elementary and Secondary Education Act (ESEA). 20 USC 7908 of the No Child Left Behind Act requires those districts to notify parents/guardians that they may request that the district not release their child's name, address, and telephone number to military recruiters, employers, or colleges without their prior written consent. According to Guidance issued by the USDOE (Access to High School Students and Information on Students by Military Recruiters), a single notice provided through a mailing, student handbook, or other method that is reasonably calculated to inform parents/guardians of the above information is sufficient. The law does not specify whether parents/guardians may request that the district not release their child's information to certain third parties, such as military recruiters, but authorize the release to others parties, such as private employers. Districts should consult legal counsel as appropriate.

The Superintendent or designee shall notify parents/guardians that they may request that the district not release the name, address, and telephone number of their child to military recruiters, employers, or institutions of higher education without prior written consent. (20 USC 7908)

Parent/Guardian Consent

Note: Education Code 49073 specifies that parents/guardians may request that their child's directory information not be released (an "opt-out" process). According to a letter from the USDOE to California's Superintendent of Public Instruction, it is a "misapplication" of 20 USC 7908 for a district to establish an "opt-in" procedure specifically for military recruiters whereby a district would not provide information to military recruiters unless a parent/guardian has provided affirmative consent. According to the letter, a district that establishes an "opt-in" procedure for military recruiters would risk having its federal ESEA funds withheld.

RELEASE OF DIRECTORY INFORMATION (continued)

Directory information shall not be released regarding any student whose parent/guardian notifies the district in writing that such information not be disclosed without the parent/guardian's prior consent. (20 USC 1232g, 7908; Education Code 49073)

Note: 34 CFR 99.37 provides that a district may disclose directory information about a former student without complying with the notice and opt-out requirements. However, as amended by 73 Fed. Reg. 237, if a parent/guardian opted out of the disclosure of directory information while his/her child was in attendance, then the district must continue to honor that request after the student has left the district, unless the opt-out request is rescinded.

For a former student, the district shall continue to honor any valid request to opt out of the disclosure of directory information made while the student was in attendance at the district, unless the opt-out request has been rescinded. (34 CFR 99.37)

(7/02 7/05) 3/09

Administrative Regulation

Release Of Directory Information

AR 5125.1

Students

Definition

Directory information means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. Such student information includes: (34 CFR 99.3; Education Code 49061)

1. Name
2. Address
3. Telephone number
4. Electronic mail address
5. Photograph
6. Date and place of birth
7. Major field of study
8. Participation in officially recognized activities and sports
9. Weight and height of athletic team members
10. Dates of attendance
11. Degrees and awards received
12. Most recent previous school attended

Notification to Parents/Guardians

At the beginning of each school year, all parents/guardians shall be notified as to the categories of directory information the school or district plans to release and the recipients of the information. The notification shall also inform parents/guardians of their right to refuse to let the district designate any or all types of information as directory information and the period of time within which a parent/guardian must notify the district in writing that he/she does not want a certain category of information designated as

directory information. (Education Code 49063, 49073; 34 CFR 99.37)

(cf. 5125 - Student Records)

(cf. 5145.6 - Parental Notifications)

The Superintendent or designee shall notify parents/guardians that they may request that the district not release the name, address, and telephone number of their child to military recruiters, employers, or institutions of higher education without prior written consent. (20 USC 7908)

Parent/Guardian Consent

Directory information shall not be released regarding any student whose parent/guardian notifies the district in writing that such information not be disclosed without the parent/guardian's prior consent. (Education Code 49073; 20 USC 1232g; 20 USC 7908)

Regulation CENTER UNIFIED SCHOOL DISTRICT
Approved: September 21, 2005 Antelope, California

CSBA Sample

Board Policy

Students

BP 5126(a)

AWARDS FOR ACHIEVEMENT

The Governing Board encourages excellence as a goal for all students and wishes to publicly recognize students for exemplary achievements in academic, athletic, extracurricular, or community service activities.

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

(cf. 5127 - Graduation Ceremonies and Activities)

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

Student awards may include verbal recognition, a letter, a certificate, a Board resolution, public ceremony, trophy, gift, plaque, or cash gift.

The Superintendent or designee shall develop criteria for the appropriate selection of student award recipients.

Golden State Seal Merit Diploma

Note: The following optional section is for use by districts that maintain high schools. Education Code 51450-51455 establish the Golden State Seal Merit Diploma which may be awarded by the Superintendent of Public Instruction and the State Board of Education to students identified by the district as demonstrating mastery of the high school core curriculum. See the accompanying administrative regulation for eligibility criteria.

At graduation from high school, special recognition shall be awarded to those students whose academic achievements in core curriculum areas have been outstanding.

The Superintendent or designee shall identify high school students who have demonstrated mastery of the high school curriculum qualifying them for the Golden State Seal Merit Diploma. (Education Code 51454)

(cf. 6162.51 - Standardized Testing and Reporting Program)

Biliteracy Award

Note: The following optional section is for use by districts that maintain high schools and may be revised to reflect district practice. An award for biliteracy is not available at the state level, but a number of districts have chosen to develop such an award locally in order to encourage the study of world languages and to recognize the achievement of students who attain proficiency in both English and another language. See the accompanying administrative regulation for sample eligibility criteria for the award.

AWARDS FOR ACHIEVEMENT (continued)

In order to recognize and encourage linguistic proficiency and cultural literacy, the district shall present a biliteracy award to each graduating high school student who demonstrates proficiency in speaking, reading, and writing in one or more languages in addition to English. The Superintendent or designee shall approve applications for the award based on a review of student qualifications in accordance with district-established criteria.

(cf. 6142.2 - *World/Foreign Language Instruction*)
(cf. 6174 - *Education for English Language Learners*)

Scholarship and Loan Fund

~~Note: Establishment of a scholarship and loan fund is optional pursuant to Education Code 35310-35319. If the district chooses to establish such a fund, it should revise the following paragraph to reflect only those purposes for which it wishes to make money available. The following optional section should be deleted by districts that do not maintain this fund.~~

~~The Board shall maintain a scholarship and loan fund which may be used to provide interest-free loans for educational advancement, scholarship, or grants in aid to bona fide organizations, students, or graduates of district schools. (Education Code 35315)~~

~~(cf. 1260 - *Educational Foundation*)~~
~~(cf. 3290 - *Gifts, Grants and Bequests*)~~

Legal Reference:

EDUCATION CODE

220 Nondiscrimination

35160 Authority of governing boards

35310-35319 Scholarship and loan funds

44015 Awards to employees and students

51243-51245 Credit for private school foreign language instruction

51450-51455 Golden State Seal Merit Diploma

CODE OF REGULATIONS, TITLE 5

876 Golden State Seal Merit Diploma

1632 Credit for private school foreign language instruction

Management Resources:

WEB SITES

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

California Department of Education, Golden State Seal Merit Diploma:

<http://www.cde.ca.gov/ta/tg/sr/meritdiploma.asp>

Californians Together: <http://www.californiantogether.org>

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Board Policy

Awards For Achievement

BP 5126

Students

The Governing Board encourages excellence as a goal for all students and wishes to publicly recognize students for unique or exemplary achievements in academic, extracurricular or community service activities. The purpose of such awards shall be consistent with school goals.

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

(cf. 5127 - Graduation Ceremonies and Activities)

Student awards may include verbal recognition, a letter, a certificate, a Board resolution, public ceremony, trophy, gift, plaque or cash gift.

The Superintendent or designee shall develop procedures for the appropriate selection of student award recipients.

Merit Diplomas

At graduation from high school, special recognition shall be awarded to those students whose academic achievements have been outstanding.

The Superintendent or designee shall identify high school students who have demonstrated mastery of the high school curriculum qualifying them for the Golden State Seal Merit Diploma. (Education Code 51454)

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

35310-35319 Scholarship and loan funds

44015 Awards to employees and students

51450-51455 Golden State Seal Merit Diploma

CODE OF REGULATIONS, TITLE 5

876 Golden State Seal Merit Diploma

Management Resources:

WEB SITES

California Department of Education, Golden State Seal Merit Diploma:

<http://www.cde.ca.gov/ta/tg/sr/meritdiploma.asp>

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

Policy CENTER UNIFIED SCHOOL DISTRICT
adopted: October 6, 2004 Antelope, California

CSBA Sample Administrative Regulation

Students

AR 5126(a)

AWARDS FOR ACHIEVEMENT

Note: Education Code 44015 authorizes the Governing Board to give awards to students for "excellence." Before any awards are given under the authority of this law, the Board is mandated to adopt rules and regulations implementing the awards program. The following two paragraphs should be revised to reflect district procedures for selecting student award recipients.

The Superintendent or designee may appoint a committee at each school to consider awards for student accomplishments. This committee may consist of school administrators, teachers, parents/guardians, community members, and student representatives.

(cf. 1220 - Citizen Advisory Committees)

The committee shall submit recommendations for student awards to the Superintendent or designee for approval.

Individual awards in excess of \$200 must be expressly approved by the Governing Board. (Education Code 44015)

Golden State Seal Merit Diploma

Note: The following optional section is for use by districts that maintain high schools. Education Code 51450-51455 establish the Golden State Seal Merit Diploma which may be awarded by the Superintendent of Public Instruction and the State Board of Education to students identified by the district as demonstrating mastery of the high school curriculum. Although Education Code 51452 and 5 CCR 876 provide that eligibility for the merit diploma is based on students' scores on California Standards Tests (CST) and/or scores on the Golden State Examination (GSE) earned before GSE was repealed in 2003, students graduating in 2008 and beyond are unlikely to have previously earned GSE scores. The California Department of Education's (CDE) web site clarifies that CST scaled scores must be used to demonstrate mastery for receipt of the merit diploma, as provided below.

~~To be eligible to receive the Golden State Seal Merit Diploma upon high school graduation, a student shall: (Education Code 51451, 51452; 5 CCR 876)~~

~~1. Complete all requirements for a high school diploma~~

(cf. 6143 - Courses of Study)

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6146.11 - Alternative Credits Toward Graduation)

(cf. 6162.52 - High School Exit Examination)

~~2. Demonstrate mastery of at least six subject areas by earning a scaled score of 370 or above on six separate high school California Standards Tests (CST), including:~~

AWARDS FOR ACHIEVEMENT (continued)

- a. ~~One mathematics exam, excluding the Algebra I, General Mathematics, or Integrated Mathematics 1 test~~
- b. ~~One English language arts exam~~
- c. ~~One science exam, excluding the grade 10 Life Science exam~~
- d. ~~The grade 11 history-social science exam (United States history)~~
- e. ~~Two additional CSTs of the student's choice, which may, but are not required to, include additional exams in mathematics, English language arts, science, or history-social science~~

To be eligible to receive the Golden State Seal Merit Diploma upon graduation, students shall complete all requirements for a high school diploma and shall demonstrate a mastery of at least six subject areas, four of which shall be mathematics, English language arts, science and United States history, with the remaining two subject areas selected by the student. (Education Code 51451)

(cf. 6162.51 - Standardized Testing and Reporting Program)

The Superintendent or designee shall maintain appropriate records to identify students who are eligible for the merit and shall affix an insignia to the diploma and transcript of each student awarded the merit diploma. (Education Code 51454)

(cf. 5125 - Student Records)

Note: The CDE requires each district to annually submit one districtwide insignia request on a form provided by the CDE and signed by the Superintendent. The CDE's web site encourages districts to submit the request far enough in advance of the graduation ceremony date to allow for at least a two-week processing time by the CDE as well as time for district staff to place the insignias on the diplomas. The CDE begins mailing requested insignias the first week of April.

The Superintendent or designee shall submit an insignia request form to the California Department of Education in sufficient time to allow processing of the request prior to the high school graduation ceremony.

Biliteracy Award

Note: The following optional section is for use by districts that maintain high schools and choose to recognize graduating students' bilingual/multilingual proficiency with an award; see the accompanying Board policy. Additional information is available on the web site of Californians Together. The following section should be revised to reflect criteria established by the district for student eligibility.

AWARDS FOR ACHIEVEMENT (continued)

To be eligible to receive the district's biliteracy award upon graduation, a student shall:

1. Complete all requirements for a high school diploma, including all English language arts requirements, with an overall grade point average (GPA) of 2.0 or above
2. Demonstrate proficiency in one or more languages other than English, by fulfilling at least one of the following requirements:
 - a. Receive a passing score of 3 or higher on the Advanced Placement or International Baccalaureate exam for foreign language

(cf. 6141.5 - Advanced Placement)

Note: Pursuant to Education Code 51243-51245 and 5 CCR 1632, districts are required to grant credit toward high school graduation for foreign language studies completed in a private school; see BP/AR 6146.11 - Alternative Credits Toward Graduation.

- b. Successfully complete a four-year course of study in the same foreign language, attaining an overall GPA of 3.0 or above in those courses
- c. Pass a district-established foreign language exam, when available, at a proficient level or higher
- d. Pass a foreign government's approved language exam and receive a certificate of competency for that language from the authorizing government agency

(cf. 6142.2 World/Foreign Language Instruction)

The Superintendent or designee shall annually distribute information about the eligibility requirements for the award and the application process to students in grade 12.

The Superintendent or designee shall affix an insignia to the diploma of each student awarded the biliteracy award.

Scholarship and Loan Fund

~~Note: The following section is for use by districts that have established a scholarship and loan fund pursuant to Education Code 35310-35319. Districts that have not established such a program should delete this section.~~

~~The district's scholarship and loan fund shall be administered by a district committee composed of Board members, the Superintendent, and other community, faculty, administrative, and/or student representatives as determined by the Board. (Education Code 35310)~~

AWARDS FOR ACHIEVEMENT (continued)

~~Note: Pursuant to Education Code 35310, Boards maintaining this fund are mandated to develop rules and regulations specifying the terms of office and method of selection of the committee. The following paragraph should be revised to reflect district practice.~~

~~Members of this committee shall be appointed by the Board and shall serve two year terms.~~

~~The Superintendent shall serve as chairperson of the committee and chief executive officer of the fund. The committee shall meet at least once each fiscal year and at other such times as it may be called into session by the Superintendent. (Education Code 35311, 35312)~~

~~Scholarship and loan funds shall be deposited, administered, and audited in accordance with Education Code 35314 and 35318.~~

~~(cf. 3400—Management of District Assets/Accounts)~~

~~(cf. 3460—Financial Reports and Accountability)~~

~~The committee may accept gifts, donations, and bequests made for the purposes of the fund. The committee also may prescribe conditions or restrictions on these gifts and bequests. The committee shall review any conditions imposed by the donor and make a recommendation to the Board as to the compatibility of such conditions with the intent and purpose of the fund. The Board may prohibit the committee from accepting any donation under conditions it finds incompatible with the fund's intents and purposes. (Education Code 35313)~~

~~(cf. 1260—Educational Foundation)~~

~~(cf. 3290—Gifts, Grants and Bequests)~~

~~Note: Education Code 35316 mandates that districts maintaining this fund adopt regulations governing applications, provided such regulations do not limit student eligibility based on any conditions listed in Education Code 220; see BP 0410—Nondiscrimination in District Activities and Programs. The following paragraph may be expanded to describe the district's application procedures, such as the deadline for the receipt of the application, materials that must be submitted with the application (e.g., letters of reference), or other criteria for consideration of an award under the fund.~~

~~The Superintendent or designee shall establish rules governing applications for scholarship and/or loans from the fund. (Education Code 35316)~~

~~(cf. 0410—Nondiscrimination in District Activities and Programs)~~

~~The Superintendent or designee shall report to the Board at least annually regarding the status and activity of the fund. (Education Code 35319)~~

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Administrative Regulation

Awards For Achievement

AR 5126

Students

The Superintendent or designee may appoint an awards committee at each school to consider student accomplishments. This committee may consist of school administrators, teachers, parents/guardians and/or community members.

The committee shall submit recommendations for student awards to the Superintendent or designee for approval.

Individual awards in excess of \$200 must be expressly approved by the Governing Board. (Education Code 44015)

Merit Diplomas

To be eligible to receive the Golden State Seal Merit Diploma upon graduation, students shall complete all requirements for a high school diploma and shall demonstrate a mastery of at least six subject areas, four of which shall be mathematics, English language arts, science and United States history, with the remaining two subject areas selected by the student. (Education Code 51451)

(cf. 6143 - Courses of Study)

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6162.52 - High School Exit Examination)

To demonstrate mastery of these subject areas, students shall achieve the standards or achievement levels established by the State Board of Education. (Education Code 51452; 5 CCR 876)

(cf. 6162.51 - Standardized Testing and Reporting Program)

The Superintendent or designee shall affix an insignia to the diploma and transcript of each student awarded the merit diploma. (Education Code 51454)

(cf. 5125 - Student Records)

Regulation CENTER UNIFIED SCHOOL DISTRICT
approved: October 6, 2004 Antelope, California

CSBA Sample Board Policy

Students

BP 5145.7(a)

SEXUAL HARASSMENT

Note: Education Code 231.5 and 34 CFR 106.9 mandate the district to have written policies on sexual harassment. The following policy addresses the harassment of and/or by students; for policy addressing the sexual harassment of employees, see BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment.

A school district can be held liable for damages in a lawsuit brought under Title IX (20 USC 1681-1688) and/or Education Code 220 for both student-to-student and employee-to-student sexual harassment. In Davis v. Monroe County Board of Education, the Supreme Court held that a district would be liable if it is "deliberately indifferent" to known student-to-student sexual harassment. The district would be deliberately indifferent if (1) it had substantial control over the harasser and the context in which the sexual harassment occurred; (2) the harassment was so severe, pervasive, and objectively offensive that it deprived the victim of access to educational opportunities or benefits provided by the district; (3) the district had actual knowledge of the harassment; and (4) the district's conduct was unreasonable considering the surrounding circumstances. These standards were applied by the Ninth Circuit Court of Appeals in Reese v. Jefferson School District, where the court concluded that the district could not be held liable since the student involved did not notify the district of any incident of harassment. In Donovan v. Poway Unified School District, an appellate court determined that the same standards applied to district liability for lawsuits brought under Education Code 220.

In addition to filing private litigation for monetary damages, an individual may file a complaint regarding discrimination or harassment with the California Department of Education and/or, if the district receives federal financial assistance, with the U.S. Department of Education's Office for Civil Rights (OCR). OCR's standards for compliance in actions of administrative enforcement under Title IX are different than the standards for liability discussed above for lawsuits. In general, those standards are based on whether the district had notice of the harassment and whether it failed to take appropriate responsive actions.

The Governing Board is committed to maintaining an educational environment that is free from harassment and discrimination. The Board prohibits sexual harassment of students by other students, employees, or other persons, at school or at school-sponsored or school-related activities. The Board also prohibits retaliatory behavior or action against persons who complain, testify, assist, or otherwise participate in district complaint processes.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

Instruction/Information

Note: In its January 2001 publication Revised Sexual Harassment Guidance, OCR states that a procedure for investigating sexual harassment complaints must be widely disseminated and written in language appropriate to the age of the school's students so that students understand how it works. Examples include having copies of the procedure available throughout the school, publishing the procedure in the student handbook, and identifying individuals who can explain how the procedure works. The following optional section is based on OCR recommendations and may be revised as desired to better accommodate student needs and district practice.

SEXUAL HARASSMENT (continued)

The Superintendent or designee shall ensure that all district students receive age-appropriate instruction and information on sexual harassment. Such instruction and information shall include:

1. What acts and behavior constitute sexual harassment, including the fact that sexual harassment could occur between people of the same sex
2. A clear message that students do not have to endure sexual harassment
3. Encouragement to report observed instances of sexual harassment, even where the victim of the harassment has not complained
4. Information about the district's procedure for investigating complaints and the person(s) to whom a report of sexual harassment should be made

(cf. 5131.5 - Vandalism, Theft and Graffiti)

(cf. 5137 - Positive School Climate)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)

Complaint Process

Note: Pursuant to Education Code 231.5, the Board's policy must contain information on where to obtain a specific procedure for reporting charges of sexual harassment and pursuing available remedies. In addition, 34 CFR 106.8 requires a district to adopt and publish a grievance procedure providing for a prompt and equitable resolution of student complaints alleging sexual harassment. Because court decisions have held that a district may be liable for student-to-student harassment if an employee with authority to take corrective action has actual knowledge of the harassment, it is recommended that the district's instruction to its students include examples of employees who may have such authority (principals, teachers, coaches, etc.). In addition, even if the matter has been referred to law enforcement for investigation, a district still has a responsibility to investigate the complaint as a matter of sex discrimination.

The accompanying administrative regulation details a site-level complaint procedure, including timelines, conduct of the investigation, and remedies. However, districts may instead consider using the Uniform Complaint Procedures, pursuant to 5 CCR 4600-4687, to resolve such complaints. See BP/AR 1312.3 - Uniform Complaint Procedures.

Any student who feels that he/she is being or has been sexually harassed by a school employee, another student, or a non-employee on school grounds or at a school-related activity (e.g., a visiting athlete or coach) shall immediately contact his/her teacher or any other employee. An employee who receives such a complaint shall report it in accordance with administrative regulation.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

SEXUAL HARASSMENT (continued)

The Superintendent or designee shall ensure that any complaints regarding sexual harassment are immediately investigated in accordance with administrative regulation. When the Superintendent or designee has determined that harassment has occurred, he/she shall take prompt, appropriate action to end the harassment and to address its effects on the victim.

Disciplinary Actions

Note: Pursuant to Education Code 48900.2, a student in grades 4-12 may be suspended and/or expelled from school for sexual harassment. However, districts should note that Education Code 48915(c) requires the Superintendent or designee to recommend expulsion for any student, irrespective of grade, who commits sexual assault or battery as defined in the Penal Code. See AR 5144.1 - Suspension and Expulsion/Due Process.

Any student who engages in sexual harassment of anyone at school or at a school-sponsored or school-related activity is in violation of this policy and shall be subject to disciplinary action. For students in grades 4-12, disciplinary action may include suspension and/or expulsion, provided that, in imposing such discipline, the entire circumstances of the incident(s) shall be taken into account.

(cf. 5131 - Conduct)

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

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

Confidentiality and Record-Keeping

Note: Pursuant to 5 CCR 4964, districts are required to keep complaints and allegations of sexual harassment confidential, except when disclosure is necessary to further the investigation, other needed remedial action, or ongoing monitoring.

All complaints and allegations of sexual harassment shall be kept confidential except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

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

(cf. 5125 - Student Records)

The Superintendent or designee shall maintain a record of all reported cases of sexual harassment to enable the district to monitor, address, and prevent repetitive harassing behavior in the schools.

SEXUAL HARASSMENT (continued)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex
48900 Grounds for suspension or expulsion
48900.2 Additional grounds for suspension or expulsion; sexual harassment
48904 Liability of parent/guardian for willful student misconduct
48980 Notice at beginning of term

CIVIL CODE

51.9 Liability for sexual harassment; business, service and professional relationships
1714.1 Liability of parents/guardians for willful misconduct of minor

GOVERNMENT CODE

12950.1 Sexual harassment training

CODE OF REGULATIONS, TITLE 5

4600-4687 Uniform Complaint Procedures
4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

1681-1688 Title IX, discrimination

UNITED STATES CODE, TITLE 42

1983 Civil action for deprivation of rights
2000d-2000d-7 Title VI, Civil Rights Act of 1964
2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended

CODE OF FEDERAL REGULATIONS, TITLE 34

106.1-106.71 Nondiscrimination on the basis of sex in education programs

COURT DECISIONS

Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567
Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130
Reese v. Jefferson School District, (2001, 9th Cir.) 208 F.3d 736
Davis v. Monroe County Board of Education, (1999) 526 U.S. 629
Gebser v. Lago Vista Independent School District, (1998) 524 U.S. 274
Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473
Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447

Management Resources:

OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Sexual Harassment: It's Not Academic, September 2008
Revised Sexual Harassment Guidance, January 2001

WEB SITES

California Department of Education: <http://www.cde.ca.gov>
U.S. Department of Education, Office for Civil Rights:
<http://www.ed.gov/about/offices/list/ocr/index.html>

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Board Policy

Sexual Harassment

BP 5145.7

Students

The Governing Board is committed to maintaining a school environment that is free from harassment. The Board prohibits sexual harassment of any student by another student, an employee or other person, at school or at a school-sponsored or school-related activity. The Board also prohibits retaliatory behavior or action against any person who complains, testifies, assists or otherwise participates in the complaint process established in accordance with this policy.

Any student who engages in sexual harassment of anyone at school or at a school-sponsored or school-related activity is in violation of this policy and shall be subject to disciplinary action. For students in grades 4 through 12, disciplinary action may include suspension and/or expulsion, provided that in imposing such discipline the entire circumstances of the incident(s) shall be taken into account. Such circumstances shall include but are not limited to:

1. Age and maturity of the victim and the perpetrator
2. Pervasiveness of the alleged harassing conduct (i.e., how many times the act(s) occurred, how many individuals were involved, etc.)
3. Prior complaints against the perpetrator

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

The Superintendent or designee shall ensure that all district students receive age-appropriate instruction and information on sexual harassment. Such instruction and information shall include:

1. What acts and behavior constitute sexual harassment, including the fact that sexual harassment could occur between people of the same gender
2. A clear message that students do not have to endure sexual harassment. Students should be encouraged to report observed instances of sexual harassment, even where the victim of the harassment has not complained
3. Information about the person(s) to whom a report of sexual harassment should be made.

(cf. 5131.5 - Vandalism, Theft and Graffiti)

(cf. 5137 - Positive School Climate)
(cf. 5141.41 - Child Abuse Prevention)
(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 6142.1 - Family Life/Sex Education)

Any student who feels that he/she is being or has been subjected to sexual harassment shall immediately contact a school employee. A school employee to whom a complaint is made shall, within 24 hours of his/her getting the complaint, report it to the principal or designee. Any school employee who observes any incident of sexual harassment on any student shall similarly report his/her observation to the principal or designee, whether or not the victim makes a complaint. If the alleged harasser is the principal or designee, the employee may report the complaint or his/her observation of the incident to the Superintendent or designee who shall investigate the complaint.

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)
(cf. 5141.4 - Child Abuse Reporting Procedures)

The principal or designee to whom a complaint of sexual harassment is reported shall immediately investigate the complaint. Where the principal or designee finds that sexual harassment occurred, he/she shall take prompt, appropriate action to end the harassment and address its effects on the victim. The principal or designee shall also advise the victim of any other remedies that may be available. The principal or designee shall file a report with the Superintendent or designee and refer the matter to law enforcement authorities, where necessary. In addition, the student may file a formal complaint with the Superintendent or designee in accordance with the district's uniform complaint procedures.

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 1312.3 - Uniform Complaint Procedures)

The Superintendent or designee shall maintain a record of all reported cases of sexual harassment to enable the district to monitor, address and prevent repetitive harassing behavior in its schools.

Information gathered in the course of investigating a sexual harassment complaint shall be kept confidential to the extent possible.

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

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

48900.2 Additional grounds for suspension or expulsion; sexual harassment

48904 Liability of parent/guardian for willful student misconduct

48980 Notice at beginning of term

CIVIL CODE

51.9 Liability for sexual harassment; business, service and professional relationships

1714.1 Liability of parents/guardians for willful misconduct of minor

UNITED STATES CODE, TITLE 20

1681-1688 Title IX, Discrimination

UNITED STATES CODE, TITLE 42

2000d-2000d-7 Title VI, Civil Rights Act of 1964

2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended

CODE OF FEDERAL REGULATIONS, TITLE 34

106.1-106.71 Nondiscrimination on the basis of sex in education programs

COURT DECISIONS

Davis v. Monroe County Board of Education (1999) No. 97-843, 1999 U.S. Lexis 3452, -
- U.S.--

Gebser v. Lago Vista Independent School District (1998) 118 S.Ct. 1989

Nabozny v. Podlesny (1996, 7th Cir.) 92 F.3d 446

Doe v. Petaluma City School District (1995, 9th Cir.) 54 F.3d 1447

Oona R.-S. etc. v. Santa Rosa City Schools et al (1995) 890 F.Supp. 1452

Rosa H. v. San Elizario Ind. School District, (W.D. Tex. 1995) 887 F. Supp. 140, 143

Clyde K. v. Puyallup School District #3 (1994) 35 F.3d 1396

Patricia H. v. Berkeley Unified School District (1993) 830 F.Supp. 1288

Franklin v. Gwinnet County Schools (1992) 112 S. Ct. 1028

Kelson v. City of Springfield, Oregon (1985, 9th Cir.) 767 F.2d 651

Management Resources:

**OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS
GENERAL**

Protecting Students from Harassment and Hate Crime: A Guide for Schools, January
1999

OFFICE OF CIVIL RIGHTS

Sexual Harassment Guidance, 62 FR 49, 1997

WEB SITES

OCR: <http://www.ed.gov/offices/OCR>

Policy CENTER UNIFIED SCHOOL DISTRICT
adopted: December 15, 1999 Antelope, California

CSBA Sample

Administrative Regulation

Students

AR 5145.7(a)

SEXUAL HARASSMENT

Note: For purposes of suspension and expulsion, Education Code 48900.2 defines sexual harassment as conduct, when considered from the perspective of a reasonable person of the same gender as the victim, that is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment. See AR 5144.1 - Suspension and Expulsion/Due Process.

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature made against another person of the same or opposite sex in the educational setting, when made on the basis of sex and under any of the following conditions: (Education Code 212.5; 5 CCR 4916)

1. Submission to the conduct is explicitly or implicitly made a term or condition of a student's academic status or progress
2. Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the student
3. The conduct has the purpose or effect of having a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment
4. Submission to or rejection of the conduct by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through any district program or activity

Note: The following list contains common examples of sexual harassment from the U.S. Department of Education Office for Civil Rights (OCR) publication Revised Sexual Harassment Guidance and definitions specified in 5 CCR 4916.

Examples of types of conduct which are prohibited in the district and which may constitute sexual harassment include, but are not limited to:

1. Unwelcome leering, sexual flirtations, or propositions
2. Unwelcome sexual slurs, epithets, threats, verbal abuse, derogatory comments, or sexually degrading descriptions
3. Graphic verbal comments about an individual's body or overly personal conversation

SEXUAL HARASSMENT (continued)

4. Sexual jokes, derogatory posters, notes, stories, cartoons, drawings, pictures, obscene gestures, or computer-generated images of a sexual nature
5. Spreading sexual rumors
6. Teasing or sexual remarks about students enrolled in a predominantly single-sex class
7. Massaging, grabbing, fondling, stroking, or brushing the body
8. Touching an individual's body or clothes in a sexual way
9. Impeding or blocking movements or any physical interference with school activities when directed at an individual on the basis of sex
10. Displaying sexually suggestive objects

School-Level Complaint Process/Grievance Procedure

Note: In its January 2001 Revised Sexual Harassment Guidance, OCR acknowledges that procedures adopted by districts to address student harassment complaints will vary considerably depending on the size of the district. OCR examines a number of factors when evaluating whether a district's grievance procedure is prompt and equitable as required by law. Items #1-8 below reflect these factors, including whether the procedure provides for notice of where to file complaints, adequate and impartial investigation of complaints, designated and reasonably prompt time frames for major stages of the complaint process, notice of the outcome of the investigation, and assurance that steps will be taken to prevent any recurrence.

While OCR's Guidance requires that the district's procedure identifies time frames for the "prompt" resolution of complaints, neither the law nor OCR delineates a specific time frame. OCR also recommends that the district's procedure include designated and reasonably prompt timelines for the major stages of the complaint process. The timelines suggested below will normally be sufficient to comply with OCR's Guidance; however, OCR acknowledges that whether a complaint is considered "prompt" may vary depending on the seriousness and complexity of the circumstances.

Pursuant to 34 CFR 106.8, the district is required to designate a person(s) responsible for the overall implementation of the requirements of Title IX, including the receipt of complaints. For language designating a district Coordinator for Nondiscrimination, see BP 5145.3 - Nondiscrimination/Harassment. Depending on the size and structure of the district, sexual harassment complaints may be investigated either by the Coordinator or principal at the applicable school site, in which case the Coordinator would be responsible for overall coordination and oversight to ensure consistency across the district.

The following **optional** grievance procedure, including any applicable timelines, is based on OCR recommendations and may be revised to reflect district practices.

1. **Notice and Receipt of Complaint:** Any student who believes he/she has been subjected to sexual harassment or who has witnessed sexual harassment may file a complaint with any school employee. Within 24 hours of receiving a complaint, the school employee shall report it to the district Coordinator for Nondiscrimination/

SEXUAL HARASSMENT (continued)

Principal. In addition, any school employee who observes any incident of sexual harassment involving a student shall, within 24 hours, report this observation to the Coordinator/Principal, whether or not the victim files a complaint.

In any case of sexual harassment involving the Coordinator/Principal to whom the complaint would ordinarily be made, the employee who receives the student's report or who observes the incident shall instead report to the Superintendent or designee.

2. **Initiation of Investigation:** The Coordinator/Principal shall initiate an impartial investigation of an allegation of sexual harassment within five school days of receiving notice of the harassing behavior, regardless of whether a formal complaint has been filed. The district shall be considered to have "notice" of the need for an investigation upon receipt of information from a student who believes he/she has been subjected to harassment, the student's parent/guardian, an employee who received a complaint from a student, or any employee or student who witnessed the behavior.

If the Coordinator/Principal receives an anonymous complaint or media report about alleged sexual harassment, he/she shall consider the specificity and reliability of the information, the seriousness of the alleged incident, and whether any individuals can be identified who were subjected to the alleged harassment in determining whether it is reasonable to pursue an investigation.

Note: According to the OCR's Guidance, while the nature and extent of the district's investigation may be limited if the student wishes to remain anonymous or decides to not file a complaint, the district must still take all feasible steps to prevent harassment of which it has notice.

3. **Initial Interview with Student:** When a student or parent/guardian has complained or provided information about sexual harassment, the Coordinator/Principal shall describe the district's grievance procedure and discuss what actions are being sought by the student in response to the complaint. The student who is complaining shall have an opportunity to describe the incident, identify witnesses who may have relevant information, provide other evidence of the harassment, and put his/her complaint in writing. If the student requests confidentiality, he/she shall be informed that such a request may limit the district's ability to investigate.
4. **Investigation Process:** The Coordinator/Principal shall keep the complaint and allegation confidential, except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

The Coordinator/Principal shall interview individuals who are relevant to the investigation, including, but not limited to, the student who is complaining, the person accused of harassment, anyone who witnessed the reported harassment, and

SEXUAL HARASSMENT (continued)

anyone mentioned as having relevant information. The Coordinator/Principal may take other steps such as reviewing any records, notes, or statements related to the harassment or visiting the location where the harassment is alleged to have taken place.

When necessary to carry out his/her investigation or to protect student safety, the Coordinator/Principal also may discuss the complaint with the Superintendent or designee, the parent/guardian of the student who complained, the parent/guardian of the alleged harasser if the alleged harasser is a student, a teacher or staff member whose knowledge of the students involved may help in determining who is telling the truth, law enforcement and/or child protective services, and district legal counsel or the district's risk manager.

(cf. 5141.4 - Child Abuse Prevention and Reporting)

5. **Interim Measures:** The Coordinator/Principal shall determine whether interim measures are necessary during and pending the results of the investigation, such as placing students in separate classes or transferring a student to a class taught by a different teacher.
6. **Optional Mediation:** In cases of student-to-student harassment, when the student who complained and the alleged harasser so agree, the Coordinator/Principal may arrange for them to resolve the complaint informally with the help of a counselor, teacher, administrator, or trained mediator. The student who complained shall never be asked to work out the problem directly with the accused person unless such help is provided and both parties agree, and he/she shall be advised of the right to end the informal process at any time.
7. **Factors in Reaching a Determination:** In reaching a decision about the complaint, the Coordinator/Principal may take into account:
 - a. Statements made by the persons identified above
 - b. The details and consistency of each person's account
 - c. Evidence of how the complaining student reacted to the incident
 - d. Evidence of any past instances of harassment by the alleged harasser
 - e. Evidence of any past harassment complaints that were found to be untrue

To judge the severity of the harassment, the Coordinator/Principal may take into consideration:

SEXUAL HARASSMENT (continued)

- a. How the misconduct affected one or more students' education
- b. The type, frequency, and duration of the misconduct
- c. The identity, age, and sex of the harasser and the student who complained, and the relationship between them
- d. The number of persons engaged in the harassing conduct and at whom the harassment was directed
- e. The size of the school, location of the incidents, and context in which they occurred
- f. Other incidents at the school involving different students

Note: In its publication Sexual Harassment: It's Not Academic, OCR states that the appropriate steps and responsive measures to remedy a violation should be tailored to the specific situation. Examples of appropriate measures might include the development of new policies, counseling, training, separating the victim and the harasser, or providing services to the student who was harassed, such as tutoring or grade adjustment.

8. **Written Report on Findings and Follow-Up:** No more than 30 days after receiving the complaint, the Coordinator/Principal shall conclude the investigation and prepare a written report of his/her findings. This timeline may be extended for good cause. If an extension is needed, the Coordinator/Principal shall notify the student who complained and explain the reasons for the extension.

The report shall include the decision and the reasons for the decision and shall summarize the steps taken during the investigation. If sexual harassment occurred, the report shall also include any corrective actions that have or will be taken to address the harassment and prevent any retaliation or further harassment. This report shall be presented to the student who complained, the person accused, the parents/guardians of the student who complained and the student who was accused, and the Superintendent or designee.

In addition, the Coordinator/Principal shall ensure that the harassed student and his/her parent/guardian are informed of the procedures for reporting any subsequent problems. The Coordinator/Principal shall also make follow-up inquiries to see if there have been any new incidents or retaliation and shall keep a record of this information.

SEXUAL HARASSMENT (continued)

Enforcement of District Policy

The Superintendent or designee shall take appropriate actions to reinforce the district's sexual harassment policy. As needed, these actions may include any of the following:

1. Removing vulgar or offending graffiti

(cf. 5131.5 - Vandalism, Theft, and Graffiti)

Note: Government Code 12950.1 requires any district with 50 or more employees to provide two hours of sexual harassment training and education to supervisory employees once every two years. See AR 4119.11/4219.11/4319.11 - Sexual Harassment.

2. Providing training to students, staff, and parents/guardians about how to recognize harassment and how to respond

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

3. Disseminating and/or summarizing the district's policy and regulation regarding sexual harassment

4. Consistent with the laws regarding the confidentiality of student and personnel records, communicating the school's response to parents/guardians and the community

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

(cf. 5125 - Student Records)

5. Taking appropriate disciplinary action

In addition, disciplinary measures may be taken against any person who is found to have made a complaint of sexual harassment which he/she knew was not true.

(cf. 4118 - Suspension/Disciplinary Action)

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

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

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

Notifications

Note: In its January 2001 Revised Sexual Harassment Guidance, OCR states that a procedure for sexual harassment complaints cannot be prompt or equitable unless it is widely disseminated and written in

SEXUAL HARASSMENT (continued)

language appropriate to the age of the school's students so that students understand how it works. Examples include having copies of the procedures available throughout the school, publishing the procedures in the student handbook, and identifying individuals who can explain how the procedure works.

A copy of the district's sexual harassment policy and regulation shall:

1. Be included in the notifications that are sent to parents/guardians at the beginning of each school year (Education Code 48980; 5 CCR 4917)

(cf. 5145.6 - Parental Notifications)

2. Be displayed in a prominent location in the main administrative building or other area where notices of district rules, regulations, procedures, and standards of conduct are posted (Education Code 231.5)
3. Be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session (Education Code 231.5)
4. Appear in any school or district publication that sets forth the school's or district's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)

Note: Items #5 and #6 below are optional.

5. Be included in the student handbook
6. Be provided to employees and employee organizations

(2/97 11/01) 3/09

Administrative Regulation

Sexual Harassment

AR 5145.7

Students

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature when: (Education Code 212.5)

1. Submission to the conduct is explicitly or implicitly made a term or condition of an individual's academic status or progress.
2. Submission to or rejection of the conduct by an individual is used as the basis for academic decisions affecting the individual.
3. The conduct has the purpose or effect of having a negative impact on the individual's academic performance, or of creating an intimidating, hostile or offensive educational environment.
4. Submission to or rejection of the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the school.

Types of conduct which are prohibited in the district and which may constitute sexual harassment include, but are not limited to:

1. Unwelcome sexual flirtations or propositions
2. Sexual slurs, leering, epithets, threats, verbal abuse, derogatory comments or sexually degrading descriptions
3. Graphic verbal comments about an individual's body, or overly personal conversation
4. Sexual jokes, notes, stories, drawings, pictures or gestures
5. Spreading sexual rumors
6. Teasing or sexual remarks about students enrolled in a predominantly single-sex class
7. Touching an individual's body or clothes in a sexual way
8. Purposefully cornering or blocking normal movements

9. Limiting a student's access to educational tools

10. Displaying sexually suggestive objects

Notifications

A copy of the district's sexual harassment policy and regulation shall:

1. Be included in the notifications that are sent to parents/guardians at the beginning of each school year (Education Code 48980)

(cf. 5145.6 - Parental Notifications)

2. Be displayed in a prominent location near each school principal's office (Education Code 212.6)

3. Be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester or summer session (Education Code 212.6)

4. Appear in any school or district publication that sets forth the school's or district's comprehensive rules, regulations, procedures and standards of conduct (Education Code 212.6)

5. Be provided to employees and employee organizations

Investigation of Complaints at School (Site-Level Grievance Procedure)

1. The principal or designee shall promptly investigate all complaints of sexual harassment. In so doing, he/she shall talk individually with:

a. The student who is complaining

b. The person accused of harassment

c. Anyone who saw the harassment take place

d. Anyone mentioned as having related information

2. The student who is complaining shall have an opportunity to describe the incident, present witnesses and other evidence of the harassment, and put his/her complaint in writing.

3. The principal or designee shall discuss the complaint only with the people described above. When necessary to carry out his/her investigation or for other good reasons that apply to the particular situation, the principal or designee also may discuss the complaint with the following persons:

- a. The Superintendent or designee
- b. The parent/guardian of the student who complained
- c. The parent/guardian of the person accused of harassing someone
- d. A teacher or staff member whose knowledge of the students involved may help in determining who is telling the truth
- e. Child protective agencies responsible for investigating child abuse reports
- f. Legal counsel for the district

(cf. 5141.41 - Child Abuse Prevention)

4. When the student who complained and the person accused of harassment so agree, the principal or designee may arrange for them to resolve the complaint informally with the help of a counselor, teacher, administrator or trained mediator. The student who complained shall never be asked to work out the problem directly with the accused person unless such help is provided.

5. The principal or designee shall tell the student who complained that he/she has the right to file a formal complaint at any time in accordance with the district's uniform complaint procedures. If the student wishes to file a formal complaint, the principal or designee shall assist the student in doing this.

(cf. 1312.3 - Uniform Complaint Procedures)

6. In reaching a decision about the complaint, the principal or designee may take into account:

- a. Statements made by the persons identified above
- b. The details and consistency of each person's account
- c. Evidence of how the complaining student reacted to the incident
- d. Evidence of past instances of harassment by the accused person
- e. Evidence of past harassment complaints that were found to be untrue

7. To judge the severity of the harassment, the principal or designee may take into consideration:

- a. How the misconduct affected one or more students' education

- b. The type, frequency and duration of the misconduct
 - c. The number of persons involved
 - d. The age and sex of the person accused of harassment
 - e. The subject(s) of harassment
 - f. The place and situation where the incident occurred
 - g. Other incidents at the school, including incidents of harassment that were not related to sex
8. The principal or designee shall write a report of his/her findings, decision, and reasons for the decision and shall present this report to the student who complained and the person accused.
9. The principal or designee shall give the Superintendent or designee a written report of the complaint and investigation. If he/she verifies that sexual harassment occurred, this report shall describe the actions he/she took to end the harassment, address the effects of the harassment on the person harassed, and prevent retaliation or further harassment.
10. Within two weeks after receiving the complaint, the principal or designee shall determine whether or not the student who complained has been further harassed. The principal or designee shall keep a record of this information and shall continue this follow-up at his/her discretion.

Enforcement

The Superintendent or designee shall take appropriate actions to reinforce the district's sexual harassment policy. As needed, these actions may include any of the following:

- 1. Removing vulgar or offending graffiti
- 2. Providing staff inservice and student instruction or counseling
- 3. Notifying parents/guardians
- 4. Notifying child protective services
- 5. Taking appropriate disciplinary action. In addition, the principal or designee may take disciplinary measures against any person who is found to have made a complaint of sexual harassment which he/she knew was not true.

Regulation CENTER UNIFIED SCHOOL DISTRICT
approved: September 24, 1997 Antelope, California

CSBA Sample

Board Policy

Students

BP 5148(a)

CHILD CARE AND DEVELOPMENT

Note: The following policy is for use by districts that choose to operate child care and development services and should be revised to reflect district practice.

Education Code 8320 authorizes districts to establish and maintain their own local programs upon the approval of, and subject to the regulations of, the Superintendent of Public Instruction. The Child Care and Development Services Act (Education Code 8200-8499.10) establishes a variety of child care programs that may be offered by districts or other local providers. These include, but are not limited to, general child care and development programs, school-age community child care services, after-school education and safety programs, 21st Century community learning centers, resource and referral programs, preschool programs, and child care and development services for migrant children and children with special needs. In addition, the California School Age Families Education (Cal-SAFE) program for pregnant and parenting students (Education Code 54740-54749) requires participating districts to make child care and development services available to the children of teen parents enrolled in the program; see AR 5148.1 - Child Care Services for Parenting Students.

AB 2759 (Ch. 308, Statutes of 2008) amended Education Code 8235-8239 to establish the California State Preschool Program (CSPP) with subsidized services to children ages 3-4 years from low-income or otherwise disadvantaged families; see BP/AR 5148.3 - Preschool/Early Childhood Education. Effective July 1, 2009, the CSPP consolidates funding and program requirements for a number of state programs, including state preschool programs (Education Code 8235-8237), prekindergarten and family literacy programs (Education Code 8238-8239), and general child care and development programs to the extent that they served children ages 3-4 (Education Code 8240-8244). However, districts that provide CSPP programs may still have a separate contract with the state for general child care and development programs serving children who are not ages 3-4 and/or children ages 3-4 who are receiving child care services outside the preschool day.

The Governing Board desires to provide child care and development services which meet the developmental needs of children, provide an opportunity for parenting students to receive assistance while continuing their education, and offer a convenient child care alternative for parents/guardians in the community.

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

(cf. 5148.1 - Child Care Services for Parenting Students)

(cf. 5148.2 - Before/After School Programs)

(cf. 5148.3 - Preschool/Early Childhood Education)

Note: Education Code 8499.3 establishes county-level child care and development planning councils, with members selected by the County Board of Supervisors and County Superintendent of Schools, to identify local priorities for child care and to develop policy to meet identified needs.

The Superintendent or designee shall work cooperatively with the local child care and development planning council, public and private agencies, parents/guardians, and other community members to assess child care needs in the community, establish program

CHILD CARE AND DEVELOPMENT (continued)

priorities, obtain ongoing feedback on program quality, and inform parents/guardians about child care options.

(cf. 1020 - Youth Services)

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

(cf. 1700 - Relations Between Private Industry and the Schools)

Note: Pursuant to 5 CCR 18271, each contractor must have a written philosophical statement, goals, and objectives, approved by the Governing Board, which address each program component specified in 5 CCR 18272-18281. See the accompanying administrative regulation for required program components.

The Board shall approve a written philosophical statement, goals, and objectives for the district's child care and development program that reflect the cultural and linguistic characteristics of the families to be served and address the program components specified in 5 CCR 18272-18281 and administrative regulation. (5 CCR 18271)

(cf. 0000 - Vision)

(cf. 0100 - Philosophy)

(cf. 0200 - Goals for the School District)

Note: 5 CCR 18105 mandates that child care providers develop written admissions policies and procedures that conform to requirements of 22 CCR 101218, as provided in the following paragraph. Provisions throughout this policy and the accompanying administrative regulation may be revised to fulfill the mandate.

Admissions policies and procedures shall include criteria designating those children whose needs can be met by the center's program and services, the ages of children who will be accepted, program activities, any supplementary services provided, any field trip provisions, any transportation arrangements, food service provisions, and a medical assessment requirement. (5 CCR 18105; 22 CCR 101218)

Note: Option 1 below is for districts that choose to limit their programs to before- and after-school child care and development services. Option 2 is for districts that choose to expand their hours of operation. Either option may be revised to reflect district practice.

~~OPTION 1: Child care and development services may be offered immediately before and after normal school hours.~~

OPTION 2: To the extent possible, child care and development services may be made available during the noninstructional school day, before and after normal school hours, during school vacations and intersessions, and on weekends to meet community needs for extended service.

(cf. 6111 - School Calendar)

(cf. 6112 - School Day)

CHILD CARE AND DEVELOPMENT (continued)

Note: The district may select or revise one of the options below to reflect the age or grade levels served by the district's program(s). Option 1 reflects grade-level requirements for state-funded extended day care programs pursuant to 5 CCR 18000 and after-school education and safety programs pursuant to Education Code 8482.3. Option 2 reflects the purposes of the Child Care and Development Services Act as described in Education Code 8201 and the definitions of child care programs contained in Education Code 8208.

OPTION 1: ~~These services shall be available to school-age children in grades K-9.~~

OPTION 2: These services shall be available to infants and children up to age 13.

Note: Education Code 8263 and 5 CCR 18106 establish eligibility criteria and priorities for subsidized child care and development services, as provided below and in the accompanying administrative regulation.

The Superintendent or designee shall ensure that subsidized child care is provided to eligible families to the extent that state and/or federal funding is available and shall establish enrollment priorities in accordance with Education Code 8263 and 5 CCR 18106.

Note: The following paragraph is optional and may be revised to reflect any district-established priorities for non-subsidized services.

In addition to priorities for subsidized services, priority for admissions shall be given to district students and children of district employees.

(cf. 5111.1 - District Residency)

Note: The Commission on Teacher Credentialing issues permits for child development program directors, site supervisors, master teachers, teachers, associate teachers, and assistants pursuant to criteria established in Education Code 8360-8370 and 5 CCR 80105-80125.

The Superintendent or designee shall ensure that individuals working in child care and development programs have the necessary qualifications and have satisfied all legal requirements.

(cf. 1240 - Volunteer Assistance)

(cf. 4112.2 - Certification)

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

(cf. 4112.5/4312.5 - Criminal Record Check)

(cf. 4131 - Staff Development)

(cf. 4212.5 - Criminal Record Check)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Note: 5 CCR 18279-18281 require child care and development programs to be evaluated through the standardized "Desired Results for Children and Families" system developed by California Department of Education (CDE). The system requires a program evaluation that includes, but is not limited to, an

CHILD CARE AND DEVELOPMENT (continued)

assessment by staff and board members, a parent survey, and an environment rating scale using instruments selected by the CDE; see the accompanying administrative regulation.

The Superintendent or designee shall develop and implement an annual plan for evaluation of the district's child care services which conforms to state requirements. Based on the results of the evaluation, the program shall be modified as necessary to address any areas identified as needing improvement. (5 CCR 18279)

(cf. 0500 - Accountability)

Legal Reference:

EDUCATION CODE

8200-8499.10 *Child Care and Development Services Act, including:*
 8200-8209 *General provisions for child care and development services*
 8210-8216 *Resource and referral program*
 8220-8226 *Alternative payment program*
 8230-8233 *Migrant child care and development program*
 8235-8239 *California state preschool program*
 8240-8244 *General child care programs*
 8250-8252 *Programs for children with special needs*
 8263 *Eligibility and priorities for subsidized child development services*
 8360-8370 *Personnel qualifications*
 8400-8409 *Contracts*
 8460-8480 *School-age community child care services*
 8482-8484.6 *After-school education and safety program*
 8484.7-8484.8 *21st Century community learning centers*
 8485-8488 *Child supervision programs*
 8493-8498 *Facilities*
 8499-8499.7 *Local planning councils*
 17609-17610 *Integrated pest management, applicability to child care facilities*
 49540-49546 *Child care food program*
 49570 *National School Lunch program*
 54740-54749.5 *Cal-SAFE program for pregnant/parenting students and their children*
 56244 *Staff development funding*

HEALTH AND SAFETY CODE

1596.70-1596.895 *California Child Day Care Act*
 1596.90-1597.21 *Day care centers*
 120325-120380 *Immunization requirements*

CODE OF REGULATIONS, TITLE 5

18000-18434 *Child care and development programs, especially:*
 18012-18122 *General requirements*
 18180-18192 *Federal and state migrant programs*
 18200-18207 *School-age community child care services program*
 18210-18213 *Severely handicapped program*
 18220-18231 *Alternative payment program*

Legal Reference continued: (see next page)

CHILD CARE AND DEVELOPMENT (continued)

Legal Reference: (continued)

CODE OF REGULATIONS, TITLE 5 (continued)

18240-18248 Resource and referral program

18270-18281 Program quality, accountability

18290-18292 Staffing ratios

18295 Waiver of qualifications for site supervisor

18300-18308 Appeals and dispute resolution

CODE OF REGULATIONS, TITLE 22

101151-101239.2 General requirements, licensed child care centers, including:

101151-101163 Licensing and application procedures

101212-101231 Continuing requirements

101237-101239.2 Facilities and equipment

UNITED STATES CODE, TITLE 42

1751-1769 School lunch programs

9831-9852 Head Start programs

9858-9858q Child care and development block grant

CODE OF FEDERAL REGULATIONS, TITLE 7

210.1-210.31 National School Lunch program

CODE OF FEDERAL REGULATIONS, TITLE 45

98.2-98.93 Child care and development fund

COURT DECISIONS

CBS Inc. v. The Superior Court of Los Angeles County, State Department of Social Services, (2001) 91 Cal.App.4th 892

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Infant/Toddler Learning and Development Program Guidelines, 2006

Program Quality Standards and Standards Based on Exemplary Practice for Center-Based Programs and Family Child Care Home Networks, October 2004

CALIFORNIA DEPARTMENT OF EDUCATION MANAGEMENT BULLETINS

01-06 The Desired Results for Children and Families System, May 31, 2001

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

Child Development Permit Professional Growth Manual, July 2008

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Good Start, Grow Smart, April 2002

America's Families, September 2000

WEB SITES

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

California Association for the Education of Young Children: <http://www.caeyc.org>

California Department of Education, Child Development: <http://www.cde.ca.gov/sp/cd>

California Department of Social Services: <http://www.cdss.ca.gov>

California Head Start Association: <http://caheadstart.org>

California School-Age Consortium: <http://calsac.org>

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

National Association for the Education of Young Children: <http://www.naeyc.org>

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

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Board Policy

Child Care And Development

BP 5148

Students

The Governing Board desires to provide child care and development services which meet the developmental needs of children, provide an opportunity for parenting students to receive assistance while continuing their education, and offer a convenient child care alternative for parents/guardians in the community.

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

(cf. 5148.1 - Child Care Services for Parenting Students)

(cf. 6300 - Preschool/Early Childhood Education)

The Superintendent or designee shall work cooperatively with the local child care and development planning council, public and private agencies, parents/guardians, and other community members to assess child care needs in the community, establish program priorities, obtain ongoing feedback on program quality, and inform parents/guardians about child care options.

(cf. 1020 - Youth Services)

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

(cf. 1700 - Relations Between Private Industry and the Schools)

To the extent possible, child care and development services may be made available during the regular school day, before and after normal school hours, during school vacations and intersessions, and on weekends to meet community needs for extended service.

These services shall be available to infants and children up to age 13.

The Superintendent or designee shall ensure that subsidized child care is provided to eligible families to the extent that state and/or federal funding is available and shall establish admissions priorities in accordance with Education Code 8263 and 5 CCR 18106. In addition to priorities for subsidized care, priority for admissions shall be given to district students and children of district employees.

(cf. 5111.1 - District Residency)

The Superintendent or designee shall ensure that individuals working in child care and development programs have the necessary qualifications and have satisfied all legal requirements.

(cf. 1240 - Volunteer Assistance)
(cf. 4112.2 - Certification)
(cf. 4112.4/4212.4/4312.4 - Health Examinations)
(cf. 4112.5/4312.5 - Criminal Record Check)
(cf. 4212.5 - Criminal Record Check)

The Superintendent or designee shall develop and implement an annual plan for evaluation of the district's child care services which conforms to state requirements. (5 CCR 18279)

Legal Reference:

EDUCATION CODE

8200-8499.10 Child Care and Development Services Act, including:
8200-8209 General provisions for child care and development services
8210-8216 Resource and referral program
8220-8226 Alternative payment program
8228 Child care voucher for parents deployed to Iraq
8230-8233 Migrant child care and development program
8235-8237 State preschool program
8240-8244 General child care programs
8250-8252 Programs for children with special needs
8263 Eligibility and priorities for subsidized child development services
8340-8346 Individualized county child care subsidy plan, San Mateo County
8350-8359.1 Programs for Cal WORKs recipients
8360-8370 Personnel qualifications
8400-8409 Contracts
8460-8480 School-age community child care services
8482-8484.6 After-school education and safety program
8484.7-8484.8 21st Century community learning centers
8485-8488 Child supervision programs
8488.5-8489.9 Six By Six before- and after-school program
8493-8498 Facilities
8499-8499.7 Local planning councils
8499.10 Head Start
17264 New construction; accommodation of before- and after-school programs
49540-49546 Child care food program
49570 National School Lunch program
54740-54749.5 Cal-SAFE program for pregnant/parenting students and their children
56244 Staff development funding

HEALTH AND SAFETY CODE

1596.70-1596.895 California Child Day Care Act
1596.90-1597.21 Day care centers
120325-120380 Immunization requirements

CODE OF REGULATIONS, TITLE 5

18000-18122 General provisions, general child care programs

18130-18136 State preschool programs
18180-18192 Federal and state migrant programs
18200-18207 School-age community child care services program
18210-18213 Severely handicapped program
18220-18231 Alternative payment program
18240-18248 Resource and referral program
18270-18281 Program quality, accountability
18290-18292 Staffing ratios
18295 Waiver of qualifications for site supervisor
18300-18308 Appeals and dispute resolution
18400-18405 CalWORKS child care services
CODE OF REGULATIONS, TITLE 22
101151-101239.2 General requirements, licensed child care centers, including:
101151-101163 Licensing and application procedures
101212-101231 Continuing requirements
101237-101239.2 Facilities and equipment
UNITED STATES CODE, TITLE 42
1751-1769 School lunch programs
9831-9852 Head Start programs
9858-9858q Child care and development block grant
CODE OF FEDERAL REGULATIONS, TITLE 7
210.1-210.31 National School Lunch program
CODE OF FEDERAL REGULATIONS, TITLE 45
98.2-98.93 Child care and development fund
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CBS Inc. v. The Superior Court of Los Angeles County, State Department of Social Services, (2001) 91 Cal.App.4th 892

Management Resources:

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01-06 The Desired Results for Children and Families System, May 31, 2001

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

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Good Start, Grow Smart, April 2002

WEB SITES

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

California Association for the Education of Young Children: <http://www.caeyc.org>

California Department of Education, Child Development: <http://www.cde.ca.gov/sp/cd>
California Department of Social Services: <http://www.dss.ca.gov>
Commission on Teacher Credentialing:
http://www.ctc.ca.gov/credentialinfo/topics/child_dev.html
National AfterSchool Association: <http://www.nsaca.org>
National Association for the Education of Young Children: <http://www.naeyc.org>
National School Boards Association: <http://www.nsba.org>
U.S. Department of Education: <http://www.ed.gov>

Policy CENTER UNIFIED SCHOOL DISTRICT
adopted: May 18, 2005 Antelope, California

CSBA Sample Administrative Regulation

Students

AR 5148(a)

CHILD CARE AND DEVELOPMENT

Note: The following administrative regulation reflects provisions generally applicable to programs under the Child Care and Development Services Act (Education Code 8200-8499.7). The district may revise this regulation to reflect specific requirements for the program(s) it offers. Also see AR 5148.3 - Preschool/Early Childhood Education for requirements pertaining to the California State Preschool Program (CSPP) (Education Code 8235-8239, as amended by AB 2759, Ch. 308, Statutes of 2008), which consolidates a number of preschool and child care and development programs for children ages 3-4 years.

The following administrative regulation does not reflect all policy language mandated for each specific program. For example, 5 CCR 18221 mandates a written policy statement for alternative payment programs that includes specified components, including, but not limited to, program purpose, enrollment priorities, reimbursement of providers, and parent fee collection. For resource and referral programs, 5 CCR 18244 mandates written referral policies and written complaint procedures with specified content. **The district should be careful to reflect the mandates, if any, applicable to the program(s) it offers.**

In addition to the program requirements described below, child care and development programs may be subject to other policies contained throughout the district's policy manual. For example, see AR 3514.2 - Integrated Pest Management, BP/AR 1240 - Volunteer Assistance, and food safety standards and nutrition requirements in BP/AR 3550 - Food Service/Child Nutrition Program. Districts should consult legal counsel if they have questions regarding the applicability of other laws to the district's programs.

Licensing

Note: Health and Safety Code 1596.792 and 22 CCR 101158 list exemptions from licensure requirements, including, but not limited to, exemptions for any program that (1) is a "public recreation program" that meets specified criteria; (2) is an extended day care program; (3) is a school parenting program or adult education child care program; (4) operates only one day per week for no more than four hours on that day; (5) offers temporary child care services to parents/guardians who are on the same premises as the child care site; or (6) provides activities that are of an instructional nature in a classroom-like setting when K-12 students are normally not in session and the sessions do not exceed a total of 30 days when only school-age children are enrolled or 15 days when younger children are enrolled. If the district offers only programs that are exempted from licensure, it should modify the following regulation accordingly.

All district child care and development services shall be licensed by the California Department of Social Services, unless exempted pursuant to Health and Safety Code 1596.792 or 22 CCR 101158.

The license shall be posted in a prominent, publicly accessible location in the facility. (Health and Safety Code 1596.8555)

Note: The Department of Social Services has the authority to conduct investigations and evaluations of licensed child care centers. AB 978 (Ch. 291, Statutes of 2008) added and amended Health and Safety Code 1596.818, 1596.8867, 1596.8899, 1596.98, and 1596.99 to impose additional inspection requirements for child day care facilities, including expanding the list of serious violations warranting civil penalties and requiring a licensee's plan of correction to be verifiable and measurable.

CHILD CARE AND DEVELOPMENT (continued)

Licensed child care centers shall be subject to the requirements of Health and Safety Code 1596.70-1597.21 and 22 CCR 101151-101239.2.

Program Components

Note: Items #1-8 below list components of child care and development programs required pursuant to 5 CCR 18272-18281 for all providers. 5 CCR 18271 requires the Governing Board to approve goals and objectives addressing each of these program components; see the accompanying Board policy. The district may add specific components of other programs offered by the district.

The district's child care and development program shall include the following components:

1. A developmental profile recording each child's physical, cognitive, social, and emotional development which shall be used to plan and conduct age- and developmentally appropriate activities (Education Code 8203.5; 5 CCR 18272)

Note: In completing the developmental profile, program staff is required to use the California Department of Education's (CDE) "Desired Results Developmental Profile" form that is appropriate to the age of the children being served. 5 CCR 18272, as amended by Register 2008, No. 29, revises the schedule for completing the developmental profile, as provided below.

Program staff shall complete the "Desired Results Developmental Profile," available from the California Department of Education (CDE), for each child who is enrolled in the program for at least 10 hours per week and for any child with disabilities regardless of the number of hours enrolled. The profile shall be completed within 60 days of enrollment and at least once every six months thereafter for children of all ages. (Education Code 8203.5; 5 CCR 18270.5, 18272)

2. An educational program which complies with 5 CCR 18273, including the provision of services that are developmentally, linguistically, and culturally appropriate and inclusive of children with special needs

(cf. 5148.2 - Before/After School Programs)
(cf. 5148.3 - Preschool/Early Childhood Education)
(cf. 6159 - Individualized Education Program)
(cf. 6164.4 - Identification of Individuals for Special Education)
(cf. 6164.6 - Identification and Education Under Section 504)
(cf. 6174 - Education for English Language Learners)

3. A staff development program which complies with 5 CCR 18274

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

CHILD CARE AND DEVELOPMENT (continued)

4. Parent/guardian involvement and education which comply with 5 CCR 18275 and involve parents/guardians through an orientation, at least two individual conferences per year, meetings with program staff, an advisory committee, participation in daily activities, and information regarding their child's progress

(cf. 6020 - Parent Involvement)

5. A health and social services component which complies with 5 CCR 18276 and includes referrals to appropriate community agencies as needed

(cf. 1020 - Youth Services)

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

(cf. 5141 - Health Care and Emergencies)

(cf. 5141.23 - Asthma Management)

(cf. 5141.6 - School Health Services)

6. A community involvement component which complies with 5 CCR 18277

7. A nutrition component which ensures that children in the program have nutritious meals and snacks that meet federal guidelines for child care programs or the National School Lunch program (5 CCR 18278)

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

(cf. 5030 - Student Wellness)

Note: 5 CCR 18279-18281 require an annual evaluation using the standardized "Desired Results for Children and Families" system developed by the CDE. The system requires a self-evaluation that includes, but is not limited to, an assessment of the program by staff and the Board, a parent survey, and an environment rating scale using forms selected by the CDE. Each contractor is required to submit a summary of the self-evaluation findings to the CDE by June 1 of each year. In addition, every three years, the CDE conducts a Categorical Program Monitoring/Contract Monitoring Review (CPM/CMR) process with each contract agency which reviews compliance with program requirements. The CPM/CMR instrument is available on the CDE's web site.

8. An annual plan for program evaluation which conforms with the state's "Desired Results for Children and Families" system and includes, but is not limited to, a self-evaluation, parent survey, and environment rating scale using forms provided by the CDE (5 CCR 18270.5, 18279, 18280)

(cf. 0500 - Accountability)

Staffing Ratios

The district's child care and development program shall maintain at least the minimum adult-child and teacher-child ratios specified in 5 CCR 18290-18292 based on the ages of the children served.

CHILD CARE AND DEVELOPMENT (continued)**Enrollment**

The district's child care and development services shall accord equal treatment and access to services in accordance with law.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 5145.3 - Nondiscrimination/Harassment)

~~Note: The following paragraph is optional. Pursuant to Education Code 8499.5, the county child care and development planning council in each county has established a "centralized eligibility list" which allows subsidized child development providers to identify eligible children. Families are ranked by eligibility factors for subsidized care (e.g., income, family size, and need), not just time on the list. As a condition of receiving state funding, the provider must refer to this list to fill any vacancies.~~

~~The Superintendent or designee shall refer to the county's centralized eligibility list to identify children in need of services.~~

~~Children shall be eligible for subsidized child care and development services when both of the following conditions are met: (Education Code 8250, 8263, 8263.1, 54745; 5 CCR 18110)~~

~~1. The family meets one or more of the following criteria:~~

- ~~a. Is a current aid recipient~~
- ~~b. Is income eligible~~
- ~~c. Is homeless~~

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

- ~~d. Has children who have been identified as being abused, neglected, or exploited or at risk of being abused, neglected, or exploited~~

~~2. The family demonstrates need for the services due to any of the following circumstances:~~

- ~~a. The child is identified by a legal, medical, or social services agency or emergency shelter as a recipient of protective services; as being neglected, abused, or exploited; or as at risk of being neglected, abused, or exploited.~~
- ~~b. The parents/guardians are engaged in vocational training leading directly to a recognized trade, paraprofession, or profession; are employed or seeking employment; are seeking permanent family housing; or are incapacitated.~~

CHILD CARE AND DEVELOPMENT (continued)

~~First priority for enrollment shall be given to neglected or abused children who are recipients of child protective services, or children who are at risk of being neglected or abused, upon written referral from a legal, medical, or social services agency. If unable to enroll a child in this category, the district shall refer the child's parent/guardian to local resource and referral services so that services for the child can be located. (Education Code 8263)~~

~~Second priority for enrollment shall be given equally to eligible families, regardless of the number of parents/guardians in the home, who are income eligible. Families with the lowest gross monthly income in relation to family size shall be admitted first. If two or more families are in the same priority in relation to income, the family that has a child with disabilities shall be admitted first or, if there is no child with disabilities, the family that has been on the waiting list for the longest time shall be admitted first. (Education Code 8263)~~

~~Note: The following optional paragraph may be revised to reflect additional enrollment priorities or criteria established by the district; also see the accompanying Board policy.~~

~~When all such eligible children are enrolled, the district may enroll children from families who do not qualify for subsidized services but who meet the age requirements of the program, giving priority to district students and children of district employees. The Superintendent or designee shall establish a waiting list of such children in the event that applications exceed program capacity.~~

~~(cf. 5111.1 - District Residency)~~

~~The district's decision to approve or deny services shall be communicated to the family through a written notice mailed or delivered within 30 days from the date the application is signed by the parent/guardian. If services are approved, the notice shall contain the basis of eligibility, daily/hourly fee, if applicable, duration of the eligibility, names of children approved to receive services, and the hours of service approved for each day. If services are denied, the notice shall contain the basis of denial and instructions on how the parents/guardians may request a hearing in accordance with the procedures specified in 5 CCR 18120 and 18121 if they do not agree with the district's decision. (5 CCR 18094, 18118)~~

Fees

~~Note: Education Code 8235, 8250, 8263, and 54745 and 5 CCR 18110 prohibit districts from assessing fees for children enrolled in a program for severely disabled children, part-day CSPP program, federally based migrant program, or California School Age Families Education (Cal-SAFE) program. Districts may revise the following paragraph to reflect any such program(s) offered by the district.~~

No fees shall be assessed for families whose children are participating in programs prohibited by law from assessing fees.

CHILD CARE AND DEVELOPMENT (continued)

Note: Districts that offer only programs prohibited from charging fees should delete the remainder of this section.

The Superintendent or designee may charge fees for services according to the fee schedule established by the Superintendent of Public Instruction, the actual cost of services, or the maximum daily/hourly rate specified in the contract, whichever is least. (Education Code 8263; 5 CCR 18108, 18109)

Families receiving services on the basis of having a child at risk of abuse, neglect, or exploitation may be exempt from these fees for up to three months. Families receiving services on the basis of having a child receiving child protective services, or having a certification by a county child welfare agency that child care services continue to be necessary, may be exempt from these fees for up to 12 months. The cumulative period of exemption from these fees for these families shall not exceed 12 months. (Education Code 8263)

Note: 5 CCR 18114 mandates that child care providers adopt a policy for the collection of fees in advance of providing services, as provided below. 5 CCR 18114 contains an alternative definition of delinquency for alternative payment programs offered pursuant to Education Code 8220-8224.

Fees shall be collected prior to providing services and shall be considered delinquent after seven days from the date that fees are due. Parents/guardians shall be notified in the event that fees are delinquent. If a reasonable plan for payment of the delinquent fees has not been provided by the parents/guardians, services shall be terminated if all delinquent fees are not paid within two weeks of such notification. Parents/guardians shall receive a copy of the district's regulations regarding fee collection at the time of initial enrollment into the program. (5 CCR 18114, 18115)

Note: The following paragraph is for use by districts that wish to require parents/guardians to provide diapers and/or to pay the costs of field trips (unless the program is exempt from fees) and may be modified to delete diapers as appropriate for the age of the children served. Education Code 8263 mandates that such districts have a written policy which includes parents in the decision-making process.

The Superintendent or designee shall establish a process which includes parents/guardians in determining whether and how much to charge parents/guardians for field trip expenses. This process also shall be used to determine whether to require parents/guardians to provide diapers. (Education Code 8263)

Health Examination

A physical examination and evaluation, including age-appropriate immunization, shall be required prior to or within six weeks of enrollment, unless the parent/guardian submits a letter stating that such examination is contrary to his/her religious beliefs. (Education Code 8263)

CHILD CARE AND DEVELOPMENT (continued)

(cf. 5141.22 - Infectious Diseases)

(cf. 5141.3 - Health Examinations)

(cf. 5141.31 - Immunizations)

Attendance

Sign-in and sign-out sheets shall be used daily for all children for attendance accounting purposes. Attendance records shall include verification of excused absences, including the child's name, date(s) of absence, specific reason for absence and signature of parent/guardian or district representative. (5 CCR 18065, 18066)

Absences shall be excused for the following reasons:

1. Illness or quarantine of the child or of the parent/guardian (Education Code 8208)
2. Family emergency (Education Code 8208)

Note: 5 CCR 18066 mandates that providers adopt policies delineating circumstances constituting an excused absence for a family emergency. The following paragraph may be revised to reflect district practice.

A family emergency shall be considered to exist when unforeseen circumstances cause the need for immediate action, such as may occur in the event of a natural disaster or when a member of the child's immediate family dies, has an accident, or is required to appear in court.

3. Time spent with a parent/guardian or other relative as required by a court of law (Education Code 8208)
4. Time spent with a parent/guardian or other relative which is clearly in the best interest of the child (Education Code 8208)

Note: 5 CCR 18066 mandates a policy that delineates circumstances constituting an excused absence "in the best interest of the child." The following paragraph may be revised to reflect district practice.

An absence shall be considered to be in the best interest of the child when the time is spent with the child's parent/guardian or other relative for reasons deemed justifiable by the program coordinator or site supervisor.

Except for children who are recipients of protective services or at risk of abuse or neglect, excused absences in the best interest of the child shall be limited to 10 days during the contract period. (5 CCR 18066)

Note: 5 CCR 18066 mandates that providers adopt a policy governing unexcused absences which may include reasonable limitations, if any. The following paragraph may be revised to reflect district practice.

CHILD CARE AND DEVELOPMENT (continued)

Any absence due to a reason other than the above, or without the required verification, shall be considered an unexcused absence. After three unexcused absences during the year, the program coordinator or site supervisor shall notify the parents/guardians. Children who continue to have excessive unexcused absences may be removed from the program at the discretion of the program coordinator in order to accommodate other families on the waiting list for admission.

Parents/guardians shall be notified of the policies and procedures related to excused and unexcused absences for child care and development services. (5 CCR 18066)

(cf. 5145.6 - Parent Notifications)

Rights of Parents/Guardians

Note: The following section is for use by districts that operate one or more licensed child care centers (see "Licensing" section above) but may be used by license-exempt providers.

At the time a child is accepted into a licensed child care and development center, the child's parent/guardian or authorized representative shall be notified of his/her rights as specified in 22 CCR 101218.1, including, but not limited to, the right to enter and inspect the child care facility and the right to be informed, upon request, of the name and type of association to the center of any adult who has been granted a criminal record exemption. (Health and Safety Code 1596.857; 22 CCR 101218.1)

The written notice of parent/guardian rights also shall be permanently posted within the facility in a location accessible to parents/guardians. Notwithstanding these rights, access to the facility may be denied to an adult whose behavior presents a risk to children present in the facility or to noncustodial parents/guardians when so requested by the responsible parent/guardian. (Health and Safety Code 1596.857)

Records

The Superintendent or designee shall establish and maintain a basic data file for each family receiving child care and development services containing the data specified in 5 CCR 18081.

(11/02 3/05) 3/09

Administrative Regulation

Child Care And Development

AR 5148
Students

Licensing

All district child care and development services shall be licensed by the California Department of Social Services, unless exempted pursuant to Health and Safety Code 1596.792 or 22 CCR 101158.

The license shall be posted in a prominent, publicly accessible location in the facility. (Health and Safety Code 1596.8555)

Licensed child care centers shall be subject to the requirements of Health and Safety Code 1596.70-1597.21 and 22 CCR 101151-101239.2.

Program Components

The district's child care and development program shall include but not be limited to:

1. An educational program which: (5 CCR 18273)
 - a. Is developmentally, linguistically and culturally appropriate
 - b. Is inclusive of children with special needs
 - c. Encourages respect for others
 - d. Supports children's physical, cognitive, language, social and emotional development
 - e. Promotes and maintains practices that are healthy and safe(cf. 6300 - Preschool/Early Childhood Education)
2. A staff development program which: (5 CCR 18274)
 - a. Identifies training needs
 - b. Provides written job descriptions
 - c. Provides an orientation plan for new employees

- d. Provides staff development opportunities related to the functions in each employee's job description and identified training needs
- e. Provides for annual written performance evaluations, unless a different frequency is specified in a collective bargaining agreement
- f. Provides each staff member with information necessary to perform his/her duties

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

3. Parent/guardian involvement and education, including: (5 CCR 18275)

- a. An orientation for parents/guardians
- b. At least two individual conferences per year
- c. Parent/guardian meetings with program staff
- d. An open-door policy that encourages parents/guardians to participate in the daily activities whenever possible
- e. A parent/guardian advisory committee to advise the district on issues related to services to families and children
- f. Sharing of information regarding children's progress

4. A health and social services component which: (5 CCR 18276)

- a. Identifies the needs of the child and the family for health or social services
- b. Refers a child and/or family to appropriate agencies in the community as needed
- c. Conducts follow-up procedures with the parent/guardian to ensure that the needs have been met

(cf. 5141.6 - Student Health and Social Services)

5. A community involvement component which includes soliciting community support and providing information to the community regarding available services (5 CCR 18277)

6. A nutrition component which ensures that children in the program have nutritious meals and snacks that meet federal guidelines for child care programs or the National

School Lunch program (5 CCR 18278)

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

(cf. 5030 - Student Wellness)

Staffing Ratios

The child care and development program shall maintain at least the minimum adult-child and teacher-child ratios specified in 5 CCR 18290-18292.

Admissions

Admissions policies shall include criteria designating those children whose needs can be met by the center's program and services, the ages of children who will be accepted, program activities, any supplementary services provided, any field trip provisions, any transportation arrangements, food service provisions and a medical assessment requirement. (5 CCR 18105; 22 CCR 101218)

Child care and development services shall accord equal treatment and access to services in accordance with law.

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

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 6159 - Individualized Education Program)

(cf. 6164.4 - Identification of Individuals for Special Education)

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

A physical examination and evaluation, including age-appropriate immunization, shall be required prior to or within six weeks of enrollment, unless the parent/guardian submits a letter stating that such examination is contrary to his/her religious beliefs. (Education Code 8263)

(cf. 5141.22 - Infectious Diseases)

(cf. 5141.3 - Health Examinations)

(cf. 5141.31 - Immunizations)

Fees

Fees may be charged according to the fee schedule established by the Superintendent of Public Instruction, the actual cost of services or the maximum daily/hourly rate specified in the contract, whichever is least. (Education Code 8263; 5 CCR 18108, 18109)

No fees shall be assessed for families whose income level, in relation to family size, is less than the first entry in the fee schedule, whose children are enrolled because of a need for child protective services, or whose children are participating in programs prohibited by law from assessing fees. Eligibility for subsidized child care and development

services shall be determined in accordance with Education Code 8263. (Education Code 8250, 8263, 54745; 5 CCR 18110)

(cf. 5148.1 - Child Care Services for Parenting Students)

Fees shall be collected prior to providing services and shall be considered delinquent after seven days from the date that fees are due. Parents/guardians shall be notified in the event that fees are delinquent. If a reasonable plan for payment of the delinquent fees has not been provided by the parents/guardians, services shall be terminated if all delinquent fees are not paid within two weeks of such notification. Parents/guardians shall receive a copy of the district's regulations regarding fee collection at the time of initial enrollment into the program. (5 CCR 18114, 18115)

The Superintendent or designee shall establish a process which includes parents/guardians in determining whether and how much to charge parents/guardians for field trip expenses. This process also shall be used to determine whether to require parents/guardians to provide diapers. (Education Code 8263)

Attendance

Sign-in and sign-out sheets shall be used daily for all children for attendance accounting purposes. (5 CCR 18065)

Attendance records shall include verification of excused absences, including the child's name, date(s) of absence, specific reason for absence and signature of parent/guardian or district representative. (5 CCR 18066)

Absences shall be excused for the following reasons:

1. Illness or quarantine of the child or of the parent/guardian (Education Code 8208)
2. Family emergency (Education Code 8208)

A family emergency shall be considered to exist when unforeseen circumstances cause the need for immediate action, such as may occur in the event of a natural disaster or when a member of the child's immediate family dies, has an accident or is required to appear in court.

3. Time spent with a parent/guardian or other relative as required by a court of law (Education Code 8208)
4. Time spent with a parent/guardian or other relative which is clearly in the best interest of the child (Education Code 8208)

An absence shall be considered to be in the best interest of the child when the time is spent with the child's parent/guardian or other relative for reasons deemed justifiable by

the program coordinator or site supervisor.

Except for children who are recipients of protective services or at risk of abuse or neglect, excused absences in the best interest of the child shall be limited to 10 days during the contract period. (5 CCR 18066)

Any absence due to a reason other than the above, or without the required verification, shall be considered an unexcused absence. After three unexcused absences during the year, the program coordinator or site supervisor shall notify the parents/guardians. Children who continue to have excessive unexcused absences may be removed from the program at the discretion of the program coordinator in order to accommodate other families on the waiting list for admission.

Parents/guardians shall be notified of the policies and procedures related to excused and unexcused absences for child care and development services. (5 CCR 18066)

(cf. 5145.6 - Parent Notifications)

Rights of Parents/Guardians

At the time a child is accepted into a licensed child care and development center, the child's parent/guardian or authorized representative shall be notified of his/her rights as specified in 22 CCR 101218.1, including but not limited to, the right to be informed, upon request, of the name and type of association to the center of any adult who has been granted a criminal record exemption. (22 CCR 101218.1)

The Superintendent or designee shall inform parents/guardians of their right to enter the child care facility without advance notice during normal operating hours or any time their child is receiving services in the facilities.

Records

The Superintendent or designee shall establish and maintain a basic data file for each family receiving child care and development services which shall contain the data specified in 5 CCR 18081.

(cf. 3580 - District Records)

A developmental profile measuring the child's physical, cognitive, social and emotional development shall be completed in accordance with 5 CCR 18272. (Education Code 8203.5; 5 CCR 18272)

Add

CSBA Sample Board Policy

Students

BP 5148.3(a)

PRESCHOOL/EARLY CHILDHOOD EDUCATION

Note: The following policy is **optional** and may be used both by those districts that do and those that do not operate their own programs; see appropriate sections below. CSBA's publication Expanding Access to High-Quality Preschool Programs: A Resource and Policy Guide for School Leaders provides information about characteristics of effective preschool programs and actions that the district and Governing Board can take to encourage and/or provide high-quality preschool education, including a worksheet to assist districts in the development of policy pertaining to preschool and early childhood education.

SB 1629 (Ch. 307, Statutes of 2008) establishes a statewide Early Learning Quality Improvement System Advisory Committee to develop recommendations, by December 31, 2010, for the evaluation and improvement of child development programs providing services from birth to age 5, including preschool, and for the best use of local, state, federal, and private resources to achieve high-quality programs.

The Governing Board recognizes that high-quality preschool experiences for children ages 3-4 years help them develop knowledge, skills, and attributes necessary to be successful in school and provide for a smooth transition into the elementary education program. Such programs should provide developmentally appropriate activities in a safe, well-supervised, cognitively rich environment.

(cf. 6011 - Academic Standards)

(cf. 6143 - Courses of Study)

Collaboration with Community Programs

Note: The following **optional** section may be used by all districts, regardless of whether or not they provide their own preschool programs.

The Superintendent or designee shall collaborate with other agencies, organizations, the county office of education, and private preschool providers to assess the availability of preschool programs in the community and the extent to which the community's preschool needs are being met. The Board encourages the development of a community-wide plan to increase children's access to high-quality preschool programs.

(cf. 1020 - Youth Services)

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

(cf. 1700 - Relations Between Private Industry and the Schools)

Information about preschool options in the community shall be provided to parents/guardians upon request.

Note: The following **optional** paragraph is for use by districts that maintain elementary schools.

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)

The Superintendent or designee shall establish partnerships with feeder preschools to facilitate articulation of the preschool curriculum with the district's elementary education program.

District Preschool Programs

Note: The following optional section is for use by districts that choose to provide preschool/early childhood education programs for children ages 3-4 years and should be revised to reflect district practice. Also see BP/AR 5148 - Child Care and Development.

AB 2759 (Ch. 308, Statutes of 2008) amended Education Code 8235-8239 to establish the California State Preschool Program (CSPP) with subsidized services for low-income or otherwise disadvantaged children ages 3-4. Effective July 1, 2009, the CSPP consolidates funding and program requirements for a number of state programs that served children ages 3-4, including state preschool programs (Education Code 8235-8237), prekindergarten and family literacy programs (Education Code 8238-8239), and general child care and development programs to the extent that they served children ages 3-4 (Education Code 8240-8244). Agencies that provide general child care and development programs for children younger than age 3 or older than age 4 will continue to have a general child care and development contract for those services in addition to a CSPP contract. See the accompanying administrative regulation for major program requirements.

Preschool programs also may receive funding through the state migrant child care and development program (Education Code 8250-8252), state program for severely disabled children (Education Code 8230-8233), federal Head Start program (42 USC 9831-9852), or Title I preschool program (20 USC 6311-6322). None of these programs is being consolidated into the CSPP and thus their funding and program requirements are not affected.

When the Board determines that it is feasible, the district may provide preschool services in facilities at or near district schools.

The Board shall set priorities for establishing or expanding services as resources become available. In so doing, the Board shall give consideration to the benefits of providing early education programs for at-risk children and/or children residing in the attendance areas of the lowest performing district schools.

(cf. 0520.1 - High Priority Schools Grant Program)

(cf. 0520.2 - Title I Program Improvement Schools)

(cf. 0520.4 - Quality Education Investment Schools)

(cf. 6171 - Title I Programs)

Note: Pursuant to Education Code 8236, districts have the authority to subcontract with an appropriate public or private agency to operate a district CSPP program.

On a case-by-case basis, the Board shall determine whether the district shall directly administer preschool programs or contract with public or private providers to offer such programs.

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)

Facilities for preschool classrooms shall be addressed in the district's comprehensive facilities plan, including an assessment as to whether adequate and appropriate space exists on school sites. As necessary, the Superintendent or designee shall provide information to the Board regarding facilities financing options for preschool classrooms and/or facilities available through partnering organizations.

(cf. 7110 - Facilities Master Plan)

(cf. 7210 - Facilities Financing)

To enable children of working parents/guardians to participate in the district's preschool program, the Superintendent or designee shall recommend strategies to provide a full-day program and/or to link to other full-day child care programs in the district or community to the extent possible.

(cf. 5148 - Child Care and Development)

(cf. 5148.1 - Child Care Services for Parenting Students)

(cf. 5148.2 - Before/After School Programs)

Because parents/guardians are essential partners in supporting the development of their children, the Superintendent or designee shall involve them in program planning. Program staff shall encourage volunteerism in the program and shall communicate frequently with parents/guardians of enrolled children regarding their child's progress.

(cf. 1240 - Volunteer Assistance)

(cf. 6020 - Parent Involvement)

Note: The California Department of Education (CDE) is in the process of developing voluntary "preschool learning foundations" which describe the knowledge, skills, and competencies that children are expected to exhibit as they complete their first or second year of preschool. In January 2008, learning foundations were issued in the areas of social-emotional development, language and literacy, English language development for English learners, and mathematics. Learning foundations in visual and performing arts, physical development, and health are expected in 2011, followed by foundations in history/social science and science. Companion curriculum frameworks are also being developed. The "Desired Results Developmental Profile-Revised," a child observation tool used in the Categorical Program Monitoring/Contract Monitoring Review process, will be revised to align with the foundations.

The CDE's Prekindergarten Learning and Development Guidelines (2000) provide further guidance on how to develop a high-quality preschool program and will be revised in the future to incorporate the learning foundations.

The district's program shall be aligned with preschool learning foundations published by the California Department of Education which identify the knowledge, skills, and competencies that children typically attain as they complete their first or second year of preschool. Program components shall address social-emotional, physical, and cognitive development in key areas that are necessary for kindergarten readiness.

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)

The district's preschool program shall provide appropriate services to support the needs of English learners and children with disabilities.

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

(cf. 6174 - Education for English Language Learners)

To maximize the ability of children to succeed in the preschool program, program staff shall support children's health through proper nutrition and physical activity and shall provide or make referrals to health and social services.

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

(cf. 5030 - Student Wellness)

(cf. 5141.32 - Health Screening for School Entry)

(cf. 5141.6 - School Health Services)

Note: The Commission on Teacher Credentialing issues permits for child development program directors, site supervisors, master teachers, teachers, associate teachers, and assistants pursuant to criteria established in Education Code 8360-8370 and 5 CCR 80105-80125.

Professional development resources pertaining to preschool/early childhood education are available through the CDE, California Preschool Instructional Network, and others. See the management resources below.

The Superintendent or designee shall ensure that administrators, teachers, and paraprofessionals in district preschool programs possess the appropriate permit(s) issued by the Commission on Teacher Credentialing, meet any additional qualifications established by the Board, and participate in professional development opportunities designed to continually enhance their knowledge and skills.

(cf. 4112.2 - Certification)

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

(cf. 4112.5/4312.5 - Criminal Record Check)

(cf. 4131 - Staff Development)

(cf. 4212.5 - Criminal Record Check)

(cf. 4222 - Teacher Aides/Paraprofessionals)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Note: 5 CCR 18279-18281 require an annual evaluation using the standardized "Desired Results for Children and Families" system developed by the CDE. The system requires a self-evaluation that includes, but is not limited to, an assessment of the program by staff and the Board, a parent survey, and an environment rating scale using forms selected by the CDE.

The Superintendent or designee shall develop and implement an annual plan of evaluation which conforms to state requirements. (5 CCR 18279)

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)

The Superintendent or designee shall regularly report to the Board regarding enrollments in district preschool programs and the effectiveness of the programs in preparing preschoolers for transition into the elementary education program.

(cf. 0500 - Accountability)

(cf. 6190 - Evaluation of the Instructional Program)

Legal Reference:

EDUCATION CODE

8200-8499.10 *Child Care and Development Services Act, especially:*

8200-8209 *General provisions for child care and development services*

8230-8233 *Migrant child care and development program*

8235-8239 *California state preschool program*

8250-8252 *Programs for children with special needs*

8263 *Eligibility and priorities for subsidized child development services*

8300-8303 *Early Learning Quality Improvement System Advisory Committee*

8360-8370 *Personnel qualifications*

8400-8409 *Contracts*

8493-8498 *Facilities*

8499.3-8499.7 *Local child care and development planning councils*

54740-54749 *Cal-SAFE program for pregnant/parenting students and their children*

HEALTH AND SAFETY CODE

1596.70-1596.895 *California Child Day Care Act*

1596.90-1597.21 *Day care centers*

120325-120380 *Immunization requirements*

CODE OF REGULATIONS, TITLE 5

18000-18434 *Child care and development programs*

80105-80125 *Permits authorizing service in child development programs*

UNITED STATES CODE, TITLE 20

6311-6322 *Title I, relative to preschool*

6319 *Qualifications for teachers and paraprofessionals*

6371-6376 *Early Reading First*

6381-6381k *Even Start family literacy programs*

6391-6399 *Education of migratory children*

UNITED STATES CODE, TITLE 42

9831-9852 *Head Start programs*

9858-9858q *Child Care and Development Block Grant*

CODE OF FEDERAL REGULATIONS, TITLE 22

101151-101239.2 *General requirements, licensed child care centers, including:*

101151-101163 *Licensing and application procedures*

101212-101231 *Continuing requirements*

101237-101239.2 *Facilities and equipment*

CODE OF FEDERAL REGULATIONS, TITLE 45

1301-1310 *Head Start*

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)

Management Resources:

CSBA PUBLICATIONS

Expanding Access to High-Quality Preschool Programs: A Resource and Policy Guide for School Leaders, 2005

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

California Preschool Learning Foundations, Vol. 1, 2008

Preschool English Learners: Principles and Practices to Promote Language, Literacy, and Learning, 2007

Prekindergarten Learning Development Guidelines, 2000

First Class: A Guide for Early Primary Education, 1999

CALIFORNIA DEPARTMENT OF EDUCATION MANAGEMENT BULLETINS

08-13 California State Preschool Program, November 2008

01-06 The Desired Results for Children and Families System, May 31, 2001

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Good Start, Grow Smart, April 2002

WEB SITES

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

California Association for the Education of Young Children: <http://www.caeyc.org>

California Children and Families Commission: <http://www.ccfc.ca.gov>

California County Superintendents Educational Services Association: <http://www.ccsesa.org>

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

California Head Start Association: <http://caheadstart.org>

California Preschool Instructional Network: <http://www.cpin.us>

Child Development Policy Institute: <http://www.cdpi.net>

Cities, Counties, and Schools Partnership: <http://www.ccspartnership.org>

First 5 Association of California: <http://www.f5ac.org>

National Institute for Early Education Research: <http://nieer.org>

National School Boards Association: <http://www.nsba.org>

Preschool California: <http://www.preschoolcalifornia.org>

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

Add

CSBA Sample Administrative Regulation

Students

AR 5148.3(a)

PRESCHOOL/EARLY CHILDHOOD EDUCATION

Note: The following administrative regulation reflects the major requirements of Education Code 8235-8239, the California State Preschool Program (CSPP), as amended by AB 2759 (Ch. 308, Statutes of 2008). Effective July 1, 2009, the CSPP consolidates funding and program requirements for a number of state programs that served children ages 3-4, including state preschool programs (Education Code 8235-8237), prekindergarten and family literacy programs (Education Code 8238-8239), and general child care and development programs to the extent that they served children ages 3-4 (Education Code 8240-8244). Under the CSPP, the district may provide part-day and/or full-day programs and should select the appropriate section(s) below to reflect district practice.

The district may revise or replace the following administrative regulation to reflect other preschool program(s) it offers which were not consolidated into the CSPP, such as the state migrant child care and development program (Education Code 8250-8252), the state program for severely disabled children (Education Code 8230-8233), the federal Head Start program (42 USC 9831-9852), or the Title I preschool program (20 USC 6311-6322).

In addition to the program requirements described below, preschool programs may be subject to other policies contained throughout the district's policy manual. For example, see BP/AR 5148 - Child Care and Development, AR 3514.2 - Integrated Pest Management, BP/AR 1240 - Volunteer Assistance, and food safety standards and nutrition requirements in BP/AR 3550 - Food Service/Child Nutrition Program. Districts should consult legal counsel if they have questions regarding the applicability of other laws to the district's preschool program.

When approved by the California Department of Education under the California State Preschool Program (CSPP), the district may operate one or more part-day and/or full-day preschool programs in accordance with law and the terms of the state contract.

(cf. 5148 - Child Care and Development)

(cf. 5148.1 - Child Care Services for Parenting Students)

(cf. 5148.2 - Before/After School Programs)

Eligibility and Enrollment Priorities for Full-Day and Part-Day Programs

Children eligible for the district's full-day or part-day CSPP program include those who will have their third or fourth birthday on or before December 2 of the fiscal year in which they are enrolled in the program. (Education Code 8235, 8236)

Note: Pursuant to Education Code 8499.5, the child care and development planning council in each county has established a "centralized eligibility list" which allows subsidized child development providers to identify eligible children. Families are ranked by eligibility factors for subsidized care (e.g., income, family size, and need). As a condition of receiving state funding, the provider must refer to this list to fill any vacancies.

The Superintendent or designee shall refer to the county's centralized eligibility list to identify children in need of services.

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)

Children shall be eligible for subsidized services if their family meets one or more of the criteria specified in Education Code 8263 and 8263.1. (Education Code 8235)

Note: The following paragraph is for use by districts that operate one or more full-day CSPP programs.

For a child to be eligible for the district's full-day program, his/her family shall, in addition to meeting the above criteria, demonstrate need for the services due to any of the following circumstances: (Education Code 8235, 8263)

1. The child is identified by a legal, medical, or social services agency or emergency shelter as a recipient of protective services; as being neglected, abused, or exploited; or as at risk of being neglected, abused, or exploited.
2. The parents/guardians are engaged in vocational training leading directly to a recognized trade, paraprofession, or profession; are employed or seeking employment; seeking permanent family housing; or are incapacitated.

Note: The remainder of this section is for use by districts that operate either part-day or full-day CSPP program(s).

First priority for enrollment in any CSPP program shall go to neglected or abused children age 3-4 years who are recipients of child protective services or who are at risk of being neglected, abused, or exploited, upon written referral from a legal, medical, or social service agency. If unable to enroll a child in this category, the district shall refer the child's parent/guardian to local resource and referral services so that services for the child can be located. (Education Code 8236)

(cf. 1020 - Youth Services)

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

(cf. 1700 - Relations Between Private Industry and the Schools)

Note: Pursuant to Education Code 8236, second priority for enrollment must be granted to children age 4, as provided in the following paragraph. In any CSPP program operating with funding that was initially allocated in a prior fiscal year, at least one-half of the children enrolled at a preschool site shall be children age 4 unless an exception is granted by the Superintendent of Public Instruction.

After all such children are enrolled, the district shall give priority to eligible children age 4 years prior to enrolling eligible children age 3 years. (Education Code 8236)

Additional Requirements for Part-Day Program

Note: The following optional section is for use by districts that offer part-day program(s) under the CSPP.

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)

The district's part-day CSPP program shall operate a minimum of three hours per day but less than four hours per day, excluding time for home-to-school transportation, and for a minimum of 175 days per year unless otherwise specified in the program's contract. (Education Code 8235)

(cf. 6111 - School Calendar)

(cf. 6112 - School Day)

After all eligible children have been enrolled, the program may fill up to 10 percent of its enrollment, calculated throughout the entire contract, with children whose family income is no more than 15 percent above the income eligibility threshold. (Education Code 8235)

The district may certify eligibility and enrollment up to 120 calendar days prior to the first day of the beginning of the preschool year. After establishing eligibility at the time of initial enrollment, a child shall remain eligible for the part-day program for the remainder of the program year. (Education Code 8237)

Fees shall not be assessed for families whose children are enrolled in the part-day program. (Education Code 8235)

Additional Requirements for Full-Day Program

Note: The following optional section is for use by districts that offer full-day program(s) under the CSPP.

The district's full-day CSPP program shall operate the number of hours per day necessary to meet the child care and development needs of families and for a minimum of 246 days per year, unless otherwise specified in the program's contract. (Education Code 8235)

Fees for participation in the full-day program shall be assessed and collected in accordance with a fee schedule established by the Superintendent of Public Instruction. (Education Code 8235)

(cf. 3260 - Fees and Charges)

Note: Because full-day CSPP programs are subject to the fee requirements of Education Code 8263, a district that chooses to charge a fee for field trips or to require parents/guardians to provide diapers is **mandated** to adopt policy to include parents/guardians in the decision-making about such fees, as provided below. The following paragraph may be modified to delete diapers as appropriate for the age of the children served.

The district shall involve parents/guardians in the decision-making process to determine whether and how much to charge for field trip expenses and whether to require parents/guardians to provide diapers. A child shall not be denied participation in a field trip

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)

due to the parent/guardian's inability or refusal to pay the fee, and no adverse action shall be taken against a parent/guardian for that inability or refusal. (Education Code 8263)

Note: According to California Department of Education (CDE) Management Bulletin 08-13, if children enrolled in a full-day CSPP program become ineligible after initial enrollment, they may either continue in the program if their parents/guardians pay the full cost or they may participate in part-day services, as provided below.

Families shall establish eligibility for their children for subsidized services at the time of initial enrollment and shall provide ongoing eligibility documentation as changes in income or family size occur. If a child becomes ineligible for subsidized services, he/she shall continue to be eligible for part-day services, if available, or the family shall pay the full cost to remain in the program. If the need for services drops below four hours per day, the child shall be enrolled for only part-day services.

Additional Requirements for Prekindergarten and Family Literacy Programs

Note: The following optional section is for use by districts that offered prekindergarten and family literacy programs pursuant to Education Code 8238.4 prior to July 1, 2009. Although these programs were consolidated into the CSPP pursuant to AB 2759 (Ch. 308, Statutes of 2008), CDE Management Bulletin 08-13 clarifies that services originally funded under this program have additional requirements as provided in the following section. However, such programs may now serve children age 3 as well as age 4.

Prekindergarten and family literacy programs offered by the district prior to July 1, 2009, shall continue to provide classes in the attendance area of elementary schools in deciles 1-3 on the 2005 base Academic Performance Index. (Education Code 8238.4)

Such programs shall operate a minimum of 175 days for part-day services and 246 days for full-day, full-year services unless otherwise specified in the contract. (Education Code 8238.4)

Prekindergarten and family literacy programs shall provide: (Education Code 8238-8238.3)

1. Age and developmentally appropriate activities that are designed to facilitate children's transition to kindergarten
2. Opportunities for parents/guardians to work with their children on interactive literacy activities as defined in Education Code 8238

(cf. 6020 - Parent Involvement)

3. Coordination of parenting education for parents/guardians of participating children to support their children's development of literacy skills

PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)

4. Referrals to providers of adult education and English as a second language as necessary to improve parents/guardians' academic skills

(cf. 6200 - Adult Education)

5. Staff development of participating teachers in accordance with Education Code 8238.3

(cf. 4131 - Staff Development)

The district may select a family literacy and education coordinator to coordinate the provision of literacy services to families in the district and community, create an organizational partnership between the program(s) and adult education programs in the district or community, and promote parent/guardian involvement in participating classrooms. (Education Code 8238.2)

Add

CSBA Sample Board Policy

Instruction

BP 6142.2(a)

WORLD/FOREIGN LANGUAGE INSTRUCTION

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

In order to prepare students for global citizenship and to broaden their intercultural understanding and career opportunities, the Governing Board shall provide students with opportunities to develop linguistic proficiency and cultural literacy in one or more world languages in addition to English.

(cf. 6141.6 - Multicultural Education)

Note: The California Department of Education's (CDE) Foreign Language Framework for California Public Schools encourages districts to offer as many language course options as possible. Within the context of the CDE's framework, American Sign Language is recognized as a foreign language. The following paragraph may be revised to reflect language courses available in the district.

The Superintendent or designee shall recommend world languages to be taught in the district's educational program based on student interest, community needs, and available resources. He/she shall also consider providing English learners the opportunity to study their heritage language, when such a course is available, in order to continue developing skills in that language. American Sign Language courses shall be open to all students regardless of hearing status.

(cf. 6174 - Education for English Language Learners)

Note: On January 7, 2009, the State Board of Education adopted voluntary content standards for world languages for grades K-12; see the accompanying administrative regulation. The state's Foreign Language Framework for California Public Schools is scheduled to be revised in 2009-10 to reflect the content standards.

In addition, Education Code 51228 requires districts to offer students in grades 7-12 a course of study that fulfills the requirements and prerequisites for admission to California college and universities; see BP 6143 - Courses of Study. Admissions criteria for California State University and University of California include two years of coursework in one foreign language, other than English, that have been approved by the University of California. The following paragraph may be revised by districts that do not maintain any of grades 7-12.

The district shall offer a sequential curriculum aligned with the state content standards, state curriculum framework, and, as applicable, California university admission requirements for languages other than English.

(cf. 6011 - Academic Standards)

(cf. 6141 - Curriculum Development and Evaluation)

WORLD/FOREIGN LANGUAGE INSTRUCTION (continued)

Note: The following paragraph is for use by districts that maintain any of grades 7-12 and may be revised to reflect the grade levels at which instruction in world languages will be offered in the district. Education Code 51220 requires that the adopted course of study for grades 7-12, beginning no later than grade 7, include instruction in world languages designed to develop a facility for understanding, speaking, reading, and writing the particular language; see AR 6143 - Courses of Study.

Instruction in world languages shall be offered to secondary school students beginning no later than grade 7 and shall be designed to develop students' skills in understanding, speaking, reading, and writing the language. (Education Code 51220)

(cf. 6143 - Courses of Study)

Note: The following optional paragraph is for use by districts that maintain one or more high schools. Education Code 51225.3 requires high school students to complete a one-year course in either foreign language, American Sign Language, or visual and performing arts as a condition of high school graduation; see BP 6146.1 - High School Graduation Requirements. Pursuant to Education Code 51243-51245 and 5 CCR 1632, foreign language instruction completed in a private school must be granted credit toward high school graduation provided that the instruction meets specified standards and conditions; see BP/AR 6146.11 - Alternative Credits Toward Graduation.

A number of districts have chosen to present a biliteracy award upon high school graduation to students who demonstrate proficiency in speaking, reading, and writing skills in one or more languages in addition to English; see BP/AR 5126 - Awards for Achievement.

Students shall obtain credit toward high school graduation requirements for completion of a one-year course during grades 9-12 in a world language or American Sign Language.

(cf. 5126 - Awards for Achievement)

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6146.11 - Alternative Credits Toward Graduation)

Note: The following optional paragraph is for use by districts that maintain elementary schools and may be revised to reflect district practice. Education Code 51212 states legislative intent to encourage programs of foreign language instruction in the course of study for grades 1-6, as early as feasible for the district. The CDE and the Center for Applied Linguistics note that two-way immersion programs are often focused on the primary grades and that such programs may extend five to seven years but optimally throughout grades K-12; also see the accompanying administrative regulation.

In order to encourage higher levels of language proficiency throughout a student's education, the district may offer age-appropriate language programs in elementary schools. ~~Beginning in the primary grades, the district may deliver language studies through a two-way immersion program in which instruction is delivered in both English and another language to both English-only students and English learners.~~

Note: Pursuant to Education Code 60119, as a condition of receiving funds under the Pupil Textbook and Instructional Materials Incentive Program Act, the Governing Board is required to hold a public hearing to

WORLD/FOREIGN LANGUAGE INSTRUCTION (continued)

determine whether each student has sufficient textbooks and/or instructional materials in specified subjects, including foreign language, that are aligned to the state content standards or curriculum frameworks; see BP 6161.1 - Selection and Evaluation of Instructional Materials.

The Board shall ensure that students have access to high-quality instructional materials in world languages. In accordance with Board policy, teachers shall also be encouraged to identify and use supplemental resources, such as literature, technology, newspapers and other media, dictionaries, and volunteers from the community to enhance the world language instructional program.

(cf. 1240 - Volunteer Assistance)

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

(cf. 6161.11 - Supplementary Instructional Materials)

(cf. 6163.1 - Library Media Centers)

The Superintendent or designee shall provide professional development as necessary to ensure that teachers of world languages have the knowledge and skills they need to implement an effective instructional program that helps students attain academic standards.

(cf. 4131 - Staff Development)

~~Note: The following optional paragraph should be revised to reflect indicators agreed upon by the Board and Superintendent for evaluating the district's world/foreign languages instructional program.~~

~~The Superintendent or designee shall provide periodic reports to the Board regarding the effectiveness of the district's world language program which may include, but not be limited to, a description of the district's curriculum and the extent to which it is aligned with the state's content standards and curriculum framework, student achievement of district standards for world language instruction, and student participation rates in each language course. Program evaluation shall be used to identify needed improvements and may be considered in determining the languages to be taught in the district.~~

~~*(cf. 0500 - Accountability)*~~

~~*(cf. 6190 - Evaluation of the Instructional Program)*~~

Legal Reference: (see next page)

WORLD/FOREIGN LANGUAGE INSTRUCTION (continued)

Legal Reference:

EDUCATION CODE

300-311 Education for English learners

44256-44257 Credential requirements, including teachers of foreign language

51212 Legislative intent to encourage foreign language instruction in grades 1-6

51220 Courses of study, grades 7-12

51225.3 High school graduation requirements

51243-51245 Alternative credits toward graduation for foreign language instruction in private school

60117-60119 Pupil Textbook and Instructional Materials Incentive Program Act

60605.3 Content standards for foreign language instruction

CODE OF REGULATIONS, TITLE 5

1632 Alternative credits toward graduation for foreign language instruction in private school

11309 English immersion programs, parental exception waivers

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

World Language Content Standards for California Public Schools, Kindergarten Through Grade Twelve, adopted January 7, 2009

Foreign Language Framework for California Public Schools, Kindergarten Through Grade Twelve, 2003

CENTER FOR APPLIED LINGUISTICS PUBLICATIONS

Guiding Principles for Dual Language Education, Second Edition, 2007

COLLEGE BOARD PUBLICATIONS

A Challenge to Change: The Language Learning Continuum, 1999

WEB SITES

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

American Council on the Teaching of Foreign Languages: <http://www.actfl.org>

California Association of Bilingual Education: <http://www.bilingualeducation.org>

California Department of Education, Foreign Language: <http://www.cde.ca.gov/ci/fl>

California Foreign Language Project: <http://www.stanford.edu/group/CFLP>

California Language Teachers' Association: <http://www.clta.net>

Center for Applied Linguistics: <http://www.cal.org>

College Board: <http://www.collegeboard.co>

University of California, a-g Course Approval: <http://www.ucop.edu/a-gGuide/ag>

Add

CSBA Sample Administrative Regulation

Instruction

AR 6142.2(a)

WORLD/FOREIGN LANGUAGE INSTRUCTION

Content of Instruction

Note: Items #1-5 below reflect the five categories of content standards for world languages adopted by the State Board of Education on January 7, 2009. Within each category, the state standards describe four proficiency levels or performance benchmarks based on the Language Learning Continuum disseminated by the College Board. The district may revise the following list to reflect the topics to be addressed in the district's program.

The district's instructional program for world languages shall be designed to help students gain knowledge about new language systems and use that knowledge to communicate. Students shall receive instruction which is aligned with state academic standards appropriate to their age and stage of linguistic and cultural proficiency in the following five categories:

1. Content: Students shall be presented with a wide variety of content that is age and stage appropriate and increases in complexity.

(cf. 6011 - Academic Standards)

2. Communication: Students shall be taught to effectively convey and receive messages by engaging in or interpreting written, spoken, and/or signed languages.
3. Cultures: Students shall receive instruction that allows them to make connections and comparisons between language and culture.

(cf. 6141.6 - Multicultural Education)

4. Structures: The curriculum shall address components of grammar, syntax, and language patterns appropriate to the language being taught.
5. Settings: To help students comprehend meaning and use language that is culturally appropriate, students shall develop knowledge of the context or setting in which language is used, such as common daily settings, interpersonal settings, and informal and formal settings.

~~Two-Way Immersion Programs~~

~~Note: The following optional section is for use by districts that choose to establish two-way immersion programs integrating English and non-English speakers in a class that is taught in both English and a second language; see the accompanying Board policy. The following section reflects program descriptions and recommendations on the California Department of Education's (CDE) web site and may be revised to reflect district practice.~~

WORLD/FOREIGN LANGUAGE INSTRUCTION (continued)

~~The district may establish two-way immersion programs based on either or both of the following models:~~

- ~~1. A 50:50 model in which instruction is provided in the non-English target language for 50 percent of the time and in English for 50 percent of the time, throughout the duration of the program~~
- ~~2. A 90:10 model in which instruction is provided in the non-English target language for 90 percent of the time and in English for 10 percent of the time during the first year of the program, decreasing the percentage of time in the non-English language in each subsequent year until there is a 50:50 balance of languages~~

~~Note: According to the CDE, two-way immersion programs generally do not accept English-only speakers after grade 1 and English learners after grade 2. The following paragraph may be revised to reflect the grade levels at which the program is offered and any restrictions on enrollment established by the district.~~

~~English-only speakers shall be accepted into the program only during the first grade level at which the program is offered. English learners may be admitted into the program during the first or second grade level at which the program is offered. Bilingual students may enter the program at any time.~~

~~In enrolling students for the program, the district shall strive to maintain a ratio of half English speakers and half non-English speakers and such ratio shall not fall below one-third for either language group except under exceptional circumstances.~~

~~Note: Education Code 305.306 require that English learners be placed in sheltered English language classrooms (i.e., nearly all classroom instruction in English but with the curriculum and presentation designed for students who are learning the language) during a temporary transition period normally not exceeding one year and then transferred to English language mainstream classrooms (i.e., classrooms in which the students are native English speakers or already have acquired reasonable fluency in English). Education Code 310.311 and 5 CCR 11309 authorize parental waivers of these requirements under specified circumstances. Thus, parents/guardians of English learners must annually submit a parental exception waiver allowing their child's participation in a two-way immersion program. See BP/AR/E 6174—Education of English Language Learners for legal requirements pertaining to parental exception waivers.~~

~~In order for a limited English proficient student to participate in a two-way immersion program, his/her parent/guardian shall annually submit a request for a parental exception waiver pursuant to Education Code 310.311 and 5 CCR 11309.~~

~~(cf. 6174—Education for English Language Learners)~~

CSBA Sample Board Policy

Instruction

BP 6159.1(a)

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION

Note: The following mandated policy and mandated administrative regulation reflect the federal Individuals with Disabilities Education Act (IDEA) (20 USC 1400-1482), implementing federal regulations (34 CFR 300.1-300.818, as amended by 73 Fed. Reg. 231), and conforming state legislation. Note that in cases where state law provides greater protections to students, state law supersedes federal law.

Education Code 56195.8 mandates all entities providing special education to adopt policy on procedural safeguards and Education Code 56500.1 requires entities providing special education to establish and maintain all procedural safeguards granted by federal law. For California law related to due process rights and due process hearing rights and procedures, see Education Code 56501-56509 and 5 CCR 3082. For federal due process procedure requirements, see 34 CFR 300.500-300.520.

This policy and accompanying administrative regulation should be revised for consistency with the policy and regulations of the special education local plan area (SELPA) in which the district participates.

The Governing Board desires to protect the rights of students with disabilities in accordance with the procedural safeguards set forth in state and federal law. Parents/guardians shall receive written notice of their rights in accordance with law, Board policy, and administrative regulation.

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

(cf. 5145.6 - Parental Notifications)

(cf. 6159 - Individualized Education Program)

(cf. 6159.2 - Nonpublic Nonsectarian School and Agency Services for Special Education Students)

(cf. 6159.3 - Appointment of Surrogate Parent for Special Education Students)

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

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

Note: Education Code 56195.8 authorizes the policy to include provisions for involving district Board members in any due process hearing procedure activities. The following **optional** paragraph designates the Superintendent or designee as the district representative at the hearing.

The Superintendent or designee shall represent the district in any due process hearing conducted with regard to district students and shall inform the Board about the result of the hearing.

Note: A compliance complaint, which can be made by anyone, is an allegation of a violation of state or federal law. A complainant may also file such complaints directly with the California Department of Education. These compliance complaints are different from the due process complaint detailed in the accompanying administrative regulation, which is a legal document that must be filed in order to initiate a due process hearing.

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION (continued)

The Superintendent or designee shall address a complaint concerning compliance with state or federal law regarding special education in accordance with the district's uniform complaint procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

Legal Reference:

EDUCATION CODE

56000 Education for individuals with disabilities

56001 Provision of the special education programs

56020-56035 Definitions

56195.7 Written agreements

56195.8 Adoption of policies for programs and services

56300-56385 Identification and referral, assessment

56440-56447.1 Programs for individuals between the ages of three and five years

56500-56509 Procedural safeguards, including due process rights

56600-56606 Evaluation, audits and information

CODE OF REGULATIONS, TITLE 5

3000-3100 Regulations governing special education

4600-4671 Uniform complaint procedures

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act

1400-1482 Individuals with Disabilities Education Act

UNITED STATES CODE, TITLE 29

794 Section 504 of the Rehabilitation Act

UNITED STATES CODE, TITLE 42

11434 Homeless assistance

CODE OF FEDERAL REGULATIONS, TITLE 34

99.10-99.22 Inspection, review and procedures for amending education records

104.36 Procedural safeguards

300.1-300.818 Assistance to states for the education of students with disabilities, especially:

300.500-300.520 Procedural safeguards and due process for parents and students

COURT DECISIONS

Winkelman v. Parma City School District, (2007) 550 U.S. 516

Management Resources:

FEDERAL REGISTER

Final Regulations, December 1, 2008, Vol. 73, No. 231, pages 73006-73029

WEB SITES

California Department of Education, Special Education: <http://www.cde.ca.gov/sp/se>

U.S. Department of Education, Office of Special Education Programs:

<http://www.ed.gov/about/offices/list/osep>

(6/98 11/06) 3/09

Board Policy

Procedural Safeguards And Complaints For Special Education

BP 6159.1

Instruction

In order to protect the rights of students with disabilities, the district shall follow all procedural safeguards as set forth in law. Parents/guardians shall receive written notice of their rights in accordance with law, Board policy, and administrative regulation.

- (cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))
- (cf. 5145.6 - Parental Notifications)
- (cf. 6159 - Individualized Education Program)
- (cf. 6159.2 - Nonpublic Nonsectarian School and Agency Services for Special Education Students)
- (cf. 6159.3 - Appointment of Surrogate Parent for Special Education Students)
- (cf. 6159.4 - Behavioral Interventions for Special Education Students)
- (cf. 6164.4 - Identification of Individuals for Special Education)

The Superintendent or designee shall represent the district in any due process hearing conducted with regard to district students and shall inform the Governing Board about the result of the hearing.

Complaints for Special Education

Complaints concerning compliance with state or federal law regarding special education shall be addressed in accordance with the district's uniform complaint procedures.

- (cf. 1312.3 - Uniform Complaint Procedures)

Legal Reference:

EDUCATION CODE

56000 Education for individuals with exceptional needs

56001 Provision of the special education programs

56020-56035 Definitions

56195.7 Written agreements

56195.8 Adoption of policies for programs and services

56300-56385 Identification and referral, assessment

56440-56447.1 Programs for individuals between the ages of three and five years

56500-56509 Procedural safeguards, including due process rights

56600-56606 Evaluation, audits and information

CODE OF REGULATIONS, TITLE 5

3000-3100 Regulations governing special education

4600-4671 Uniform complaint procedures
UNITED STATES CODE, TITLE 20
1232g Family Educational Rights and Privacy Act
1400-1482 Individuals with Disabilities Education Act
UNITED STATES CODE, TITLE 29
794 Section 504 of the Rehabilitation Act
UNITED STATES CODE, TITLE 42
11434 Homeless assistance
CODE OF FEDERAL REGULATIONS, TITLE 34
99.10-99.22 Inspection, review and procedures for amending education records
104.36 Procedural safeguards
300.1-300.818 Assistance to states for the education of students with disabilities,
especially:
300.500-300.520 Procedural safeguards and due process for parents and students

Management Resources:

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

WEB SITES

California Department of Education, Special Education: <http://www.cde.ca.gov/sp/se>

U.S. Department of Education, Office of Special Education Programs:

<http://www.ed.gov/about/offices/list/osep>

Policy CENTER UNIFIED SCHOOL DISTRICT

adopted: May 2, 2007 Antelope, California

CSBA Sample

Administrative Regulation

Instruction

AR 6159.1(a)

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION

Note: The following **mandated** administrative regulation reflects the federal Individuals with Disabilities Education Act (IDEA) (20 USC 1400-1482), implementing federal regulations (34 CFR 300.1-300.818, as amended by 73 Fed. Reg. 231), and conforming state legislation. Note that in cases where state law provides greater protections to students, state law supersedes federal law.

Both federal and state law give parents/guardians the right to due process and require the district to provide procedural safeguards, as specified below. Education Code 56501 extends these rights to the student only if he/she is an emancipated minor or a ward or dependent of the court with no available parent/guardian or surrogate parent. See AR 6159.3 - Appointment of Surrogate Parent for Special Education Students. As part of these rights, districts must provide two different notices, the prior written notice and the procedural safeguards notice, to parents/guardians at specified times detailed below.

Prior Written Notice

Note: Pursuant to 20 USC 1415(b)(1), districts are **mandated** to adopt procedures relative to the prior written notice as specified in 20 USC 1415(c)(1) and listed below.

The Superintendent or designee shall send to the parents/guardians of any student with disabilities a prior written notice within a reasonable time: (20 USC 1415(c); 34 CFR 300.102, 300.300, 300.503; Education Code 56500.4, 56500.5)

1. Before the district initially refers the student for assessment
2. Before the district proposes to initiate or change the student's identification, assessment, educational placement, or the provision of a free appropriate public education (FAPE) to the student
3. Before the district refuses to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student
4. Before the student graduates from high school with a regular diploma thus resulting in a change in placement

Note: As amended by 73 Fed. Reg. 231, 34 CFR 300.300 states that a parent/guardian may revoke consent for the continued provision of special education and related services to his/her child at any time. Upon receipt of this written revocation, 34 CFR 300.300 requires the district to provide prior written notice and, within a reasonable period of time, discontinue all services to the student. See BP 6164.4 - Identification and Evaluation of Individuals for Special Education.

5. Upon receipt of the parent/guardian's written revocation of consent for the continued provision of special education and related services to his/her child

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION
(continued)

This notice shall include: (20 USC 1415(c); 34 CFR 300.503; Education Code 56500.4)

1. A description of the action proposed or refused by the district
2. An explanation as to why the district proposes or refuses to take the action
3. A description of each assessment procedure, test, record, or report the district used as a basis for the proposed or refused action
4. A statement that the parents/guardians of the student have protection under procedural safeguards and, if this notice is not an initial referral for assessment, the means by which a copy of the description of procedural safeguards can be obtained
5. Sources for parents/guardians to obtain assistance in understanding these provisions
6. A description of any other options that the individualized education program (IEP) team considered and why those options were rejected

(cf. 6159 - Individualized Education Program)

7. A description of any other factors relevant to the district's proposal or refusal

(cf. 5145.6 - Parental Notifications)

Procedural Safeguards Notice

Note: 20 USC 1415(d)(1), 34 CFR 300.504, and Education Code 56501 specify that the procedural safeguards notice must be given to parents/guardians once per school year and upon the occurrence of any of the events specified below. A sample procedural safeguards notice is available on the California Department of Education's (CDE) web site.

A procedural safeguards notice shall be made available to parents/guardians of students with disabilities once each school year and: (20 USC 1415(d)(1); 34 CFR 300.504; Education Code 56301)

1. Upon initial referral or parent/guardian request for assessment
2. Upon receipt of the first state compliance complaint in a school year

(cf. 1312.3 - Uniform Complaint Procedures)

3. Upon receipt of the first due process hearing request in a school year

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION
(continued)

4. In accordance with the discipline procedures pursuant to 34 CFR 300.530(h), when a decision is made to remove a student because of a violation of a code of conduct constituting a change of placement

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

5. Upon request by a parent/guardian

Note: 34 CFR 300.504 requires the procedural safeguards notice to include a full explanation of the safeguards available to parents/guardians under the laws listed below, including 34 CFR 300.300 regarding parent/guardian consent. 73 Fed. Reg. 231 amended 34 CFR 300.300 to authorize a parent/guardian to revoke consent to his/her child's continued receipt of special education and related services; thus, the procedural safeguards notice must include a full explanation of that right to revocation.

The procedural safeguards notice shall include a full explanation of all of the procedural safeguards available under 34 CFR 300.148, 300.151-300.153, 300.300, 300.502-300.503, 300.505-300.518, 300.520, 300.530-300.536, and 300.610-300.625 relating to: (20 USC 1415(d)(2); 34 CFR 300.504; Education Code 56301)

1. Independent educational evaluation

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

2. Prior written notice
3. Parental consent, including a parent/guardian's right to revoke consent, in writing, to his/her child's continued receipt of special education and related services
4. Access to educational records

(cf. 5125 - Student Records)

5. Opportunity to present complaints and resolve complaints through the due process complaint and state compliance complaint procedures, including the time period in which to file a complaint, the opportunity for the district to resolve the complaint, and the difference between a due process complaint and the state compliance complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures
6. The availability of mediation
7. The student's placement during the pendency of any due process complaint

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION
(continued)

8. Procedures for students who are subject to placement in an interim alternative educational setting
9. Requirements for unilateral placement by parents/guardians of students in private schools at public expense
10. Hearings on due process complaints, including requirements for disclosure of assessment results and recommendations
11. State-level appeals
12. Civil actions, including the time period in which to file those actions
13. Attorney's fees

Note: In addition to the requirements of federal law listed in items #1-13 above, Education Code 56321 requires that the procedural safeguards notice contain the additional information specified below. Education Code 56321 also requires that the notice be attached to any assessment plan which is developed whenever an assessment is to be conducted for the development or revision of the IEP.

As added by AB 2555 (Ch. 245, Statutes of 2008), Education Code 56321.6 requires that the procedural safeguards notice also include information regarding the state special schools for students who are deaf or blind, as specified below.

This notice shall also include the rights and procedures contained in Education Code 56500-56509, including information on the procedures for requesting an informal meeting, prehearing mediation conference, mediation conference, or due process hearing; the timelines for completing each process; whether the process is optional; the type of representative who may be invited to participate; the right of the parent/guardian and/or the district to electronically record the proceedings of IEP meetings in accordance with Education Code 56341; and information regarding the state special schools for students who are deaf, hard of hearing, blind, visually impaired, or deaf-blind. (Education Code 56321, 56321.5, 56321.6)

A copy of this notice shall be attached to the student's assessment plan and referred to at each IEP meeting. (Education Code 56321, 56321.5)

Format of Parent/Guardian Notices

Note: 20 USC 1415(b) mandates that districts adopt procedures to ensure that the parent/guardian notice is in the native language of the parent/guardian, unless it is clearly not feasible to do so. 34 CFR 300.29 defines "native language" as the language normally used by the individual and, for a child, the language regularly used in the home environment. Pursuant to 34 CFR 300.503 and 300.504, the notice must be in an "understandable language" as specified below.

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION (continued)

The parents/guardians of a student with a disability shall be provided written notice of their rights in a language easily understood by the general public and in their native language or other mode of communication used by them, unless to do so is clearly not feasible. (34 CFR 300.503; Education Code 56341, 56506)

If the native language or other mode of communication of the parent/guardian is not a written language, the district shall take steps to ensure that: (34 CFR 300.503)

1. The notice is translated orally or by other means to the parent/guardian in his/her native language or other mode of communication.
2. The parent/guardian understands the contents of the notice.
3. There is written evidence that items #1 and #2 have been satisfied.

The district may place a copy of the procedural safeguards notice on the district's web site. (20 USC 1415(d))

Note: The following optional paragraph is for use by districts that wish to grant parents/guardians the option to receive notices electronically pursuant to 34 CFR 300.505.

A parent/guardian of a student with disabilities may elect to receive the prior written notice or procedural safeguards notice by an electronic mail communication. (34 CFR 300.505)

Due Process Complaints

Note: In California, due process hearings required by federal law are held only at the state level. Related rights and procedures are set forth in Education Code 56501-56506 and 5 CCR 3080-3089. Note that in cases where state law provides greater protection, state law supersedes federal law. 20 USC 1415(f)(3)(C) and Education Code 56505, effective October 9, 2006, specify that a due process complaint must be filed within two years of the date that the parent/guardian or district knew or should have known about the situation that forms the basis of the complaint. Both federal law (34 CFR 300.507 and 300.511) and state law (Education Code 56505) provide exceptions to that filing timeline and allow parents/guardians to file a complaint past the two-year deadline if the district has made specific misrepresentations or withheld information.

When a parent/guardian has revoked consent for the continued provision of special education services to his/her child, 34 CFR 300.300, as amended by 73 Fed. Reg. 231, specifies that a district may not use the due process hearing procedures to obtain an agreement or a ruling to require that services be provided. In the Analysis of Comments and Changes, 73 Fed. Reg. 231, page 73016, the U.S. Department of Education clarifies that this revocation of consent to discontinue services is different from a discontinuation of services based on the determination that the student is no longer a child with a disability. If a district believes that a student is no longer a child with a disability, then 34 CFR 300.305 requires the district to evaluate the child before making such a determination. If the parent/guardian disagrees with the eligibility determination, then he/she may challenge the decision using the due process procedures.

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION (continued)

20 USC 1415(b) mandates that the district adopt procedures regarding a party's right to initiate a due process hearing concerning the issues specified in items #1-4 below.

A parent/guardian and/or the district may initiate due process hearing procedures whenever: (20 USC 1415(b); Education Code 56501)

1. There is a proposal to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student.
2. There is a refusal to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student.
3. The parent/guardian refuses to consent to an assessment of his/her child.
4. There is a disagreement between a parent/guardian and the district regarding the availability of a program appropriate for the student, including the question of financial responsibility, as specified in 34 CFR 300.148.

Note: Pursuant to 20 USC 1415(b) and 34 CFR 300.508, the district is mandated to adopt procedures (1) requiring either party (the district or the parent/guardian) or their attorney to provide a due process complaint notice to the other party and (2) requiring that the party may not have a due process hearing until that complaint notice has been filed. The CDE has developed model forms to assist parties in filing a complaint and due process complaint notice.

Prior to having a due process hearing, the party requesting the hearing, or the party's attorney, shall provide the opposing party a due process complaint, which shall remain confidential, specifying: (20 USC 1415(b); 34 CFR 300.508; Education Code 56502)

1. The student's name
2. The student's address or, in the case of a student identified as homeless pursuant to 42 USC 11434, available contact information for that student

(cf. 6173 - Education for Homeless Children)

3. The name of the school the student attends
4. A description of the nature of the student's problem relating to the proposed or refused initiation or change, including facts relating to the problem
5. A proposed resolution to the problem to the extent known and available to the complaining party at the time

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION

(continued)

Parties filing a due process complaint shall file their request with the Superintendent of Public Instruction or designated contracted agency. (Education Code 56502)

District's Response to Due Process Complaints

Note: 20 USC 1415(c)(1), 34 CFR 300.508, and Education Code 56502 require the district to provide the following notice upon receipt of the due process complaint.

If the district has sent prior written notice to the parent/guardian regarding the subject matter of the parent/guardian's due process complaint, the district shall, within 10 days of receipt of the complaint, send a response specifically addressing the issues in the complaint. (20 USC 1415(c)(1); 34 CFR 300.508)

If the district has not sent a prior written notice to the parent/guardian regarding the subject matter contained in the parent/guardian's due process complaint, the district shall send a response to the parent/guardian within 10 days of receipt of the complaint containing: (20 USC 1415(c)(1); 34 CFR 300.508):

1. An explanation of why the district proposed or refused to take the action raised in the complaint
2. A description of other options that the IEP team considered and the reasons that those options were rejected
3. A description of each evaluation procedure, assessment, record, or report the district used as the basis for the proposed or refused action
4. A description of the factors that are relevant to the district's proposal or refusal

Upon the filing of a due process complaint by either party or upon request of the parent/guardian, the district shall inform the parent/guardian of any free or low-cost legal and other relevant services available in the area. (34 CFR 300.507)

Informal Process/Pre-Hearing Mediation Conference

Note: As an alternative to a due process hearing, Education Code 56500.3 provides that the parties may voluntarily participate in a mediation process conducted by a person under contract with the CDE. In addition, Education Code 56502 authorizes an informal meeting process conducted at the local level, as described in the following paragraph.

Prior to or upon initiating a due process hearing, the Superintendent or designee and a parent/guardian may, if the party initiating the hearing so chooses, agree to meet informally

PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION
(continued)

to resolve any issue(s) relating to the identification, assessment, education and placement, or provision of FAPE for a student with disabilities. The Superintendent or designee shall have the authority to resolve the issue(s). In addition, either party may file a request with the Superintendent of Public Instruction for a mediation conference to be conducted by a person under contract with the California Department of Education. (Education Code 56502)

If resolution is reached that resolves the due process issue(s), the parties shall enter into a legally binding agreement that satisfies the requirements of Education Code 56500.3. (Education Code 56500.3)

Attorneys may attend or otherwise participate only in those mediation conferences that are scheduled after the filing of a request for due process hearing. (Education Code 56500.3, 56501)

(3/05 11/06) 3/09

Administrative Regulation

Procedural Safeguards And Complaints For Special Education

AR 6159.1

Instruction

Prior Written Notice

The Superintendent or designee shall send to the parents/guardians of any student with disabilities a prior written notice within a reasonable time before: (20 USC 1415(c); 34 CFR 300.503; Education Code 56500.4, 56500.5)

1. The district initially refers the student for assessment
2. The district proposes to initiate or change the student's identification, assessment, educational placement, or the provision of a free appropriate public education (FAPE) to the student
3. The district refuses to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student
4. The student graduates from high school with a regular diploma

This notice shall include: (20 USC 1415(c); 34 CFR 300.503)

1. A description of the action proposed or refused by the district
2. An explanation as to why the district proposes or refuses to take the action
3. A description of any other options that the individualized education program (IEP) team considered and why those options were rejected
4. A description of each assessment procedure, test, record, or report the district used as a basis for the proposed or refused action
5. A description of any other factors relevant to the district's proposal or refusal
6. A statement that the parents/guardians of the student have protection under procedural safeguards and, if this notice is not an initial referral for assessment, the means by which a copy of the description of procedural safeguards can be obtained
7. Sources for parents/guardians to obtain assistance in understanding these provisions

(cf. 5145.6 - Parental Notifications)

Procedural Safeguards Notice

A procedural safeguards notice shall be made available to parents/guardians of students with a disability once a school year and: (20 USC 1415(d)(1); 34 CFR 300.504; Education Code 56301)

1. Upon initial referral or parent/guardian request for assessment
2. Upon receipt of the first state compliance complaint and upon receipt of the first due process complaint in a school year

(cf. 1312.3 - Uniform Complaint Procedures)

3. In accordance with the discipline procedures pursuant to 34 CFR 300.530(h), when a decision is made to remove a student because of a violation of a code of conduct which constitutes a change of placement

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

4. Upon request by a parent/guardian

The procedural safeguards notice shall include a full explanation of all of the procedural safeguards available under 34 CFR 300.148, 300.151-300.153, 300.300, 300.502-300.503, 300.505-300.518, 300.520, 300.530-300.536, and 300.610-300.625 relating to: (20 USC 1415(d)(2); 34 CFR 300.504)

1. Independent educational evaluation

(cf. 6164.4 - Identification of Individuals for Special Education)

2. Prior written notice

3. Parental consent

4. Access to educational records

5. Opportunity to present complaints and resolve complaints through the due process complaint and state compliance complaint procedures including the time period in which to file a complaint, the opportunity for the district to resolve the complaint, and the difference between a due process complaint and the state compliance complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures

6. The availability of mediation

7. The student's placement during the pendency of any due process complaint
 8. Procedures for students who are subject to placement in an interim alternative educational setting
- (cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))
9. Requirements for unilateral placement by parents/guardians of students in private schools at public expense
 10. Hearings on due process complaints, including requirements for disclosure of assessment results and recommendations
 11. State-level appeals
 12. Civil actions, including the time period in which to file those actions
 13. Attorney's fees

This notice shall also include the rights and procedures contained in Education Code 56500-56509 including information on the procedures for requesting an informal meeting, prehearing mediation conference, mediation conference, or due process hearing; the timelines for completing each process; whether the process is optional; the type of representative who may be invited to participate; and the right of the parent/guardian and/or the district to electronically record the proceedings of IEP meetings in accordance with Education Code 56341. (Education Code 56321, 56321.5)

A copy of this notice shall be attached to the student's assessment plan and referred to at each IEP meeting. (Education Code 56321, 56321.5)

Format of Parent/Guardian Notices

The parents/guardians of a student with a disability shall be provided written notice of their rights in a language easily understood by the general public and in their native language or other mode of communication used by them, unless to do so is clearly not feasible. The notice shall include, but not be limited to, those rights prescribed by Education Code 56341. (34 CFR 300.503; Education Code 56341, 56506;)

If the native language or other mode of communication of the parent/guardian is not a written language, the district shall take steps to ensure that: (34 CFR 300.503)

1. The notice is translated orally or by other means to the parent/guardian in his/her native language or other mode of communication.
2. The parent/guardian understands the contents of the notice.

3. There is written evidence that items #1 and #2 have been satisfied.

The district may place a copy of the procedural safeguards notice on the district's web site. (20 USC 1415(d))

A parent/guardian of a student with disabilities may elect to receive the prior written notice or procedural safeguards notice by an electronic mail communication. (34 CFR 300.505)

Due Process Complaints

A parent/guardian and/or the district may initiate due process hearing procedures whenever: (20 USC 1415(b); Education Code 56501)

1. There is a proposal to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student.
2. There is a refusal to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student.
3. The parent/guardian refuses to consent to an assessment of his/her child.
4. There is a disagreement between a parent/guardian and the district regarding the availability of a program appropriate for the student, including the question of financial responsibility, as specified in 34 CFR 300.148 (formerly 300.403).

Prior to having a due process hearing, the party requesting the hearing, or the party's attorney, shall provide the opposing party a due process complaint, which shall remain confidential, specifying: (20 USC 1415(b); 34 CFR 300.508; Education Code 56502)

1. The student's name
2. The student's address or, in the case of a student identified as homeless pursuant to 42 USC 11434, available contact information for that student

(cf. 6173 - Education for Homeless Children)

3. The name of the school the student attends
4. A description of the nature of the student's problem relating to the proposed or refused initiation or change, including facts relating to the problem
5. A proposed resolution to the problem to the extent known and available to the complaining party at the time

Response to Due Process Complaints

If the district has not sent a prior written notice to the parent/guardian regarding the subject matter contained in the parent/guardian's due process complaint, the district shall send a response to the parent/guardian within 10 days of receipt of the complaint specifying: (20 USC 1415(c)(1); 34 CFR 300.508):

1. An explanation of why the district proposed or refused to take the action raised in the complaint
2. A description of other options that the IEP team considered and the reasons that those options were rejected

(cf. 6159 - Individualized Education Program)

3. A description of each evaluation procedure, assessment, record, or report the district used as the basis for the proposed or refused action
4. A description of the factors that are relevant to the district's proposal or refusal

If the district has sent prior written notice to the parent/guardian regarding the subject matter of the parent/guardian's due process complaint, the district shall, within 10 days of receipt, send a response specifically addressing the issues in the complaint. (20 USC 1415(c)(1); 34 CFR 300.508)

Parties filing a due process complaint shall file their request with the Superintendent of Public Instruction or designated contracted agency. (Education Code 56502)

Upon the filing of a due process complaint by either party or upon request of the parent/guardian, the district shall inform the parent/guardian of any free or low-cost legal and other relevant services available in the area. (34 CFR 300.507)

Informal Process/Pre-Hearing Mediation Conference

Prior to or upon initiating a due process hearing, the Superintendent or designee and a parent/guardian may, if the party initiating the hearing so chooses, agree to meet informally to resolve any issue(s) relating to the identification, assessment, or education and placement of a student with disabilities. The Superintendent or designee shall have the authority to resolve the issue(s). In addition, either party may file a request with the Superintendent of Public Instruction for a mediation conference to be conducted by a person under contract with the California Department of Education. (Education Code 56502)

If resolution is reached that resolves the due process issue(s), the parties shall enter into a legally binding agreement that satisfies the requirements of Education Code 56500.3. (Education Code 56500.3)

Attorneys may attend or otherwise participate only in those mediation conferences that are scheduled after the filing of a request for due process hearing. (Education Code 56500.3, 56501)

Regulation CENTER UNIFIED SCHOOL DISTRICT
approved: May 2, 2007 Antelope, California

CSBA Sample

Board Policy

Instruction

BP 6163.4(a)

STUDENT USE OF TECHNOLOGY

The Governing Board intends that technological resources provided by the district be used in a safe, responsible, and proper manner in support of the instructional program and for the advancement of student learning.

(cf. 0440 - District Technology Plan)
(cf. 1113 - District and School Web Sites)
(cf. 4040 - Employee Use of Technology)
(cf. 5131 - Conduct)
(cf. 6163.1 - Library Media Centers)

Note: The following three paragraphs are optional and may be revised to reflect district practice. Many districts have developed an Acceptable Use Agreement containing rules for the use of the district's technological resources which students and their parents/guardians are required to sign; also see the accompanying administrative regulation.

The Superintendent or designee shall notify students and parents/guardians about authorized uses of district computers, user obligations and responsibilities, and consequences for unauthorized use and/or unlawful activities in accordance with district regulations and the district's Acceptable Use Agreement.

(cf. 5125.2 - Withholding Grades, Diploma or Transcripts)
(cf. 5144 - Discipline)
(cf. 5144.1 - Suspension and Expulsion/Due Process)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))
(cf. 5145.12 - Search and Seizure)

Before a student is authorized to use the district's technological resources, the student and his/her parent/guardian shall sign and return the Acceptable Use Agreement specifying user obligations and responsibilities. In that agreement, the student and his/her parent/guardian shall agree not to hold the district or any district staff responsible for the failure of any technology protection measures, violations of copyright restrictions, or user mistakes or negligence. They shall also agree to indemnify and hold harmless the district and district personnel for any damages or costs incurred.

(cf. 6162.6 - Use of Copyrighted Materials)

The Superintendent or designee, with input from students and appropriate staff, shall regularly review and update this policy, the accompanying administrative regulation, and other relevant procedures to enhance the safety and security of students using the district's technological resources and to help ensure that the district adapts to changing technologies and circumstances.

STUDENT USE OF TECHNOLOGY (continued)

Use of District Computers for Online Services/Internet Access

Note: 20 USC 6777 mandates that districts adopt an Internet safety policy as a condition of receiving technology funds under Title II, Part D of the No Child Left Behind Act (20 USC 6751-6777) for the purpose of purchasing computers with Internet access or paying for direct costs associated with accessing the Internet. 47 USC 254 mandates that districts adopt an Internet safety policy in order to qualify for federal universal service discounts for Internet access (E-rate discounts). This mandate applies to districts that receive E-rate discounts for Internet access, Internet services, or internal connections, but not to districts that receive discounts for telecommunications services only.

Both 20 USC 6777 and 47 USC 254 require that the district's policy include the operation and enforcement of a "technology protection measure" that blocks or filters Internet access to visual depictions that are obscene, child pornography, or harmful to minors. As part of the funding application process, a district is required to certify that it has the required policy in place and is enforcing the operation of the technology protection measure. For the first year that a district is applying for funds, 20 USC 6777 and 47 USC 254 allow the district to certify that it does not yet have the policy or technology protection measure in place, but that it is in the process of putting the policy or measure in place for the second funding year.

The following paragraph is mandated for districts that use E-rate or federal technology funding sources and may be adapted by other districts that choose to install technology protection measures.

The Superintendent or designee shall ensure that all district computers with Internet access have a technology protection measure that blocks or filters Internet access to visual depictions that are obscene, child pornography, or harmful to minors and that the operation of such measures is enforced. (20 USC 6777, 47 USC 254)

Note: Districts receiving E-rate discounts for Internet access, Internet services, or internal connections are also mandated by 47 USC 254 to adopt policy that addresses (1) access by minors to "inappropriate matter" on the Internet; (2) safety and security of minors when using email, chat rooms, and other forms of direct electronic communication; (3) unauthorized access, including "hacking" and other unlawful online activities by minors; (4) unauthorized disclosure, use, and dissemination of personal identification information regarding minors; and (5) measures designed to restrict minors' access to harmful materials.

On October 8, 2008, the President signed the Broadband Data Improvement Act (P.L. 110-385) which amended 47 USC 254 to mandate that the district's Internet safety policy now include educating students about appropriate online behavior, including interacting with other individuals on social networking web sites and in chat rooms as well as cyberbullying awareness and response. See BP 5131 - Conduct for additional language prohibiting cyberbullying and outlining the district's response to a report or complaint of cyberbullying.

The remainder of this section addresses these mandates and may be revised to reflect district practice. See the accompanying administrative regulation for additional language implementing these mandates. Districts that do not receive E-rate discounts may choose to use or adapt this material at their discretion.

To reinforce these measures, the Superintendent or designee shall implement rules and procedures designed to restrict students' access to harmful or inappropriate matter on the Internet and to ensure that students do not engage in unauthorized or unlawful online

STUDENT USE OF TECHNOLOGY (continued)

activities. Staff shall supervise students while they are using online services and may have teacher aides, student aides, and volunteers assist in this supervision.

The Superintendent or designee also shall establish regulations to address the safety and security of students and student information when using email, chat rooms, and other forms of direct electronic communication.

The Superintendent or designee shall provide age-appropriate instruction regarding safe and appropriate behavior on social networking sites, chat rooms, and other Internet services. Such instruction shall include, but not be limited to, the dangers of posting personal information online, misrepresentation by online predators, how to report inappropriate or offensive content or threats, behaviors that constitute cyberbullying, and how to respond when subjected to cyberbullying.

Note: The following **optional** paragraph addresses access to social networking sites such as MySpace, Facebook, Xanga, Friendster, and others, and may be revised by districts that choose to allow limited access for educational purposes.

Student use of district computers to access social networking sites is prohibited. To the extent possible, the Superintendent or designee shall block access to such sites on district computers with Internet access.

Legal Reference: (see next page)

STUDENT USE OF TECHNOLOGY (continued)

Legal Reference:

EDUCATION CODE

51006 Computer education and resources
51007 Programs to strengthen technological skills
51870-51874 Education technology
60044 Prohibited instructional materials

PENAL CODE

313 Harmful matter
502 Computer crimes, remedies
632 Eavesdropping on or recording confidential communications
653.2 Electronic communication devices, threats to safety

UNITED STATES CODE, TITLE 15

6501-6506 Children's Online Privacy Protection Act

UNITED STATES CODE, TITLE 20

6751-6777 Enhancing Education Through Technology Act, Title II, Part D, especially:
6777 Internet safety

UNITED STATES CODE, TITLE 47

254 Universal service discounts (E-rate)

CODE OF FEDERAL REGULATIONS, TITLE 16

312.1-312.12 Children's Online Privacy Protection Act

CODE OF FEDERAL REGULATIONS, TITLE 47

54.520 Internet safety policy and technology protection measures, E-rate discounts

Management Resources:

CSBA PUBLICATIONS

Cyberbullying: Policy Considerations for Boards, Policy Brief, July 2007

FEDERAL TRADE COMMISSION PUBLICATIONS

How to Protect Kids' Privacy Online: A Guide for Teachers, December 2000

MY SPACE.COM PUBLICATIONS

The Official School Administrator's Guide to Understanding MySpace and Resolving Social Networking Issues

WEB SITES

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

American Library Association: <http://www.ala.org>

California Coalition for Children's Internet Safety: <http://www.cybersafety.ca.gov>

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

Center for Safe and Responsible Internet Use: <http://csriu.org>

Federal Communications Commission: <http://www.fcc.gov>

Federal Trade Commission, Children's Online Privacy Protection:

<http://www.ftc.gov/privacy/privacyinitiatives/childrens.html>

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

Web Wise Kids: <http://www.webwisekids.org>

(11/05 7/07) 3/09

Board Policy

Student Use Of Technology

BP 6163.4
Instruction

The Governing Board intends that technological resources provided by the district be used in a safe, responsible, and proper manner in support of the instructional program and for the advancement of student learning.

(cf. 0440 - District Technology Plan)
(cf. 1113 - District and School Web Sites)
(cf. 4040 - Employee Use of Technology)
(cf. 5131 - Conduct)
(cf. 6163.1 - Library Media Centers)

The Superintendent or designee shall notify students and parents/guardians about authorized uses of district computers, user obligations and responsibilities, and consequences for unauthorized use and/or unlawful activities in accordance with district regulations and the district's Acceptable Use Agreement.

(cf. 5125.2 - Withholding Grades, Diploma or Transcripts)
(cf. 5144 - Discipline)
(cf. 5144.1 - Suspension and Expulsion/Due Process)
(cf. 5144.2 - Suspension and Expulsion/Due Process: Students with Disabilities)
(cf. 5145.12 - Search and Seizure)

The Superintendent or designee shall provide age-appropriate instruction regarding the district's acceptable use agreement, including instruction on the safe use of social networking sites and other Internet services including, but not limited to, the dangers of posting personal information online, misrepresentation by online predators, and how to report inappropriate or offensive content or threats.

(cf. 6143 - Courses of Study)

The Superintendent or designee, with input from students and appropriate staff, shall regularly review this policy, the accompanying administrative regulation, and other relevant procedures to help ensure that the district adapts to changing technologies and circumstances.

Use of District Computers for Online Services/Internet Access

The Superintendent or designee shall ensure that all district computers with Internet access have a technology protection measure that blocks or filters Internet access to

visual depictions that are obscene, child pornography, or harmful to minors, and that the operation of such measures is enforced. (20 USC 6777, 47 USC 254)

The Board desires to protect students from access to inappropriate matter on the Internet. The Superintendent or designee shall implement rules and procedures designed to restrict students' access to harmful or inappropriate matter on the Internet. He/she also shall establish regulations to address the safety and security of students and student information when using email, chat rooms, and other forms of direct electronic communication.

Student use of district computers to access social networking sites is prohibited. To the extent possible, the Superintendent or designee shall block access to such sites on district computers with Internet access.

Before using the district's technological resources, each student and his/her parent/guardian shall sign and return an Acceptable Use Agreement specifying user obligations and responsibilities. In that agreement, the student and his/her parent/guardian shall agree to not hold the district or any district staff responsible for the failure of any technology protection measures, violations of copyright restrictions, or users' mistakes or negligence. They shall also agree to indemnify and hold harmless the district and district personnel for any damages or costs incurred.

(cf. 6162.6 - Use of Copyrighted Materials)

Staff shall supervise students while they are using online services and may ask teacher aides, student aides, and volunteers to assist in this supervision.

Legal Reference:

EDUCATION CODE

51006 Computer education and resources

51007 Programs to strengthen technological skills

51870-51874 Education technology

60044 Prohibited instructional materials

PENAL CODE

313 Harmful matter

502 Computer crimes, remedies

632 Eavesdropping on or recording confidential communications

UNITED STATES CODE, TITLE 20

6751-6777 Enhancing Education Through Technology Act, Title II, Part D, especially:

6777 Internet safety

UNITED STATES CODE, TITLE 47

254 Universal service discounts (E-rate)

CODE OF FEDERAL REGULATIONS, TITLE 16

312.1-312.12 Children's online privacy protection

CODE OF FEDERAL REGULATIONS, TITLE 47

54.520 Internet safety policy and technology protection measures, E-rate discounts

Management Resources:

CSBA PUBLICATIONS

**Cyberbullying: Policy Considerations for Boards, Governance and Policy Services
Policy Brief, July 2007**

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

K-12 Network Technology Planning Guide: Building the Future, 1995

CALIFORNIA DEPARTMENT OF EDUCATION PROGRAM ADVISORIES

1223.94 Acceptable Use of Electronic Information Resources

MY SPACE.COM PUBLICATIONS

**The Official School Administrator's Guide to Understanding MySpace and Resolving
Social Networking Issues**

WEB SITES

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

American Library Association: <http://www.ala.org>

California Coalition for Children's Internet Safety: <http://www.cybersafety.ca.gov>

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

Center for Safe and Responsible Internet Use: <http://csriu.org> and <http://cyberbully.org>

Federal Communications Commission: <http://www.fcc.gov>

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

Web Wise Kids: <http://www.webwisekids.org>

Policy CENTER UNIFIED SCHOOL DISTRICT

adopted: October 17, 2007 Antelope, California

CSBA Sample

Administrative Regulation

Instruction

AR 6163.4(a)

STUDENT USE OF TECHNOLOGY

The principal or designee shall oversee the maintenance of each school's technological resources and may establish guidelines and limits on their use. All instructional staff shall receive a copy of this administrative regulation, the accompanying Board policy, and the district's Acceptable Use Agreement describing expectations for appropriate use of the system and shall also be provided with information about the role of staff in supervising student use of technological resources. All students using these resources shall receive instruction in their proper and appropriate use.

(cf. 0440 - District Technology Plan)
(cf. 4040 - Employee Use of Technology)
(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

Teachers, administrators, and/or library media specialists shall prescreen technological resources and online sites that will be used for instructional purposes to ensure that they are appropriate for the intended purpose and the age of the students.

(cf. 6163.1 - Library Media Centers)

Online/Internet Services: User Obligations and Responsibilities

Note: The following section should be modified to reflect district practice. The provisions in this section may be incorporated into the district's Acceptable Use Agreement which students and their parents/guardians are required to sign as a condition of using the district's technological resources; see the accompanying Board policy.

Students are authorized to use district equipment to access the Internet or other online services in accordance with Board policy, the user obligations and responsibilities specified below, and the district's Acceptable Use Agreement.

1. The student in whose name an online services account is issued is responsible for its proper use at all times. Students shall keep personal account numbers and passwords private and shall only use the account to which they have been assigned.
2. Students shall use the district's system safely, responsibly, and primarily for educational purposes.

Note: 47 USC 254 mandates that districts receiving E-rate discounts under Title II, Part D of the No Child Left Behind Act (20 USC 6751-6777), for the purpose of purchasing computers with Internet access or

STUDENT USE OF TECHNOLOGY (continued)

paying for direct costs associated with accessing the Internet, adopt a policy addressing access by minors to "inappropriate matter" on the Internet. Also see the accompanying Board policy.

3. Students shall not access, post, submit, publish, or display harmful or inappropriate matter that is threatening, obscene, disruptive, or sexually explicit, or that could be construed as harassment or disparagement of others based on their race/ethnicity, national origin, sex, gender, sexual orientation, age, disability, religion, or political beliefs.

(cf. 5131 - Conduct)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.9 - Hate-Motivated Behavior)

Note: Penal Code 313 provides a definition of "harmful matter" as specified below. Districts that have adopted their own definition should revise the following paragraph as appropriate.

Harmful matter includes matter, taken as a whole, which to the average person, applying contemporary statewide standards, appeals to the prurient interest and is matter which depicts or describes, in a patently offensive way, sexual conduct and which lacks serious literary, artistic, political, or scientific value for minors. (Penal Code 313)

Note: Districts receiving E-rate discounts are mandated by 47 USC 254 to adopt a policy addressing the safety and security of minors when using email, chat rooms, and other forms of direct electronic communication, as well as the unauthorized disclosure, use, and dissemination of personal identification information regarding minors. As amended by the Broadband Data Improvement Act (P.L. 110-385), 47 USC 254 also requires that the district's Internet safety policy include educating students about appropriate online behavior, including interacting with other individuals on social networking web sites and in chat rooms and cyberbullying awareness and response. See the accompanying Board policy.

The Children's Online Privacy Protection Act (15 USC 6501-6506) prohibits web site operators from collecting or disclosing personal information from a child under age 13 years without verifiable parental consent. Guidance from the Federal Trade Commission, How to Protect Kids' Privacy Online: A Guide for Teachers, indicates that, within any limitations established by district policy, a teacher may, but is not required to, act in place of the parent/guardian in deciding whether to give consent for school activities online. Because of legal uncertainty as to whether the school can give consent itself or must obtain parent/guardian consent, it is recommended that language specifying the conditions under which students will be asked to disclose personal identification information, if any, be included in the district's Acceptable Use Agreement so that the parent/guardian's signature on the agreement can indicate consent.

4. Unless otherwise instructed by school personnel, students shall not disclose, use, or disseminate personal identification information about themselves or others when using email, chat rooms, or other forms of direct electronic communication. Students also shall be cautioned not to disclose such information by other means to individuals contacted through the Internet without the permission of their parents/guardians.

STUDENT USE OF TECHNOLOGY (continued)

Personal information includes the student's name, address, telephone number, Social Security number, or other personally identifiable information.

5. Students shall not use the system to encourage the use of drugs, alcohol, or tobacco, nor shall they promote unethical practices or any activity prohibited by law, Board policy, or administrative regulations.

(cf. 3513.3 - Tobacco-Free Schools)

(cf. 5131.6 - Alcohol and Other Drugs)

6. Students shall not use the system to engage in commercial or other for-profit activities.

Note: As added by AB 919 (Ch. 583, Statutes of 2008), Penal Code 653.2 makes it a crime for a person to distribute personal identification information electronically with the intent to cause harassment by a third party and to threaten a person's safety or that of his/her family (e.g., placing a person's picture or address online so that he/she receives harassing messages).

7. Students shall not use the system to threaten, intimidate, harass, or ridicule other students or staff.
8. Copyrighted material shall be posted online only in accordance with applicable copyright laws. Any materials utilized for research projects should be given proper credit as with any other printed source of information.

(cf. 5131.9 - Academic Honesty)

(cf. 6162.6 - Use of Copyrighted Materials)

Note: Districts receiving E-rate discounts are mandated by 47 USC 254 to adopt a policy addressing unauthorized access, including so-called "hacking" and other unlawful online activities by minors. Item #9 below addresses such activities and may be revised to reflect district practice.

9. Students shall not intentionally upload, download, or create computer viruses and/or maliciously attempt to harm or destroy district equipment or materials or manipulate the data of any other user, including so-called "hacking."

(cf. 5131.5 - Vandalism, Theft and Graffiti)

10. Students shall not attempt to interfere with other users' ability to send or receive email, nor shall they attempt to read, delete, copy, modify, or use another individual's identity.
11. Students shall report any security problem or misuse of the services to the teacher or principal.

STUDENT USE OF TECHNOLOGY (continued)

Note: 20 USC 6777 and 47 USC 254 require districts receiving federal Title II technology funds or E-rate discounts to enforce the operation of technology protection measures, including monitoring the online activities of minors. Districts have discretion to determine whether they wish to track Internet use through personally identifiable web monitoring software or other means. The following paragraph is optional.

The district reserves the right to monitor use of the district's systems for improper use without advance notice or consent. Students shall be informed that computer files and electronic communications, including email, are not private and may be accessed by the district for the purpose of ensuring proper use.

(cf. 5145.12 - Search and Seizure)

Whenever a student is found to have violated Board policy, administrative regulation, or the district's Acceptable Use Agreement, the principal or designee may cancel or limit a student's user privileges or increase supervision of the student's use of the district's technological resources, as appropriate. Inappropriate use also may result in disciplinary action and/or legal action in accordance with law and Board policy.

(cf. 5144 - Discipline)

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

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

(11/05 7/07) 3/09

Administrative Regulation

Student Use Of Technology

AR 6163.4

Instruction

The principal or designee shall oversee the maintenance of each school's technological resources and may establish guidelines and limits on their use. He/she shall ensure that all students using these resources receive training in their proper and appropriate use.

(cf. 0440 - District Technology Plan)

(cf. 4040 - Employee Use of Technology)

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Online/Internet Services: User Obligations and Responsibilities

Students are authorized to use district equipment to access the Internet or other online services in accordance with Board policy, the user obligations and responsibilities specified below, and the district's Acceptable Use Agreement.

1. The student in whose name an online services account is issued is responsible for its proper use at all times. Students shall keep personal account numbers, home addresses, and all telephone numbers private. They shall only use the account to which they have been assigned.

2. Students shall use the district's system safely, responsibly, and primarily for educational purposes.

3. Students shall not access, post, submit, publish, or display harmful or inappropriate matter that is threatening, obscene, disruptive, or sexually explicit, or that could be construed as harassment or disparagement of others based on their race/ethnicity, national origin, sex, gender, sexual orientation, age, disability, religion, or political beliefs.

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.9 - Hate-Motivated Behavior)

Harmful matter includes matter, taken as a whole, which to the average person, applying contemporary statewide standards, appeals to the prurient interest and is matter which depicts or describes, in a patently offensive way, sexual conduct and which lacks serious literary, artistic, political, or scientific value for minors. (Penal Code 313)

4. Unless otherwise instructed by school personnel, students shall not disclose, use, or disseminate personal identification information about themselves or others when using email, chat rooms, or other forms of direct electronic communication. Students are also cautioned not to disclose such information by other means to individuals contacted through the Internet without the permission of their parents/guardians.

Personal information includes the student's name, address, telephone number, Social Security number, or other individually identifiable information.

5. Students shall not use the system to encourage the use of drugs, alcohol, or tobacco, nor shall they promote unethical practices or any activity prohibited by law, Board policy, or administrative regulations.

(cf. 3513.3 - Tobacco-Free Schools)

6. Students shall not use the system to engage in commercial or other for-profit activities.

7. Students shall not use the system to threaten, intimidate, harass, or ridicule other students or staff.

(cf. 5131 - Conduct)

8. Copyrighted material shall be posted online only in accordance with applicable copyright laws. Any materials utilized for research projects should be given proper credit as with any other printed source of information.

(cf. 5131.9 - Academic Honesty)

(cf. 6162.6 - Use of Copyrighted Materials)

9. Students shall not intentionally upload, download, or create computer viruses and/or maliciously attempt to harm or destroy district equipment or materials or manipulate the data of any other user, including so-called "hacking."

(cf. 5131.5 - Vandalism, Theft and Graffiti)

10. Students shall not attempt to interfere with other users' ability to send or receive email, nor shall they attempt to read, delete, copy, modify, or use another individual's identity.

11. Students shall report any security problem or misuse of the services to the teacher or principal.

The district reserves the right to monitor the system for improper use.

(cf. 5145.12 - Search and Seizure)

The principal or designee may cancel a student's user privileges whenever the student is found to have violated Board policy, administrative regulation, or the district's Acceptable Use Agreement. Inappropriate use also may result in disciplinary action and/or legal action in accordance with law and Board policy.

(cf. 5144 - Discipline)

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

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

Regulation CENTER UNIFIED SCHOOL DISTRICT
approved: October 17, 2007 Antelope, California

CSBA Sample Administrative Regulation

Instruction

AR 6164.4(a)

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION

Referrals for Special Education Services

A student shall be referred for special education instruction and services only after the resources of the regular education program have been considered and used where appropriate. (Education Code 56303)

All referrals from school staff for special education and related services shall include a brief reason for the referral and description of the regular program resources that were considered and/or modified for use with the student and their effect. (5 CCR 3021)

Initial Evaluation for Special Education Services

Before the initial provision of special education and related services to a student with a disability, the district shall conduct a full and individual initial evaluation of the student. (34 CFR 300.301; Education Code 56320)

Upon receipt of a referral of any student for special education and related services, a proposed evaluation plan shall be developed within 15 days, not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days, unless the parent/guardian agrees, in writing, to an extension. If the referral is made within 10 days or less prior to the end of the student's regular school year or term, the proposed evaluation plan shall be developed within 10 days after the beginning of the next regular school year or term. (Education Code 56043, 56321)

The proposed evaluation plan shall meet all of the following requirements: (Education Code 56321)

1. Be in a language easily understood by the general public

Note: 34 CFR 300.29 defines "native language" as the language normally used by the individual and, for a child, the language regularly used in the home environment.
--

2. Be provided in the native language of the parent/guardian or other mode of communication used by the parent/guardian unless it is clearly not feasible
3. Explain the types of evaluation to be conducted
4. State that no individualized education program (IEP) will result from the evaluation without parent/guardian consent

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

(cf. 6159 - Individualized Education Program)

Note: 34 CFR 300.503 requires the district to provide parents/guardians with prior written notice prior to conducting the initial evaluation. For contents of the prior written notice, see AR 6159.1 - Procedural Safeguards and Complaints for Special Education.

AB 1663 (Ch. 454, Statutes of 2007) amended Education Code 56329 to conform to federal law by clarifying the factors to consider when making a determination of eligibility and specifying that the parent/guardian is entitled to only one independent educational evaluation (items #2 and #4 below).

Prior to conducting an initial evaluation, the district shall provide the parent/guardian with prior written notice in accordance with 34 CFR 300.503. In addition, as part of the evaluation plan, the parent/guardian shall receive written notice that includes all of the following information: (34 CFR 300.304, 300.504; Education Code 56329)

1. Upon completion of the administration of tests and other evaluation materials, an IEP team meeting that includes the parent/guardian or his/her representative shall be scheduled pursuant to Education Code 56341. At this meeting, the team shall determine whether or not the student is a student with disabilities, as defined in Education Code 56026, and shall discuss the evaluation, the educational recommendations, and the reasons for the recommendations.
2. When making a determination of eligibility for special education, the district shall not determine that a student is disabled if the primary factor for such determination is lack of appropriate instruction in reading, including the essential components of reading instruction as defined in 20 USC 6368 of the No Child Left Behind Act, lack of appropriate instruction in mathematics, or limited English proficiency.
3. A copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent/guardian.
4. If a parent/guardian disagrees with an evaluation obtained by the district, the parent/guardian has the right to obtain, at public expense, an independent educational evaluation of the student from qualified specialists, in accordance with 34 CFR 300.502. A parent/guardian is entitled to only one such evaluation at public expense each time the district conducts an assessment with which the parent/guardian disagrees.

If the district observed the student in conducting its evaluation, or if its evaluation procedures make it permissible to have in-class observation of a student, an equivalent opportunity shall apply to the independent educational evaluation. This equivalent opportunity shall apply to the student's current placement and setting as

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

well as observation of the district's proposed placement and setting, if any, regardless of whether the independent educational evaluation is initiated before or after the filing of a due process hearing proceeding.

5. The district may initiate a due process hearing pursuant to Education Code 56500-56508 to show that its evaluation is appropriate. If the final decision resulting from the due process hearing is that the evaluation is appropriate, the parent/guardian maintains the right for an independent educational evaluation, but not at public expense.

If the parent/guardian obtains an independent educational evaluation at private expense, the results of the evaluation shall be considered by the district with respect to the provision of a free appropriate public education (FAPE) to the student, and may be presented as evidence at a due process hearing regarding the student. If the district observed the student in conducting its evaluation, or if its evaluation procedures make it permissible to have in-class observation of a student, an equivalent opportunity shall apply to an independent educational evaluation of the student in the student's current educational placement and setting, if any, proposed by the district, regardless of whether the independent educational evaluation is initiated before or after the filing of a due process hearing.

6. If a parent/guardian proposes a publicly financed placement of the student in a nonpublic school, the district shall have an opportunity to observe the proposed placement and the student in the proposed placement, if the student has already been unilaterally placed in the nonpublic school by the parent/guardian. Any such observation shall only be of the student who is the subject of the observation and shall not include the observation or evaluation of any other student in the proposed placement unless that other student's parent/guardian consents to the observation or evaluation. The results of any observation or evaluation of another student in violation of Education Code 56329(d) shall be inadmissible in any due process or judicial proceeding regarding FAPE of that other student.

(cf. 5145.6 - Parental Notifications)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

(cf. 6164.41 - Children with Disabilities Enrolled by their Parents in Private School)

Parent/Guardian Consent for Evaluations

Note: Pursuant to 34 CFR 300.301 and Education Code 56344, the district must first obtain informed parent/guardian consent before conducting (1) an initial evaluation to determine if the student is a student with a disability or (2) a reevaluation to determine if the student continues to be a student with a disability. See AR 6159 - Individualized Education Program for language regarding parent/guardian consent for the

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

provision of special education services as specified in the student's individualized education program (IEP). For language regarding parent/guardian revocation of consent for all special education services, see section below entitled "Parent/Guardian Revocation of Consent for Continued Provision of Services."

Upon receiving the proposed evaluation plan, the parent/guardian shall have at least 15 days to decide whether or not to consent to the initial evaluation. The district shall not interpret parent/guardian consent for initial evaluation as consent for initial placement or initial provision of special education services. (34 CFR 300.300, 34 CFR 300.301; Education Code 56320, 56321)

Informed parental consent means that the parent/guardian: (34 CFR 300.9)

1. Has been fully informed, in his/her native language or other mode of communication, of all information relevant to the activity for which consent is sought
2. Understands and agrees, in writing, to the carrying out of the activity for which his/her consent is sought and the consent describes that activity and lists the records (if any) that will be released and to whom
3. Understands that the granting of consent is voluntary on his/her part and may be revoked at any time
4. Understands that if he/she revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked)

The district shall make reasonable efforts to obtain the informed consent of the parent/guardian for an initial evaluation or reevaluation of a student. The district shall maintain a record of its attempts to obtain consent, including: (34 CFR 300.300, 300.322; Education Code 56321, 56341.5)

1. Detailed records of telephone calls made or attempted and the results of those calls
2. Copies of correspondence sent to the parent/guardian and any responses received
3. Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits

Note: 34 CFR 300.300 and Education Code 56321 provide that if a parent/guardian refuses to consent to an evaluation, the district may, but is not required to, utilize the due process procedures to pursue the evaluation. However, if the district declines to pursue the evaluation, the district shall have satisfied its obligations under state and federal law.

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

If a parent/guardian refuses to consent to the initial evaluation or fails to respond to a request to provide consent, the district may, but is not required to, pursue an evaluation by utilizing the procedural safeguards, including the mediation and due process procedures pursuant to 20 USC 1415 and 34 CFR 300.506-300.516. (34 CFR 300.300; Education Code 56321)

For a student who is a ward of the state and not residing with his/her parent/guardian, the district may conduct an initial evaluation without obtaining informed consent if any of the following situations exists: (20 USC 1414; 34 CFR 300.300; Education Code 56321.1)

1. Despite reasonable efforts to do so, the district cannot discover the whereabouts of the parent/guardian of the student.
2. The rights of the parent/guardian of the student have been terminated in accordance with California law.
3. The rights of the parent/guardian to make educational decisions have been subrogated by a judge in accordance with California law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the student.

(cf. 6159.3 - Appointment of Surrogate Parent for Special Education Students)

The district need not obtain parent/guardian consent before reviewing existing data as part of an evaluation or administering a test or other evaluation that is administered to all students, unless consent is required from the parents/guardians of all students. (34 CFR 300.300; Education Code 56321)

Conduct of the Evaluation

The district shall complete the determination as to whether the student is a student with a disability, conduct the initial evaluation to determine his/her educational needs, and develop an IEP within 60 days of receiving informed parent/guardian consent for the evaluation. (34 CFR 300.300, 34 CFR 300.301; Education Code 56344)

The evaluation shall be conducted by qualified personnel who are competent to perform the assessment as determined by the district, county office of education, or special education local plan area (SELPA). (Education Code 56320, 56322)

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services. (34 CFR 300.302)

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

In conducting the evaluation, the district shall use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student. The district shall also use any information provided by the parent/guardian that may assist the district in making the determination as to whether the student is a student with a disability and, if so, the necessary components of his/her IEP when the IEP is developed, including information related to enabling the student to be involved in and to progress in the general education curriculum. (34 CFR 300.304)

The district's evaluation shall not use any single measure or assessment as the sole criterion for determining whether a student is a student with a disability and for determining the appropriate educational program for the student. The assessment shall use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors. (34 CFR 300.304)

The district shall also ensure that assessments and other evaluation materials provide relevant information that directly assists persons in determining the student's educational needs and are: (34 CFR 300.304; Education Code 56320)

1. Selected and administered so as not to be discriminatory on a racial, cultural, or sexual basis
2. Provided and administered in the language and form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer
3. Used for the purposes for which the assessments or measures are valid and reliable
4. Administered by trained and knowledgeable personnel
5. Administered in accordance with any instructions provided by the producer of the assessments
6. Tailored to assess specific areas of educational need and not merely designed to provide a single general intelligence quotient
7. If administered to a student with impaired sensory, manual, or speaking skills, selected and administered to best ensure that the results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure

Note: AB 1663 (Ch. 454, Statutes of 2007) amended Education Code 56320 to conform to federal law, as specified below.

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION. (continued)

Students shall be assessed in all areas related to the suspected disability, including, if appropriate, health and development, vision (including low vision), hearing, motor abilities, language function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, and social and emotional status. When appropriate, a developmental history shall be obtained. The district shall ensure that the evaluation is sufficiently comprehensive to identify all of the student's special education and related service needs, whether or not commonly linked to the disability category in which the student has been classified. (34 CFR 300.304; Education Code 56320)

As part of the initial evaluation and any reevaluation, the IEP team and other qualified professionals shall, if appropriate, review existing evaluation data on the student, including evaluations and information provided by the parents/guardians; current classroom-based local or state assessments and classroom-based observations; and observations by teachers and related services providers. On the basis of that review and input from the student's parent/guardian, the team shall identify what additional data, if any, are needed to determine: (34 CFR 300.305; Education Code 56381)

1. Whether the student is a student with a disability, or in the case of a reevaluation, whether the student continues to have a disability, and the educational needs of the student
2. The present levels of academic achievement and related developmental needs of the student
3. Whether the student needs, or continues to need, special education and related services
4. Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in his/her IEP and to participate, as appropriate, in the general education curriculum

If a student has transferred from another district in the same school year or leaves this district, the district shall coordinate with the student's prior or subsequent district as necessary and as expeditiously as possible to ensure prompt completion of full evaluations. (34 CFR 300.304)

Eligibility Determination

Note: 34 CFR 300.307-300.311 and Education Code 56333-56338 provide additional procedures for conducting the evaluation and making the determination for eligibility of a student with specific learning disabilities.

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

Upon completion of the administration of assessments and other evaluation measures, a group of qualified professionals and the parent/guardian shall determine whether the student is a student with a disability and, if so, his/her educational needs. In interpreting the data, the group shall draw information from a variety of sources, including aptitude and achievement tests, parent/guardian input, and teacher recommendations, as well as information about the student's physical condition, social or cultural background, and adaptive behavior. The group shall ensure that the information obtained from these sources is documented and carefully considered. (34 CFR 300.306)

The personnel who evaluate the student shall prepare a written report of the results of each evaluation. The report shall include, but not be limited to, the following: (Education Code 56327)

1. Whether the student may need special education and related services
2. The basis for making the determination
3. The relevant behavior noted during the observation of the student in an appropriate setting
4. The relationship of that behavior to the student's academic and social functioning
5. The educationally relevant health, developmental, and medical findings, if any
6. For students with learning disabilities, whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services
7. A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate
8. The need for specialized services, materials, and equipment for students with low incidence disabilities, consistent with Education Code 56136

Note: Education Code 56329 requires districts to provide notice about specific factors in making the determination of eligibility as part of the district's evaluation plan. See section above entitled "Initial Evaluation for Special Education Services."
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When making a determination of eligibility for special education and related services, the district shall not determine that a student is disabled if the primary factor for such determination is a lack of appropriate instruction in reading, including the essential

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

components of reading instruction pursuant to 20 USC 6368 of the No Child Left Behind Act, lack of instruction in mathematics, limited English proficiency, or that the student does not otherwise meet the eligibility criteria. (34 CFR 300.306; Education Code 56329)

If a determination is made that a student has a disability and needs special education and related services, an IEP shall be developed within a total time not to exceed 60 days, not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days, from the date of the receipt of the parent/guardian's consent for evaluation, unless the parent/guardian agrees, in writing, to an extension. (34 CFR 300.306; Education Code 56043)

Independent Educational Evaluation

Note: 34 CFR 300.502 requires the district to provide parents/guardians, upon request, information about where an independent educational evaluation may be obtained and the district's criteria for the evaluation, including the location of the evaluation, qualifications of the examiner, and timelines for obtaining the evaluation. These criteria must be the same as the criteria that the district uses for district-initiated evaluations. In addition, Education Code 56329 requires districts to provide notice about parent/guardian rights to an independent educational evaluation as part of the proposed evaluation plan; see section above entitled "Initial Evaluation for Special Education Services." Districts may wish to modify the following section to include specific criteria developed by the district or special education local plan area, as appropriate.

The parents/guardians of a student with a disability have the right to obtain an independent educational evaluation at public expense under the same criteria that the district uses for a district-initiated evaluation. An *independent educational evaluation* is an evaluation conducted by a qualified examiner who is not employed by the district. *Public expense* means the district either pays for the full cost of the independent educational evaluation or ensures that the evaluation is otherwise provided at no cost to the parent/guardian. (34 CFR 300.502; Education Code 56329)

The parent/guardian is entitled to only one independent educational evaluation at public expense each time the district conducts an evaluation with which the parent/guardian disagrees. (34 CFR 300.502; Education Code 56329)

If a parent/guardian has requested an independent educational evaluation, the district may ask for a reason that he/she objects to the district's evaluation. However, the parent/guardian is not required to provide the reason to the district. (34 CFR 300.502)

Upon receiving the request for an independent educational evaluation, the district shall, without unnecessary delay, either: (34 CFR 300.502)

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

1. File a due process complaint to request a hearing to show that its evaluation is appropriate
2. Ensure that an independent evaluation is provided at public expense, unless the district can later demonstrate at a hearing that the evaluation obtained by the parent/guardian did not satisfy the district's criteria

If a due process hearing decision determines that the district's evaluation is appropriate, then the parent/guardian may obtain an independent evaluation but not at public expense. (34 CFR 300.502)

The results of an independent evaluation obtained by the parent/guardian, whether at public or private expense, shall be considered by the district if it meets district criteria in any decision made with respect to FAPE and may be presented as evidence at a hearing on a due process complaint. (34 CFR 300.502)

Reevaluation

A reevaluation shall be conducted when the district determines that the educational or related service needs of the student, including improved academic achievement and functional performance, warrant a reevaluation or if the student's parent/guardian or teacher requests reevaluation. Such reevaluations shall occur every three years, unless the parent/guardian and district agree in writing that a reevaluation is unnecessary. A reevaluation may not occur more than once a year, unless the parent/guardian and the district agree otherwise. (34 CFR 300.303; Education Code 56043, 56381)

The district shall ensure that any reevaluations of the student are conducted in accordance with the evaluation procedures pursuant to 34 CFR 300.304-300.311. (34 CFR 300.303)

Before entering kindergarten or first grade, children with disabilities who are in a preschool program shall be reevaluated to determine if they still need special education and services. IEP teams shall identify a means of monitoring the continued success of children who are determined to be eligible for less intensive special education programs to ensure that gains made are not lost by a rapid removal of individualized programs and supports for these children. (Education Code 56445)

Parent/Guardian Revocation of Consent for Continued Provision of Services

Note: 34 CFR 300.300, as amended by 73 Fed. Reg. 231, authorizes a parent/guardian to revoke consent, in writing, for the continued provision of special education and related services for his/her child at any time. Once this revocation has been received, 34 CFR 300.00 specifies that the district need not convene an IEP team meeting or develop an IEP. In the Analysis of Comments and Changes (73 Fed. Reg. 231, page

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION (continued)

73016), the U.S. Department of Education (USDOE) clarifies that this revocation of consent is different than the determination as to whether a student is a child with a disability. If a district determines that a student is no longer a child with a disability, then 34 CFR 300.305 requires the district to evaluate the child before making that determination. If the parent/guardian disagrees with the eligibility determination, then he/she may challenge the decision using the due process procedures.

Upon receipt of this revocation, 34 CFR 300.300, as amended by 73 Fed. Reg. 231, requires the district to promptly provide "prior written notice" and, within a reasonable period of time, discontinue all services to the child. According to the Analysis of Comments and Changes (73 Fed. Reg. 231, page 73008), the prior written notice provides sufficient information to parents/guardians to understand the implications of their decision. For details regarding the contents of the prior written notice, see AR 6159.1 - Procedural Safeguards and Complaints for Special Education.

In addition, 34 CFR 300.300, as amended, specifies that a district may not override the parent/guardian's revocation by filing for a due process hearing or requesting mediation in order to require that services be provided. However, districts need to be cautious and ensure that the revocation is for all special education services. For example, Education Code 56346 specifies that, when a parent/guardian refuses to consent to some or all the services specified in the student's IEP, the district is required to institute a due process hearing. Thus, when a revocation is received, districts must carefully analyze whether the parent/guardian is revoking consent to an IEP, particular services within that IEP, or all special education services.

If at any time subsequent to the initial provision of services, the student's parent/guardian revokes consent, in writing, for the continued provision of special education services, the Superintendent or designee shall provide prior written notice within a reasonable time before ceasing to provide services to the student. The district shall not request a due process hearing or pursue mediation in order to require an agreement or ruling that services be provided to the student. (34 CFR 300.300, 300.503)

Note: In the Analysis of Comments and Changes (73 Fed. Reg. 231, page 73008), the USDOE clarifies that a district may institute voluntary procedures to discuss concerns with a parent/guardian resulting from the revocation, but that these procedures may not delay the discontinuation of services. For example, a district may ask why a parent/guardian has revoked consent, but may not require an explanation. The following paragraph is optional and should be modified to reflect district practice.

Prior to the discontinuation of services, the Superintendent or designee may offer to meet with the parents/guardians to discuss concerns for the student's education. However, this meeting shall be voluntary on the part of the parent/guardian and shall not delay the implementation of the parent/guardian's request for discontinuation of services. In addition, the Superintendent or designee shall send a letter to the parent/guardian confirming the parent/guardian's decision to discontinue all services.

Note: In the Analysis of Comments and Changes (73 Fed. Reg. 231, page 73013), the USDOE states that once a parent/guardian has revoked consent for services, the student is considered a general education student for all purposes, including discipline and graduation requirements. Pursuant to 34 CFR 300.9, as amended, the district is not required to amend the student's records to remove any reference to the student's prior receipt of special education services.

**IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL
EDUCATION (continued)**

In some circumstance, a student no longer receiving special education services may be eligible for accommodation under Section 504 of the Rehabilitation Act of 1973 (see BP/AR 6164.6 - Identification and Education under Section 504) but the law is unclear. Districts with questions should consult legal counsel, as appropriate.

Once the district has ceased providing special education services in response to the parent/guardian's revocation of consent, the student shall be classified as a general education student.

(3/06 3/07) 3/09

Administrative Regulation

Identification And Evaluation Of Individuals For Special Education

AR 6164.4

Instruction

Referrals for Special Education Services

A student shall be referred for special educational instruction and services only after the resources of the regular education program have been considered and used where appropriate. (Education Code 56303)

All referrals from school staff for special education and related services shall include a brief reason for the referral and description of the regular program resources that were considered and/or modified for use with the student and their effect. (5 CCR 3021)

Initial Evaluation for Special Education Services

Before the initial provision of special education and related services to a student with a disability, the district shall conduct a full and individual initial evaluation of the student. (34 CFR 300.301; Education Code 56320)

Within 15 days of the referral of any student for special education and related services, the district shall develop a proposed evaluation plan, unless the parent/guardian agrees in writing to an extension. This 15-day period does not include days between the student's regular school session or term, or days of school vacation in excess of five school days from the date of receipt of the referral. If the referral is made within 10 days or less prior to the end of the student's regular school year, the proposed evaluation plan shall be developed within 10 days after the beginning of the next regular school year, or the student's regular school term. In the case of the student's school vacation in excess of five school days, the 15-day deadline shall recommence on the date the student's regular school days reconvene. (Education Code 56043, 56321)

The proposed evaluation plan shall meet all of the following requirements: (Education Code 56321)

1. Be in a language easily understood by the general public
2. Be provided in the native language of the parent/guardian or other mode of communication used by the parent/guardian unless it is clearly not feasible
3. Explain the types of evaluation to be conducted
4. State that no individualized education program (IEP) will result from the

evaluation without parent/guardian consent

(cf. 6159 - Individualized Education Program)

Prior to conducting an initial evaluation, the district shall provide the parent/guardian with prior written notice in accordance with 34 CFR 300.503. In addition, as part of the evaluation plan, the parent/guardian shall receive written notice that includes all of the following information: (34 CFR 300.304, 300.504; Education Code 56329)

1. Upon completion of the administration of tests and other evaluation materials, an IEP team meeting that includes the parent/guardian or his/her representative shall be scheduled pursuant to Education Code 56341. At this meeting, the team shall determine whether or not the student is a student with disabilities as defined in Education Code 56026 and shall discuss the evaluation, the educational recommendations, and the reasons for the recommendations.
2. In making a determination of eligibility for special education, the student shall not be determined to be a student with a disability if the determinant factor is lack of appropriate instruction in reading, lack of instruction in mathematics, or limited English proficiency.
3. A copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent/guardian.
4. If a parent/guardian disagrees with an evaluation obtained by the district, the parent/guardian has the right to obtain, at public expense, an independent educational evaluation of the student from qualified specialists, in accordance with 34 CFR 300.502.

If the district observed the student in conducting its evaluation, or if its evaluation procedures make it permissible to have in-class observation of a student, an equivalent opportunity shall apply to the independent educational evaluation. This equivalent opportunity shall apply to the student's current placement and setting as well as observation of the district's proposed placement and setting, regardless of whether the independent educational evaluation is initiated before or after the filing of a due process hearing proceeding.

5. The district may initiate a due process hearing pursuant to Education Code 56500-56508 to show that its evaluation is appropriate. If the final decision resulting from the due process hearing is that the evaluation is appropriate, the parent/guardian maintains the right for an independent educational evaluation, but not at public expense.

If the parent/guardian obtains an independent educational evaluation at private expense, the results of the evaluation shall be considered by the district with respect to the provision of a free appropriate public education (FAPE) to the student, and may be presented as evidence at a due process hearing regarding the student. If the district observed the student in conducting its evaluation, or if its evaluation procedures make it

permissible to have in-class observation of a student, an equivalent opportunity shall apply to an independent educational evaluation of the student in the student's current educational placement and setting, if any, proposed by the district, regardless of whether the independent educational evaluation is initiated before or after the filing of a due process hearing.

6. If a parent/guardian proposes a publicly financed placement of the student in a nonpublic school, the district shall have an opportunity to observe the proposed placement and, if the student has already been unilaterally placed in the nonpublic school by the parent/guardian, the student in the proposed placement. Any such observation shall only be of the student who is the subject of the observation and may not include the observation or evaluation of any other student in the proposed placement unless that other student's parent/guardian consents to the observation or evaluation. The results of any observation or evaluation of another student in violation of Education Code 56329(d) shall be inadmissible in any due process or judicial proceeding regarding FAPE of that other student.

(cf. 5145.6 - Parental Notifications)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

Parent/Guardian Consent for Evaluations

Upon receiving the proposed evaluation plan, the parent/guardian shall have at least 15 days to decide whether or not to consent to the initial evaluation. The district shall not interpret parent/guardian consent for initial evaluation as consent for initial placement or initial provision of special education services. (34 CFR 300.300, 34 CFR 300.301; Education Code 56320, 56321)

Informed parental consent means that the parent/guardian: (34 CFR 300.9)

1. Has been fully informed of all information relevant to the activity for which consent is sought, in his/her native language or other mode of communication
2. Understands and agrees, in writing, to the carrying out of the activity for which his/her consent is sought and the consent describes that activity and lists the records (if any) that will be released and to whom
3. Understands that the granting of consent is voluntary on his/her part and may be revoked at any time
4. Understands that if he/she revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked)

The district shall make reasonable efforts to obtain the informed consent of the parent/guardian for an initial evaluation or reevaluation of a student. The district shall

maintain a record of its attempts to obtain consent, including: (34 CFR 300.300, 300.322)

1. Detailed records of telephone calls made or attempted and the results of those calls
2. Copies of correspondence sent to the parent/guardian and any responses received
3. Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits

If a parent/guardian refuses to consent to the initial evaluation or fails to respond to a request to provide consent, the district may, but is not required to, pursue an evaluation by utilizing the procedural safeguards, including the mediation and due process procedures pursuant to 20 USC 1415 and 34 CFR 300.506-300.516. (34 CFR 300.300; Education Code 56321)

For a student who is a ward of the state and not residing with his/her parent/guardian, the district may conduct an initial evaluation without obtaining informed consent if any of the following situations exists: (34 CFR 300.300; Education Code 56321)

1. Despite reasonable efforts to do so, the district cannot discover the whereabouts of the parent/guardian of the student.
2. The rights of the parent/guardian of the student have been terminated in accordance with California law.
3. The rights of the parent/guardian to make educational decisions have been subrogated by a judge in accordance with California law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the student.

(cf. 6159.3 - Appointment of Surrogate Parent for Special Education Students)

The district need not obtain parent/guardian consent before reviewing existing data as part of an evaluation or administering a test or other evaluation that is administered to all students, unless consent is required from the parents/guardians of all students. (34 CFR 300.300)

Conduct of the Evaluation

The district shall complete the determination as to whether the student is a student with a disability, conduct the initial evaluation to determine his/her educational needs, and develop an IEP within 60 days of receiving informed parent/guardian consent for the evaluation. (34 CFR 300.300, 34 CFR 300.301; Education Code 56344)

The evaluation shall be conducted by qualified personnel who are competent to perform

the assessment as determined by the district, county office of education, or special education local plan area (SELPA). (Education Code 56320, 56322)

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services. (34 CFR 300.302)

In conducting the evaluation, the district shall use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student. The district shall also use any information provided by the parent/guardian that may assist the district in making the determination as to whether the student is a student with a disability and, if so, the necessary components of his/her IEP when the IEP is developed, including information related to enabling the student to be involved in and to progress in the general education curriculum. (34 CFR 300.304)

The district's evaluation shall not use any single measure or assessment as the sole criterion for determining whether a student is a student with a disability and for determining the appropriate educational program for the student. The assessment shall use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors. (34 CFR 300.304)

The district shall also ensure that assessments and other evaluation materials provide relevant information that directly assists persons in determining the student's educational needs and are: (34 CFR 300.304; Education Code 56320)

1. Selected and administered so as not to be discriminatory on a racial, cultural, or sexual basis
2. Provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer
3. Used for the purposes for which the assessments or measures are valid and reliable
4. Administered by trained and knowledgeable personnel
5. Administered in accordance with any instructions provided by the producer of the assessments
6. Tailored to assess specific areas of educational need and not merely designed to provide a single general intelligence quotient
7. If administered to a student with impaired sensory, manual, or speaking skills,

selected and administered to best ensure that the results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure

Students shall be assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. The district shall ensure that the evaluation is sufficiently comprehensive to identify all of the student's special education and related service needs, whether or not commonly linked to the disability category in which the student has been classified. (34 CFR 300.304)

As part of the initial evaluation and any reevaluation, the IEP team and other qualified professionals, shall, if appropriate, review existing evaluation data on the student, including evaluations and information provided by the parents/guardians; current classroom-based local or state assessments and classroom-based observations; and observations by teachers and related services providers. On the basis of that review and input from the student's parent/guardian, the team shall identify what additional data, if any, are needed to determine: (34 CFR 300.305; Education Code 56381)

1. Whether the student is a student with a disability, or in the case of a reevaluation, whether the student continues to have a disability, and the educational needs of the student
2. The present levels of academic achievement and related developmental needs of the student
3. Whether the student needs, or continues to need, special education and related services
4. Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in his/her IEP and to participate, as appropriate, in the general education curriculum

If a student has transferred from another district in the same school year or leaves this district, the district shall coordinate with the student's prior or subsequent district as necessary and as expeditiously as possible to ensure prompt completion of full evaluations. (34 CFR 300.304)

Eligibility Determination

Upon completion of the administration of assessments and other evaluation measures, a group of qualified professionals and the parent/guardian shall determine whether the child is a student with a disability and the student's educational needs. In interpreting the data, the group shall draw information from a variety of sources, including aptitude and achievement tests, parent/guardian input, and teacher recommendations, as well as information about the student's physical condition, social or cultural background, and adaptive behavior. The group shall ensure that the information obtained from these

sources is documented and carefully considered. (34 CFR 300.306)

The personnel who evaluate the student shall prepare a written report of the results of each evaluation. The report shall include, but not be limited to, the following: (Education Code 56327)

1. Whether the student may need special education and related services
2. The basis for making the determination
3. The relevant behavior noted during the observation of the student in an appropriate setting
4. The relationship of that behavior to the student's academic and social functioning
5. The educationally relevant health, developmental, and medical findings, if any
6. For students with learning disabilities, whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services
7. A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate
8. The need for specialized services, materials, and equipment for students with low incidence disabilities, consistent with Education Code 56136

When making a determination of eligibility for special education and related services, the district shall not determine that a student is disabled if the primary factor for such determination is a lack of appropriate instruction in reading, including the essential components of reading instruction pursuant to 20 USC 6368 of the No Child Left Behind Act, lack of instruction in mathematics, limited English proficiency, or that the student does not otherwise meet the eligibility criteria. (34 CFR 300.306; Education Code 56329)

If a determination is made that a student has a disability and needs special education and related services, an IEP shall be developed within a total time not to exceed 60 days, not counting days between the student's regular school sessions, terms, or days of school vacation in excess of five school days, from the date of the receipt of the parent/guardian's consent for evaluation, unless the parent/guardian agrees, in writing, to an extension. (34 CFR 300.306; Education Code 56043)

Independent Educational Evaluation

The parents/guardians of a student with a disability have the right to obtain an independent educational evaluation at public expense under the same criteria that the district uses for a district-initiated evaluation. An independent educational evaluation is

an evaluation conducted by a qualified examiner who is not employed by the district. Public expense means the district either pays for the full cost of the independent educational evaluation or ensures that the evaluation is otherwise provided at no cost to the parent/guardian. (34 CFR 300.502)

The parent/guardian is entitled to only one independent educational evaluation at public expense each time the district conducts an evaluation with which the parent/guardian disagrees. (34 CFR 300.502)

If a parent/guardian has requested an independent educational evaluation, the district may ask for a reason that he/she objects to the district's evaluation. However, the parent/guardian is not required to provide the reason to the district. (34 CFR 300.502)

Upon receiving the request for an independent educational evaluation, the district shall, without unnecessary delay, either: (34 CFR 300.502)

1. File a due process complaint to request a hearing to show that its evaluation is appropriate
2. Ensure that an independent evaluation is provided at public expense, unless the district can later demonstrate at a hearing that the evaluation obtained by the parent/guardian did not satisfy the district's criteria

If a due process hearing decision determines that the district's evaluation is appropriate, then the parent/guardian may obtain an independent evaluation but not at public expense. (34 CFR 300.502)

The results of an independent evaluation obtained by the parent/guardian, whether at public or private expense, shall be considered by the district if it meets district criteria in any decision made with respect to FAPE and may be presented as evidence at a hearing on a due process complaint. (34 CFR 300.502)

Reevaluation

A reevaluation shall be conducted when the district determines that the educational or related services needs of the student, including improved academic achievement and functional performance, warrant a reevaluation or if the student's parent/guardian or teacher requests reevaluation. Such reevaluations shall occur every three years, unless the parent/guardian and district agree in writing that a reevaluation is unnecessary. A reevaluation may not occur more than once a year, unless the parent/guardian and the district agree otherwise. (34 CFR 300.303; Education Code 56381)

The district shall ensure that any reevaluations of the student are conducted in accordance with the evaluation procedures pursuant to 34 CFR 300.304-300.311. (34 CFR 300.303)

Before entering kindergarten or first grade, children with disabilities who are in a

preschool program shall be reevaluated to determine if they still need special education and services. IEP teams shall identify a means of monitoring the continued success of children who are determined to be eligible for less intensive special education programs to ensure that gains made are not lost by a rapid removal of individualized programs and supports for these children. (Education Code 56445)

Regulation CENTER UNIFIED SCHOOL DISTRICT
approved: June 20, 2007 Antelope, California

CSBA Sample

Administrative Regulation

Instruction

AR 6164.6(a)

IDENTIFICATION AND EDUCATION UNDER SECTION 504

Note: Section 504 of the federal Rehabilitation Act of 1973 (29 USC 794) prohibits discrimination on the basis of disability. Pursuant to 34 CFR 104.33, a district has a duty to provide eligible students with a free appropriate public education (FAPE), as defined below.

The U.S. Department of Education Office for Civil Rights (OCR) is responsible for enforcing the provisions of Section 504 and also for receiving and handling complaints from parents/guardians, students, and advocates. The Americans with Disabilities Amendments Act (ADA) of 2008 (P.L. 110-325) amended 29 USC 705 to broaden the definition of "disability" and "substantially limits" for both ADA and Section 504 purposes. However, the OCR has not yet evaluated the impact of these amendments, if any, on the implementing regulations or its guidance and enforcement of Section 504. In the meantime, districts should interpret eligibility terms broadly and consult legal counsel as necessary.

The following **optional** administrative regulation focuses on district procedures for identifying and evaluating students who are eligible to receive FAPE and is consistent with OCR practice.

Definitions

Free appropriate public education (FAPE) under Section 504 of the Rehabilitation Act of 1973 means the provision of either regular or special education and related aids and services, designed to meet the student's individual educational needs as adequately as the needs of nondisabled students are met. (34 CFR 104.33)

Note: Pursuant to 34 CFR 104.33, a student is considered disabled when he/she has a physical or mental impairment that substantially limits a major life activity, has a record of such impairment, or is regarded as having such impairment. According to OCR, a district is required to provide FAPE only to those students whose impairment currently limits a major life activity. However, Section 504 requires districts to protect a student who has a record of, or is regarded as having, such an impairment from discriminatory treatment. For example, it would be discriminatory and thus illegal to prohibit a student who has a record of bone cancer, but is currently in remission, from trying out for the basketball team based on his/her history of cancer.

Eligibility to receive FAPE under Section 504 means a student has a physical or mental impairment which substantially limits one or more major life activities. (34 CFR 104.33)

Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. (34 CFR 104.3)

Note: Examples of physical or mental impairments that may constitute disabling conditions under Section 504 if they substantially limit a major life activity may include, but not be limited to, diabetes; communicable diseases such as HIV/AIDS or asymptomatic carriers of the AIDS virus; tuberculosis; attention deficit disorder (ADD or ADHD); chronic asthma and severe allergies; physical disabilities such as spina bifida or hemophilia; and temporary disabilities depending on the anticipated length of disability, the seriousness of the illness/injury, and the needs of the student (e.g., students injured in accidents or suffering

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

short-term illnesses). In the event that these conditions fall within the disabilities categories specified in the Individuals with Disabilities Education Act (IDEA), then the student may need to be considered for services under that law; see BP/AR 6164.4 - Identification and Evaluation of Individuals for Special Education.

Physical or mental impairment means any of the following: (34 CFR 104.3)

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine
2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities

Referral, Identification, and Evaluation

Note: Pursuant to 34 CFR 104.7, the district is required to designate the person(s) responsible for the overall implementation of the requirements of Section 504, as specified below. Districts may modify the following section to list the specific title of the individual so designated.

34 CFR 104.35 requires a district to conduct an evaluation of any student who needs or is believed to need special education or related services under Section 504. However, the law does not require a specific procedure for referral of a student for the evaluation. Items #1-2 below provide such a procedure and should be modified to reflect district practice.

1. Any student may be referred by a parent/guardian, teacher, other school employee, student success team, or community agency for consideration of eligibility as a disabled student under Section 504. This referral may be made to the principal or 504 Coordinator.

(cf. 6164.5 - Student Success Teams)

2. Upon receipt of a referral for eligibility, the principal or 504 Coordinator shall consider the referral and determine whether an evaluation is appropriate. This determination shall be based on a review of the student's school records, including academic and nonacademic areas of the school program; consultation with the student's teacher(s), other professionals, and the parent/guardian, as appropriate; and analysis of the student's needs.

If it is determined that an evaluation is unnecessary, the principal or 504 Coordinator shall inform the parents/guardians in writing of this decision and of the procedural safeguards, as described in the "Procedural Safeguards" section below.

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

3. If it is determined that a student needs or is believed to need special education or related services under Section 504, the district shall conduct an evaluation of the student prior to initial placement and before any significant change in placement. (34 CFR 104.35)

Note: OCR has interpreted Section 504 to require districts to obtain parental permission for initial evaluations. Although the law is silent on the form of parental consent, it is recommended that the district obtain such consent in writing. The following paragraph should be modified to reflect district practice.

Prior to conducting an initial evaluation of a student for eligibility under Section 504, the district shall obtain written parent/guardian consent.

Note: 34 CFR 104.35 requires that the district's evaluation and placement procedures include the elements specified in items #a-c below.

The district's evaluation procedures shall ensure that tests and other evaluation materials: (34 CFR 104.35)

- a. Have been validated and are administered by trained personnel in conformance with the instruction provided by the test publishers
- b. Are tailored to assess specific areas of educational need and are not based solely on a single IQ score
- c. Reflect aptitude or achievement or whatever else the tests purport to measure and do not reflect the student's impaired sensory, manual, or speaking skills unless the test is designed to measure these particular deficits

Section 504 Services Plan and Placement

1. A multi-disciplinary 504 team shall be convened to review the evaluation data in order to make placement decisions.

The 504 team shall consist of a group of persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. (34 CFR 104.35)

In interpreting evaluation data and making placement decisions, the team shall draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. The team shall also ensure that information obtained from all such sources is documented and carefully considered and that the placement decision is made in conformity with 34 CFR 104.34. (34 CFR 104.35)

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

Note: While there is no specific requirement that a Section 504 services plan (sometimes called an accommodation plan) be in writing, it is strongly recommended that the district develop a written plan for each student detailing the regular and/or special education and related services that the student will be provided in order to ensure that the student is receiving FAPE in accordance with 34 CFR 104.33.

In August 2007, the California Department of Education (CDE) issued a legal advisory regarding the settlement of a lawsuit concerning the rights of students with diabetes to receive insulin. In December 2008, a superior court judge invalidated the part of the legal advisory that authorized districts to train unlicensed school employees (i.e., without a medical license) to administer insulin in accordance with a student's Section 504 plan. However, the remainder of the CDE advisory is still in effect; thus, appropriately licensed employees (i.e., school nurses), contracted registered nurses, the student, parent/guardian, or other individual designated by the parent/guardian may administer insulin during the school day. See also BP/AR 5141.21 - Administering Medication and Monitoring Health Conditions.

The CDE's legal advisory also clarifies that a district may not have a general practice or policy that insulin or glucagon administration will only be provided by district personnel at one school or will always require removal from the classroom in order to receive diabetes-related health care services. In addition, a district may not require the parent/guardian to waive any rights or agree to any particular placement or related services as a condition of administering medication or assisting students in the administration of medication at school. Pursuant to 34 CFR 104.35, such determinations must be based on each student's individual educational needs.

2. If, upon evaluation, a student is determined to be eligible for services under Section 504, the team shall meet to develop a written 504 services plan which shall specify the types of regular or special education services, accommodations, and supplementary aids and services necessary to ensure that the student receives FAPE.

The parents/guardians shall be invited to participate in the meeting and shall be given an opportunity to examine all relevant records.

(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)

3. If the 504 team determines that no services are necessary for the student, the record of the team's meeting shall reflect whether or not the student has been identified as a disabled person under Section 504 and shall state the basis for the decision that no special services are presently needed. The student's parent/guardian shall be informed in writing of his/her rights and procedural safeguards, as described in the "Procedural Safeguards" section below.
4. The student shall be placed in the regular educational environment, unless the district can demonstrate that the education of the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. The student shall be educated with those who are not disabled to the maximum extent appropriate to his/her individual needs. (34 CFR 104.34)

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

Note: The law does not specify a time frame for completion of the evaluation and placement process, but OCR requires completion within "a reasonable amount of time." Generally, compliance with the timelines in IDEA will be considered "reasonable" and thus in compliance with Section 504. However, unlike IDEA, Section 504 does not provide for an automatic suspension of the timelines over the summer; thus, in certain circumstances an evaluation might be required while school is not in session. For timelines under IDEA, see AR 6164.4 - Identification and Evaluation of Individuals for Special Education.

5. The district shall complete the identification, evaluation, and placement process within a reasonable time frame.
6. A copy of the student's Section 504 services plan shall be kept in his/her student record. The student's teacher(s) and any other staff who provide services to the student shall be informed of the plan's requirements.

If a student transfers to another school within the district, the principal or designee at the school from which the student is transferring shall ensure that the principal or designee at the new school receives a copy of the plan prior to the student's enrollment in the new school.

(cf. 5125 - Student Records)

Review and Reevaluation

Note: 34 CFR 104.35 requires a district to establish procedures for the periodic reevaluation of a student who has been identified as needing services under Section 504. The following section should be modified to reflect district practice.

1. The 504 team shall monitor the progress of the student and the effectiveness of the student's Section 504 services plan to determine whether the services are appropriate and necessary and whether the student's needs are being met as adequately as the needs of nondisabled students. The team shall review the student's plan annually. In addition, the student's eligibility under Section 504 shall be reevaluated at least once every three years.

Note: Examples of activities that might constitute a "significant change in placement" triggering a reevaluation include, but are not limited to, expulsions, suspensions that exceed more than 10 school days within a school year, or removal from a fully integrated curriculum to a resource room, home instruction, independent study, or continuation school.

2. A reevaluation of the student's needs shall be conducted before any subsequent significant change in placement. (34 CFR 104.35)

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

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

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)**Procedural Safeguards**

Parents/guardians shall be notified in writing of all district decisions regarding the identification, evaluation, or educational placement of students with disabilities or suspected disabilities. Notifications shall include a statement of their right to: (34 CFR 104.36)

1. Examine relevant records
2. Have an impartial hearing with an opportunity for participation by the parents/guardians and their counsel
3. Have a review procedure

Notifications shall also detail the parent/guardian's right to file a grievance with the district over an alleged violation of Section 504; have an evaluation that draws on information from a variety of sources; be informed of any proposed actions related to eligibility and plan for services; receive all information in the parent/guardian's native language and primary mode of communication; periodic reevaluations and an evaluation before any significant change in program/service modifications; an impartial hearing if there is a disagreement with the district's proposed action; be represented by counsel in the impartial hearing process; and appeal the impartial hearing officer's decision.

Note: 34 CFR 104.36 requires that the district's procedural safeguards for Section 504 include an "impartial hearing" to resolve disagreements about the provision of FAPE. This Section 504 due process hearing is separate from the due process hearing procedures under IDEA and from the district's uniform complaint procedures, which are used to resolve complaints regarding discriminatory treatment (e.g., harassment or accessibility issues). See BP/AR 1312.3 - Uniform Complaint Procedures.

Timelines suggested in the following paragraphs should be revised to reflect district practice; however, OCR requires that the due process hearing procedures be completed within a "reasonably prompt time frame."

If a parent/guardian disagrees with decisions regarding the identification, evaluation, or educational placement of his/her child under Section 504, he/she may request a Section 504 due process hearing in accordance with the following procedures:

Note: According to OCR, the parent/guardian cannot be required to participate in an administrative review prior to exercising his/her right to a Section 504 due process hearing. Districts with questions should consult legal counsel, as appropriate.

1. Within 30 days after receipt of the district's decision with which the parent/guardian disagrees, the parent/guardian may request an administrative review of the decision.

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

The 504 Coordinator shall designate an appropriate administrator to meet with the parent/guardian to attempt to resolve the issue. This review shall be held within 14 days of receiving the parent/guardian's request.

2. If the parent/guardian chooses not to request an administrative review or if the review does not resolve the issue, the parent/guardian may request in writing a Section 504 due process hearing. The parent/guardian's request for a hearing shall be made within 30 days of receiving the district's decision or within 14 days of completion of the administrative review. The request shall include:
 - a. The specific nature of the decision with which the parent/guardian disagrees
 - b. The specific relief the parent/guardian seeks
 - c. Any other information the parent/guardian believes pertinent

Within 30 days of receiving the parent/guardian's request, the Superintendent or designee and 504 Coordinator shall select an impartial hearing officer. This 30-day deadline may be extended for good cause or by mutual agreement of the parties.

The 504 Coordinator shall maintain a list of impartial hearing officers who are qualified and willing to conduct Section 504 hearings. To ensure impartiality, such officers shall not be employed by or under contract with the district in any capacity other than that of hearing officer and shall not have any professional or personal involvement that would affect their impartiality or objectivity in the matter.

Within 45 days of the selection of the hearing officer, the Section 504 due process hearing shall be conducted and a written decision mailed to all parties. This 45-day deadline may be extended for good cause or by mutual agreement of the parties.

Any party to the hearing shall be afforded the right to:

1. Be accompanied and advised by counsel and by individuals with special knowledge or training related to the problems of students who are qualified as disabled under Section 504
2. Present written and oral evidence
3. Question and cross-examine witnesses
4. Receive written findings by the hearing officer

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

If desired, either party may seek a review of the hearing officer's decision by a federal court of competent jurisdiction.

Notifications

The Superintendent or designee shall ensure that the district has taken appropriate steps to notify students and parents/guardians of the district's duty under Section 504. (34 CFR 104.32)

(cf. 5145.6 - Parental Notifications)

(10/95 11/07) 3/09

Administrative Regulation

Identification And Education Under Section 504

AR 6164.6
Instruction

Definitions

Eligibility for services under Section 504 of the federal Rehabilitation Act of 1973 means a student has any of the following conditions: (34 CFR 104.3)

1. A physical or mental impairment which substantially limits one or more major life activities
2. Has a record or history of such impairment
3. Is regarded as having such impairment because he/she:
 - a. Has a physical or mental impairment that does not substantially limit a major life activity but is treated by the district as having such a limitation (e.g., a student who has scarring, a student who walks with a limp)
 - b. Has a physical or mental impairment that substantially limits a major life activity only as a result of the attitudes of others towards such impairment (e.g., a student who has scarring or disfigurement)
 - c. Has no physical or mental impairment but is treated by the district as having such an impairment (e.g., a student who tests positive with the HIV virus but has no physical effects from it)

Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. (34 CFR 104.3)

Physical or mental impairment means any of the following: (34 CFR 104.3)

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal, special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine
2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities

District Coordinator for Implementation of Section 504

The district has designated the following individual to coordinate its efforts to comply with the requirements of law, Board policy, and administrative regulation pertaining to the implementation of Section 504: (34 CFR 104.7)

Assistant Superintendent for Curriculum & Instruction
8408 Watt Avenue
Antelope, California 95843
(916) 338-6413

(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 5145.3 - Nondiscrimination/Harassment)

Referral, Identification, and Evaluation

1. Any student may be referred by a parent/guardian, teacher, other school employee, student success team, or community agency for consideration of eligibility as a disabled student under Section 504. This referral may be made to the principal or 504 Coordinator.

(cf. 6164.5 - Student Success Teams)

2. Upon receipt of a referral for eligibility, the principal shall promptly convene a meeting of a multi-disciplinary 504 team to consider the referral and determine whether an evaluation of the student is appropriate.

The 504 team shall consist of a group of persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. (34 CFR 104.35)

The team's determination shall be based on a review of the student's school records, including academic and nonacademic areas of the school program; consultation with the student's teacher(s), other professionals, and the parent/guardian, as appropriate; and analysis of the student's needs.

Prior to conducting an evaluation of a student for eligibility under Section 504, the district shall obtain written parent/guardian consent.

If the 504 team determines that an evaluation is unnecessary, it shall inform the parents/guardians of this decision and of the procedural safeguards as described below.

3. If the team believes that a student needs or is believed to need special education or related services under Section 504, the district shall conduct an evaluation of the student prior to initial placement and before any significant change in placement. (34 CFR 104.35)

The district's evaluation procedures shall ensure that tests and other evaluation materials: (34 CFR 104.35)

- a. Have been validated and are administered by trained personnel in conformance with the instruction provided by the test publishers
 - b. Are tailored to assess specific areas of educational need and are not based solely on a single IQ score
 - c. Reflect aptitude or achievement or whatever else the tests purport to measure and do not reflect the student's impaired sensory, manual, or speaking skills unless the test is designed to measure these particular deficits
4. In interpreting evaluation data and making placement decisions, the team shall draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. The team shall also ensure that information obtained from all such sources is documented and carefully considered and that the placement decision is made in conformity with 34 CFR 104.34. (34 CFR 104.35)

Accommodation Plan and Placement

1. If, upon evaluation, a student is determined to be eligible for services under Section 504, the 504 team shall meet to develop a written accommodation plan which shall specify placement, accommodations, and supplementary aids and services necessary to ensure that the student receives a free appropriate public education.

The parents/guardians shall be invited to participate in the meeting and shall be given an opportunity to examine all relevant records.

2. If the 504 team determines that no services are necessary for the student, the record of the committee's meeting shall reflect the identification of the student as a disabled person under Section 504 and shall state the basis for the decision that no special services are presently needed.
3. The student shall be placed in the regular educational environment, unless the district can demonstrate that the education of the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. The student shall be educated with those who are not disabled to the maximum extent appropriate to his/her individual needs. (34 CFR 104.34)
4. The district shall complete the identification, evaluation, and placement process within a reasonable time frame.
5. A copy of the student's accommodation plan shall be kept in his/her student record. The student's teacher, and any other staff who provide services to the student,

shall be informed of the plan's requirements.

(cf. 5125 - Student Records)

(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)

Review and Reevaluation

1. The 504 team shall monitor the progress of the student and the effectiveness of the student's plan to determine whether the services are appropriate and necessary and whether the student's needs are being met as adequately as the needs of nondisabled students. The team shall review the student's accommodation plan annually. In addition, the student's eligibility under Section 504 shall be reevaluated at least once every three years.

2. A reevaluation of the student's needs shall be conducted before any subsequent significant change in placement. (34 CFR 104.35)

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

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

Procedural Safeguards

Parents/guardians shall be notified in writing of all district decisions regarding the identification, evaluation, or educational placement of students with disabilities or suspected disabilities. Notifications shall include a statement of their right to: (34 CFR 104.36)

1. Examine relevant records

2. Have an impartial hearing with an opportunity for participation by the parents/guardians and their counsel

3. Have a review procedure

(cf. 5145.6 - Parental Notifications)

Notifications shall also detail the parent/guardian's right to file a grievance with the school district over an alleged violation of Section 504 regulation; right to have an evaluation that draws on information from a variety of sources; right to be informed of any proposed actions related to eligibility and plan for services; right to receive all information in the parent/guardian's native language and primary mode of communication; right to periodic reevaluations and an evaluation before any significant change in program/service modifications; right to an impartial hearing if there is a disagreement with the school district's proposed action; right to be represented by counsel in the impartial hearing process; and right to appeal the impartial hearing officer's decision.

If a parent/guardian disagrees with the identification, evaluation, or educational placement of his/her child under Section 504, he/she may initiate the following procedures:

1. Within 30 days of receiving the accommodation plan, file a written complaint with the 504 Coordinator detailing his/her disagreement and request that the 504 team review the plan in an attempt to resolve the disagreement. This review shall be held within 14 days of receiving the parent/guardian's request and the parent/guardian shall be invited to attend the meeting at which the review is conducted.
2. If disagreement continues, request in writing that the Superintendent or designee review the plan. This review shall be held within 14 days of receiving the parent/guardian's request, and the parent/guardian shall be invited to meet with the Superintendent or designee to discuss the review.
3. If disagreement continues, request in writing a Section 504 due process hearing. The request shall include:
 - a. The specific nature of the decision with which the parent/guardian disagrees
 - b. The specific relief the parent/guardian seeks
 - c. Any other information the parent/guardian believes pertinent

Within 30 days of receiving the parent/guardian's request, the Superintendent or designee and 504 Coordinator shall select an impartial hearing officer. This 30-day deadline may be extended for good cause or by mutual agreement of the parties.

The 504 Coordinator shall maintain a list of impartial hearing officers who are qualified and willing to conduct Section 504 hearings. To ensure impartiality, such officers shall not be employed by or under contract with the district in any capacity other than that of hearing officer and shall not have any professional or personal involvement that would affect their impartiality or objectivity in the matter.

Within 45 days of the selection of the hearing officer, the Section 504 due process hearing shall be conducted and a written decision mailed to all parties. This 45-day deadline may be extended for good cause or by mutual agreement of the parties.

Any party to the hearing shall be afforded the right to:

1. Be accompanied and advised by counsel and by individuals with special knowledge or training related to the problems of students who are qualified as disabled under Section 504
2. Present written and oral evidence

3. Question and cross-examine witnesses
4. Receive written findings by the hearing officer

If desired, either party may seek a review of the hearing officer's decision by a federal court of competent jurisdiction.

Notifications

The Superintendent or designee shall ensure that the district has taken appropriate steps to notify students and parents/guardians of the district's duty under Section 504. (34 CFR 104.32)

Regulation CENTER UNIFIED SCHOOL DISTRICT
approved: February 20, 2008 Antelope, California

Delete

Board Policy

Preschool/Early Childhood Education

BP 6300

Instruction

The Governing Board recognizes that high-quality preschool experiences for children ages 3-5 help them develop knowledge, skills, and attributes necessary to be successful in school and provide for a smooth transition into the elementary education program. Such programs should provide developmentally appropriate activities in a safe, well-supervised, cognitively rich environment.

(cf. 6011 - Academic Standards)

(cf. 6143 - Courses of Study)

Collaboration with Community Programs

The Superintendent or designee shall collaborate with other agencies, organizations and private preschool providers to assess the availability of preschool programs in the community and the extent to which the community's preschool needs are being met. The Board encourages the development of a community-wide plan to increase children's access to high-quality preschool programs.

(cf. 1020 - Youth Services)

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

(cf. 1700 - Relations Between Private Industry and the Schools)

Information about preschool options in the community shall be provided to parents/guardians upon request.

The Superintendent or designee shall establish partnerships with feeder preschools to facilitate articulation of the preschool curriculum with the district's elementary education program.

District Preschool Programs

When the Board determines that it is feasible, the district may provide preschool services at or near district schools.

The Board shall set priorities for establishing or expanding services as resources become available. In so doing, the Board shall give consideration to the benefits of providing early education programs for at-risk children and/or children residing in the attendance areas of the lowest performing district schools.

(cf. 0520 - Intervention for Underperforming Schools)
(cf. 0520.1 - High Priority Schools Grant Program)
(cf. 0520.2 - Title I Program Improvement Schools)
(cf. 6171 - Title I Programs)

On a case-by-case basis, the Board shall determine whether the district shall directly administer preschool programs or contract with public or private providers to offer such programs.

Facilities for preschool classrooms shall be addressed in the district's comprehensive facilities plan, including an assessment as to whether adequate and appropriate space exists on school sites. As necessary, the Superintendent or designee shall provide information to the Board regarding facilities financing options for preschool classrooms and/or facilities available through partnering organizations.

(cf. 7110 - Facilities Master Plan)
(cf. 7210 - Facilities Financing)

To enable children of working parents/guardians to participate in the district's preschool program, the Superintendent or designee shall recommend strategies to provide a full-day program and/or to link to other full-day child care programs in the district or community to the extent possible.

(cf. 5148 - Child Care and Development)
(cf. 5148.1 - Child Care Services for Parenting Students)

Inasmuch as parents/guardians are essential partners in supporting the development of their children, the Superintendent or designee shall involve them in program planning. Program staff shall encourage volunteerism in the program and shall communicate frequently with parents/guardians of enrolled students regarding their child's progress.

(cf. 1240 - Volunteer Assistance)
(cf. 5124 - Communication with Parents/Guardians)

The Board shall adopt standards which identify the knowledge, skills, and experience that students will be expected to attain in the district's preschool program in order to be prepared for the early primary grades, including but not be limited to, development of language, cognitive, social, emotional, and physical skills.

The district's preschool program shall provide culturally and linguistically appropriate services and support the needs of English learners. The program also shall provide appropriate services for students with disabilities, including but not limited to early screening to identify special needs among preschool students and intervention services to assist students identified with special needs in accordance with law.

(cf. 6164.4 - Identification of Individuals for Special Education)

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

To maximize the ability of children to succeed in the preschool program, program staff shall support students' health through proper nutrition and physical activity and shall provide or make referrals to health and social services.

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

(cf. 5030 - Student Wellness)

(cf. 5141.32 - Health Screening for School Entry)

(cf. 5141.6 - Student Health and Social Services)

The Superintendent or designee shall ensure that administrators, teachers, and paraprofessionals in district preschool programs possess the appropriate credential(s) or permit(s) issued by the Commission on Teacher Credentialing and meet any additional qualifications established by the Board.

(cf. 4112.2 - Certification)

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

(cf. 4112.5/4312.5 - Criminal Record Check)

(cf. 4212.5 - Criminal Record Check)

(cf. 4222 - Teacher Aides/Paraprofessionals)

The Superintendent or designee shall develop and implement an annual plan of evaluation which conforms to state requirements. (5 CCR 18279)

He/she shall regularly report to the Board regarding enrollments in district preschool programs and the effectiveness of the programs in preparing preschool students for transition into the elementary education program.

(cf. 0500 - Accountability)

(cf. 6190 - Evaluation of the Instructional Program)

Legal Reference:

EDUCATION CODE

8200-8498 Child Care and Development Services Act, especially:

8200-8209 General provisions for child care and development services

8230-8233 Migrant Child Care and Development Program

8235-8237 State Preschool Programs

8240-8244 General child care programs

8250-8252 Programs for children with special needs

8263 Eligibility and priorities for subsidized child development services

8360-8370 Personnel qualification

8400-8409 Contracts

8493-8498 Facilities

54740-54749 Cal-SAFE program for pregnant/parenting students and their children

HEALTH AND SAFETY CODE

1596.70-1596.895 California Child Day Care Act

1596.90-1597.21 Day care centers

120325-120380 Immunization requirements

CODE OF REGULATIONS, TITLE 5

18000-18122 General provisions, general child care programs

18130-18136 State Preschool Program

18180-18192 Federal and State Based Migrant Programs

18210-18213 Severely Handicapped Program

18270-18281 Program quality, accountability

18290-18292 Staffing ratios

18295 Waiver of qualifications for site supervisor

18300-18308 Appeals and dispute resolution

UNITED STATES CODE, TITLE 20

6311-6322 Title I, relative to preschool

6319 Qualifications for teachers and paraprofessionals

6371-6376 Early Reading First

UNITED STATES CODE, TITLE 20 (continued)

6381-6381k Even Start family literacy programs

6391-6399 Education of migratory children

UNITED STATES CODE, TITLE 42

9831-9852 Head Start programs

9858-9858q Child Care and Development Block Grant

CODE OF FEDERAL REGULATIONS, TITLE 22

101151-101239.2 General requirements, licensed child care centers, including:

101151-101163 Licensing and application procedures

101212-101231 Continuing requirements

101237-101239.2 Facilities and equipment

CODE OF FEDERAL REGULATIONS, TITLE 45

1301-1310 Head Start

Management Resources:

CSBA PUBLICATIONS

Expanding Access to High-Quality Preschool Programs: A Resource and Policy Guide for School Leaders, 2005

CDE PUBLICATIONS

Prekindergarten Learning Development Guidelines, 2000

First Class: A Guide for Early Primary Education, 1999

CDE MANAGEMENT BULLETINS

01-06 The Desired Results for Children and Families System, May 31, 2001

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Good Start, Grow Smart, April 2002

WEB SITES

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

California Association for the Education of Young Children: <http://www.caeyc.org>

California Children and Families Commission: <http://www.ccfc.ca.gov>

California Department of Education: <http://www.cde.ca.gov>
California Head Start Association: <http://caheadstart.org>
Child Development Policy Institute: <http://www.cdpi.net>
First 5 Association of California: <http://www.f5ac.org>
National Institute for Early Education Research: <http://nieer.org>
National School Boards Association: <http://www.nsba.org>
Preschool California: <http://www.preschoolcalifornia.org>
U.S. Department of Education: <http://www.ed.gov>

Policy CENTER UNIFIED SCHOOL DISTRICT
Adopted: May 18, 2005 Antelope, California

Center Joint Unified School District

AGENDA REQUEST FOR:

Dept./Site: Superintendent's Office

Action Item X

To: Board of Trustees

Information Item _____

Date: June 3, 2009

Attached Pages _____

From: Dr. Kevin J. Jolly, Superintendent

Principal/Administrator Initials: _____

SUBJECT: School Facility Needs Analysis and Resolution #36/2008-09: Level 2 & 3 School Fees for New Residential Construction

This resolution is to adopt and approve the Needs Analysis and Alternative School Facility Fees that may be imposed on residential construction.

RECOMMENDATION: The CJUSD Board of Trustees approve the School Facility Needs Analysis and Resolution #36/2008-09: Level 2 & 3 School Fees for New Residential Construction

**CENTER JOINT UNIFIED SCHOOL DISTRICT
AGENDA DESCRIPTION RE: ADOPTION OF LEVEL 2 & 3 SCHOOL FEES**

**I. PUBLIC HEARING RELATIVE TO THE
CONSIDERATION AND ADOPTION OF A
RESOLUTION TO ADOPT LEVEL 2 & 3
SCHOOL FEES FOR NEW RESIDENTIAL
CONSTRUCTION (LEVEL 2 & 3 FEES)**

A. DISCUSSION:

Pursuant to Sections 65995.5(b) and 65995.5(c) of the Government Code, prior to adopting Level 2 and 3 Fees, the District must prepare and adopt a School Facility Needs Analysis ("Needs Analysis"). The adoption of the Needs Analysis is one of the prerequisites to levying alternative school facility fees on new residential construction within the District in excess of Level 1 School Fees ("Alternative School Facility Fees"). Government Code section 65995.6 also requires that the Needs Analysis must be adopted by resolution at a public hearing conducted by the District's Governing Board ("Board").

In compliance with Government Code section 65352.2, the Needs Analysis was provided to the local agencies responsible for land use planning within the District forty-five (45) days prior to finalizing of the Needs Analysis. After said notice period, in compliance with Government Code section 65995.6, the Needs Analysis has been on file and available for public review at the District's administrative office for a period of not less than thirty (30) days prior to the public hearing of the Board, during which time it was again provided to the local agencies responsible for land use planning within the District for review and comment. In addition, notice of the time and place of the public hearing of the Board, including the location and procedure for viewing a copy of the Needs Analysis, was published in at least one newspaper of general circulation within the jurisdiction of the District no less than thirty (30) days prior to the public hearing and a copy of the Needs Analysis was mailed not less than thirty (30) days prior to the public hearing to any person who made a written request therefor forty-five (45) days prior to the public hearing.

In compliance with Section 65995.6 of the Government Code, the Needs Analysis includes information regarding the projection of the number of unhoused elementary, middle, and high school pupils generated by various types of new residential units, in each category of pupils enrolled in the District. The projection of unhoused pupils is based on the historical generation rates of new residential units constructed during the previous five years that are of a similar type of unit to those anticipated to be constructed either in the District or the city or county in which the District is located. In accordance with Section 65995.6 of the Government Code, the Needs Analysis also contains a calculation of existing school building capacity, calculated pursuant to Article 2 (commencing with Section 17071.10 of Chapter 12.5 of Part 10 of the Education Code).

In compliance with Government Code sections 65995.6 and 65995.5, the Needs Analysis also includes information, if any, regarding surplus property owned by the District, the extent to which excess capacity in existing facilities may accommodate projected enrollment, local sources available to finance the construction or reconstruction of school facilities needed to accommodate growth in enrollment attributable to the construction of new residential units, and local funds dedicated to facilities necessitated by new construction.

B. ACTION:

Conduct a public hearing relative to the consideration and possible adoption of a resolution by the Governing Board of the Center Joint Unified School District entitled, "Resolution of the Governing Board of the Center Joint Unified School District Approving a School Facilities Needs Analysis and Adopting Alternative School Facility Fees in Compliance with Government Code sections 65995.5, 65995.6, and 65995.7 and Making Related Findings and Determinations (Level 2 and 3 Fees)."

**II. ADOPTION OF RESOLUTION
APPROVING THE SCHOOL FACILITIES
NEEDS ANALYSIS AND ADOPTING
ALTERNATIVE SCHOOL FACILITY FEES**

A. DISCUSSION:

Following a public hearing relative to adopting the Needs Analysis and the Level 2 and 3 Fees, District staff recommends that the District's Board adopt the resolution adopting the Needs Analysis and Level 2 and 3 school fees.

B. ACTION:

Adopt the resolution entitled: "Resolution of the Governing Board of the Center Joint Unified School District Approving a School Facilities Needs Analysis and Adopting Alternative School Facility Fees in Compliance with Government Code sections 65995.5, 65995.6, and 65995.7 and Making Related Findings and Determinations (Level 2 and 3 Fees)."

**SCHOOL FACILITY NEEDS ANALYSIS
FOR THE
CENTER UNIFIED SCHOOL DISTRICT**

**THIS STUDY ESTABLISHED THE NEED
FOR THE IMPOSITION OF
DEVELOPER FEES PURSUANT TO
APPLICABLE LAW AS OF
APRIL 2009**

**Prepared by:
Caldwell Flores Winters, Inc.
Cardiff, California**

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LEVEL II AND LEVEL III DEVELOPER FEES - APPLICABLE LAW

GC §65995.5 permits a school district to collect a fee higher than the fee set forth in GC §65995 when the governing board does all of the following:

- (1) Make a timely application to the State Allocation Board for new construction funding for which it is eligible and be determined by the board to meet the eligibility requirements for new construction funding set forth in Article 2 (commencing with Section 17071.10) and Article 3 (commencing with Section 17071.75) of Chapter 12.5 of Part 10 of the Education Code....
- (2) Conduct and adopt a school facility needs analysis pursuant to Section 65995.6.
- (3) Until January 1, 2000, satisfy at least one of the requirements set forth in subparagraphs (A) to (D), inclusive, and, on and after January 1, 2000, satisfy at least two of the requirements set forth in subparagraphs (A) to (D), inclusive:
 - (A) The district is a unified or elementary school district that has a substantial enrollment of its elementary school pupils on a multitrack year-round schedule. "Substantial enrollment" for purposes of this paragraph means at least 30 percent of district pupils in kindergarten and grades 1 to 6, inclusive, in the high school attendance area in which all or some of the new residential units identified in the needs analysis are planned for construction. A high school district shall be deemed to have met the requirements of this paragraph if either of the following apply:
 - (i) At least 30 percent of the high school district's pupils are on a multitrack year-round schedule.
 - (ii) At least 40 percent of the pupils enrolled in public schools in kindergarten and grades 1 to 12, inclusive, within the boundaries of the high school attendance area for which the school district is applying for new facilities are enrolled in multitrack year-round schools.
 - (B) The district has placed on the ballot in the previous four years a local general obligation bond to finance school facilities and the measure received at least 50 percent plus one of the votes cast.
 - (C) The district meets one of the following:
 - (i) The district has issued debt or incurred obligations for capital outlay in an amount equivalent to 15 percent of the district's local bonding capacity, including indebtedness that is repaid from property taxes, parcel taxes, the district's general fund, special taxes levied pursuant to Section 4 of Article XIII A of the California Constitution, special taxes levied pursuant to Chapter 2.5 (commencing with Section 52211) of Division 2 of Title 5 that are approved by a vote of registered voters, special taxes levied pursuant to Chapter 2.5 (commencing with Section 52211) of Division 2 of Title 5 that are approved by a vote of landowners prior to November 4, 1998, and

revenues received pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code). Indebtedness or other obligation to finance school facilities to be owned, leased, or used by the district, that is incurred by another public agency, shall be counted for the purpose of calculating whether the district has met the debt percentage requirement contained herein.

- (ii) The district has issued debt or incurred obligations for capital outlay in an amount equivalent to 30 percent of the district's local bonding capacity, including indebtedness that is repaid from property taxes, parcel taxes, the district's general fund, special taxes levied pursuant to Section 4 of Article XIII A of the California Constitution, special taxes levied pursuant to Chapter 2.5 (commencing with Section 52211) of Division 2 of Title 5 that are approved by a vote of registered voters, special taxes levied pursuant to Chapter 2.5 (commencing with Section 52211) of Division 2 of Title 5 that are approved by a vote of landowners after November 4, 1998, and revenues received pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code). Indebtedness or other obligation to finance school facilities to be owned, leased, or used by the district, that is incurred by another public agency, shall be counted for the purpose of calculating whether the district has met the debt percentage requirement contained herein.

(D) At least 20 percent of the teaching stations within the district are relocatable classrooms.

GC § 65995.5(c) limits the "maximum square foot fee, charge, dedication, or other requirement authorized by this section that may be collected in accordance with Chapter 6 (commencing with Section 17620) of Part 10.5 of the Education Code" to be calculated by a governing board of a school district, as follows:

- "(1) The number of unhoused pupils identified in the school facilities needs analysis shall be multiplied by the appropriate amounts provided in subdivision (a) of Section 17072.10. This sum shall be added to the site acquisition and development cost determined pursuant to subdivision (h).
- (2) The full amount of local funds the governing board has dedicated to facilities necessitated by new construction shall be subtracted from the amount determined pursuant to paragraph (1). Local funds include fees, charges, dedications, or other requirements imposed on commercial or industrial construction.
- (3) The resulting amount determined pursuant to paragraph (2) shall be divided by the projected total square footage of assessable space of residential units anticipated to be constructed during the next five-year period in the school district or the city and county in which the school district is located. The estimate of the projected total square footage shall be based on information available from the city or county within which the residential units are anticipated to be constructed or a market report prepared by an independent third party.

LEVEL II AND LEVEL III FEES - THIS STUDY

Eligibility Pursuant to GC §65995.5

1. The district's governing board has filed the SAB50-01, 02, and 03 with the Office of Public School Construction (OPSC) on 10/1/00. A SAB50-04 was filed in April 2007 showed eligibility for 324 unhoused students.
2. This section of this study finds that the district is eligible to impose a Level II developer fee of \$3.27 per square foot of habitable residential construction, and when appropriate a Level III developer fee of \$6.44 per square foot of habitable residential construction.
3.
 - a. The district has passed general obligation bonds in 1992 and 2008.
 - b. The district has a bonding capacity of \$51,028,414 and has issued debt in the amount of \$43,578,215, which constitutes 85.40 percent of its bonding capacity.
 - c. The district has no students on multi-track year-round education schedules, which constitutes 0 percent of its K-6 students.
 - d. The district has 192 relocatable classrooms out of 320 total classrooms, which constitutes 60.00 percent relocatable classrooms. Although these relocatable classrooms are used to temporarily house students, their capacity as related to fees imposed on new residential construction is discounted for purposes of determining Level II and Level III developer fees pursuant to GC §65995.5 *et seq.* is ignored.

Financing School Facilities with Level II and Level III Developer Fees

GC §65995.5 *et seq.* permits a school district to collect fees that are higher than the maximum developer fee permitted by GC §65995 when specific criteria are met. The following sections and related appendices address these criteria.

Number of Enrolled Students Residing in Units Constructed within the Last Five Years

The following table summarizes the number of units constructed within the last five years, the number of students that reside in them, and the ratio of students to units by unit type by grade level.

Units Constructed within the Last Five Years

Unit Type and Grade Level	Number of Units	Number of Students	Ratio of Students to Units
Single Family			
K-6	391	119	0.304
7-8	391	50	0.128
9-12	391	62	0.159
Multi Family			
K-6	424	87	0.205
7-8	424	42	0.099
9-12	424	44	0.104

Units Forecast for Construction within the next Five Years

The data from Placer County Planning Department and Sacramento County Planning and Community Development Department indicates that 2,757 single family units and 200 multifamily units are likely to become eligible for development within the next five years. The following table lists the units to be constructed within the next five years, the ratio of students to units by grade level for units constructed within the last five years, and the product of these data, forecast students from new development.

Units to be Constructed within the Next Five Years

Unit Type and Grade Level	Number of Units	Ratio of Students to Units	Students from New Development
Single Family			
K-6	2,757	0.304	838
7-8	2,757	0.128	353
9-12	2,757	0.159	438
Multi Family			
K-6	200	0.205	41
7-8	200	0.099	20
9-12	200	0.104	21

Use of Available Spaces in Existing Schools

As previously stated, capacity of existing school facilities was determined by using the approved capacity worksheet and eligibility forms (SAB50-02 and 03) provided by Office of Public School Construction pursuant to GC §65995.5 *et seq.* The SAB50-02 calculations permit a school district to exclude relocatable classrooms in excess of 25 percent of its permanent classrooms from a count of available classrooms for capacity. Because the district has excess relocatable above 25 percent of the number of permanent classrooms, the district has excluded them from its capacity count. The SAB50-02 has determined that the district has 324 unhoused students (i.e. It has 324 more students than existing capacity) based on state adopted regulations and as listed on the SB50-03. The following table lists the sum of students from single and multi family new development by grade level, the lack of available spaces in existing schools to accommodate these students and the projected unhoused students from new development.

All Units by Grade Level	Students from New Development	Available Spaces in Existing Schools	Number of Unhoused Students from New Development
K-6	879	0	879
7-8	373	879	0
9-12	459	0	459

School Facilities Costs for Unhoused Students from New Development

The following Table lists the unhoused students attributable to new development, the School Facilities Program (SFP) grant attributable to each student and the calculated school facilities construction cost:

Grade Level	Unhoused Students	SFP Grant	Construction Allowance
K-6	879	\$9,369	\$8,235,351
7-8	0	\$9,909	\$0
9-12	459	\$12,607	\$5,786,613
Total	1,338		\$14,021,964

School Site Costs for New Schools

The acres per school site were obtained from the School Facilities Planning Division, California Department of Education and are 10.0 acres for an elementary school site, 20.0 acres for a junior high school site and 40 acres for a high school site for pupil enrollments listed above. The per-acre cost of land has been determined by taking the average of the previous two site acquisitions made by the district. Without an inflation adjustment, these land costs were \$180,000 per acre. GC §65995.5(h) requires that one half of the cost for each site is attributable to the permitted Level II - calculated maximum developer fee. The following table lists the costs calculations for each site to serve school facilities attributable to new development.

Grade Level	Unhoused Students	Planned Students per School	Number of New Sites Needed	One-half Cost Per Site	New Development Share of Site Costs
K-6	879	625	1.2464	\$1,250,000	\$1,558,000
7-8	0	900	0	\$2,500,000	\$0
9-12	459	1998	0.2297	\$6,250,000	\$1,435,625
Total	1,338				\$2,993,625

Development Costs for New Schools

The estimated development costs for the new sites that will be needed to serve new development have been based on the Wilson Riles Junior High School (WRJHS) estimated costs approved by the State Allocation Board as part of the 50/73973-00-01

project. The following table lists the site development costs for the proposed new schools.

Grade Level	Half Site Development Costs	Number of New Sites Needed	Half Site Development Costs
K-6	\$1,500,000	1.2464	\$1,869,600
7-8	\$3,000,000	0	\$0
9-12	\$6,500,000	0.2297	\$1,493,050
Total			\$3,362,650

Total Costs for New Schools

The following tables sums the School Facilities Costs, one-half site acquisition costs, and one-half site development costs for each new school.

Grade Level	Construction Allowance	Total One-half Site Costs	Half Site Development Costs	Total Costs
K-6	\$8,235,351	\$1,558,000	\$1,869,600	\$11,662,951
7-8	\$0	\$0	\$0	\$0
9-12	\$5,786,613	\$1,435,625	\$1,493,050	\$8,715,288
Total	\$14,021,964	\$2,993,625	\$3,362,650	\$20,378,239

Total Habitable Area of New Development within the Next Five Years

The District is expected to have 6,224,000 square feet of new development in the next five years (See Appendix). Dividing \$20,378,239 of total costs for new schools by 6,224,000 square feet of new development forecast within the next five years results in \$3.27 per square foot. Therefore, the appropriate Level II fee that the district may impose on new development is \$3.27 per square foot.

SECTION III - CONSIDERATION OF ALTERNATE FORMS OF MITIGATION AND OTHER FUNDING SOURCES

Funding for new construction and reconstruction is restricted to the District's capital outlay accounts. The District has entered the School Facilities Program as a key component of its future school facility-financing program.

Surplus Property - GC §65995.6(b)(1)

At present, the District has no surplus sites or funds from the sale of surplus sites that are available for generating revenue to meet current housing needs.

Use of Excess Capacity in Existing Facilities - GC §65995.6(b)(2)

The district examined all of its facilities when compiling data for completion of the SB50-02 form used to determine school capacity. The developer fee calculated by this study has included any excess capacity not reserved for future projected students from development already covered by mitigation agreements before determining the amount of new school facilities needed to accommodate students from future development.

Fees for Interim Facilities - GC §65995.6(b)(2)

The district may collect developer fees for rental of temporary classroom space to accommodate students from new development.

General Fund - GC §65995.6(b)(3)

The District's General Fund (operating) budget is entirely committed to instructional and operating expenses.

General Obligation Bonds - GC §65995.6(b)(3)

The district passed general obligation bonds in 1992 and 2008. These funds are primarily for providing major repairs to existing facilities, for modernizing existing schools to comply with current educational program standards, and to provide supplemental funds for new construction when available. Some general obligation

bonds funds may be used to construct additional school facilities for the purposes of augmenting the Class Size Reduction Program.

Special Non Ad Valorem Taxes ("Parcel Taxes") - GC §65995.6(b)(3)

Approval by more than two-thirds of the voters is required to impose taxes that are not based on the assessed value of individual parcels. These taxes have been used in other California school districts, but the amounts collected are generally small and are used to supplement operating budgets or finance small "pay as you go" projects. General obligation bonds, which extend payments over many years, are more feasible and are recommended for capital projects.

Mello-Roos Community Facilities District Bonds - GC §65995.6(b)(3)

This funding option works most like a traditional assessment district, with bonds issued for specific public improvements that are redeemed by special taxes paid by the owners of property within the area. A Mello-Roos District may include all or a part of the school district. Undeveloped areas with fewer than 12 registered voters may create a Mello-Roos District by a vote of the landowners. If more than 12 voters live in the proposed area, then an election of all the registered voters must be held, and two-thirds of the voters, voting in the election must approve.

The District may establish a Mello Roos Community Facilities District to cover a portion of the costs needed for school impact mitigation for large development areas. Mello Roos Community Facilities District Special Taxes would be substituted for developer fees for new residential construction that occurs within the territory of the Community Facilities District.

Redevelopment Project Funds - GC §65995.6(b)(3)

The District does not receive any funds for capital projects from local redevelopment agencies. The District does not currently participate in redevelopment agency pass-through agreements from three projects. Redevelopment revenues received by the District, when available, are currently used for improvements of existing sites.

Existing Mitigation Agreements - GC §65995.6(b)(3)

There are no units in existing mitigation agreements.

FINDINGS - LEVEL II AND LEVEL III DEVELOPER FEES

The district is justified in imposing a Level II developer fee of \$3.27 per square foot of habitable residential construction and when appropriate a Level III developer fee of \$6.44 per square foot of habitable residential construction to finance the construction of new school facilities to accommodate students from forecast new development within the next five years.

RECOMMENDATIONS

This School Facility Needs Analysis shows that the district needs to impose a Level II Developer Fee of \$3.27 per square foot of residential construction and when appropriate a Level III developer fee of \$6.44 per square foot of habitable residential construction, based on the data and analyses contained in this report. The Justification Report determined that the district was justified in imposing a fee of \$7.76 pursuant to GC §66001. Therefore, the district both needs and is justified in imposing a Level II developer Fee pursuant to GC §65995.5 of \$3.27 per square foot of residential development and if conditions set forth in GC §65995.7 are met, the district may be justified in imposing Level III Developer Fees of \$6.44 per square foot of habitable residential construction.

APPENDIX

ENROLLMENT CERTIFICATION/PROJECTION

SAB 50-01 (Rev. 01/03) Excel (Rev. 2/27/2003)

SCHOOL DISTRICT

CENTER UNIFIED

COUNTY

SACRAMENTO

FIVE DIGIT DISTRICT CODE NUMBER (see California Public School Directory)

73973

HIGH SCHOOL ATTENDANCE AREA (HSAA) OR SUPER HSAA (if applicable)

Part A. Enrollment Data - (districts or county superintendent of schools)

Grade	3rd Previous 2002/03	2nd Previous 2003/04	Previous 2004/05	Current 2005/06
K	351	417	438	404
1	442	401	446	417
2	437	437	398	440
3	409	460	434	389
4	434	425	472	453
5	477	474	438	488
6	438	495	468	416
7	537	560	605	526
8	509	528	493	497
9	502	602	684	593
10	459	520	580	578
11	446	453	446	465
12	395	418	416	381
TOTAL	5,836	6,190	6,278	6,047

Part B. Pupils Attending Schools Chartered By Another District

3rd Previous	2nd Previous	Previous	Current

Part C. Continuation High School - (districts only)

Grade	3rd Previous	2nd Previous	Previous	Current
9				
10				
11				
12				

Part D. Special Day Class Pupils - (districts or county superintendent of schools)

Elementary	Non-Severe	Severe	Secondary	Non-Severe	Severe
MR	45		MR	20	
HH			HH		
DEAF			DEAF		
HI			HI		
SLI			SLI		
VI			VI		
SED			SED		
OI			OI		
OHI			OHI		
SLD			SLD		
DB			DB		
MH			MH		
AUT			AUT		
TBI			TBI		
TOTAL	45		TOTAL	20	

Part E. Special Day Class Enrollment - (county superintendent of schools only)

3rd Previous	2nd Previous	Previous	Current

Part F. Number of New Dwelling Units

252

Part G. District Student Yield Factor

0.700

Part H. Five Year Projected Enrollment - School Facility Program Projections - (except special day class pupils only)

K-6	7-8	9-12	TOTAL
2,985	986	1,962	5,933

Projections - special day class pupils only

Elementary	Non-Severe	Severe	Secondary	Non-Severe	Severe
MR	44		MR	19	
HH			HH		
DEAF			DEAF		
HI			HI		
SLI			SLI		
VI			VI		
SED			SED		
OI			OI		
OHI			OHI		
SLD			SLD		
DB			DB		
MH			MH		
AUT			AUT		
TBI			TBI		
TOTAL	44		TOTAL	19	

Part I.**One Year Projected Enrollment - State Relocatable Program Projections - (except special day class pupils only)**

K-6	7-8	9-12	TOTAL
3,022	950	2,067	6,039

Projections - (special day class pupils only) (includes Severe & Non-Severe)

	Elementary	Secondary		Elementary	Secondary
MR	45	20	OI		
HH			OHI		
DEAF			SLD		
HI			DB		
SLI			MH		
VI			AUT		
SED			TBI		
TOTAL	45	20	TOTAL	45	20

I certify, as the District Representative, that the information reported on this form is true and correct and that I am designated as an authorized district representative by the governing board of the district.

If the district is requesting an augmentation in the enrollment projection pursuant to Regulation Section 1859.42 (b), the local planning commission or approval authority has approved the tentative subdivision map used for augmentation of the enrollment and the district has identified dwelling units in that map to be contracted. All subdivision maps used for augmentation of enrollment are available at the district for review by the Office of Public School Construction (OPSC).

This form is an exact duplicate (verbatim) of the form provided by the Office of Public School Construction.

In the event a conflict should exist, then the language in the OPSC form will prevail.

SIGNATURE OF DISTRICT REPRESENTATIVE

DATE

EXISTING SCHOOL BUILDING CAPACITY

SAB 50-02 (Rev. 09/02) Excel (Rev. 11/21/2002)

SCHOOL DISTRICT

CENTER UNIFIED

COUNTY

SACRAMENTO

FIVE DIGIT DISTRICT CODE NUMBER (see California Public School Directory)

73973

HIGH SCHOOL ATTENDANCE AREA (HSAA) OR SUPER HSAA (if applicable)

PART I - Classroom Inventory ☐ NEW ☐ ADJUSTED

	K-6	7-8	9-12	Non-Severe	Severe	Total
Line 1. Leased State Relocatable Classrooms						
Line 2. Portable Classrooms leased less than 5 years						
Line 3. Interim Housing Portables leased less than 5 years						
Line 4. Interim Housing Portables leased at least 5 years						
Line 5. Portable Classrooms leased at least 5 years						
Line 6. Portable Classrooms owned by district	82	33	34			149
Line 7. Permanent Classrooms	61	6	34	5		106
Line 8. Total (Lines 1 through 7)	143	39	68	5		255

PART II - Available Classrooms**Option A.**

	K-6	7-8	9-12	Non-Severe	Severe	Total
a. Part I, line 4						
b. Part I, line 5						
c. Part I, line 6	82	33	34			149
d. Part I, line 7	61	6	34	5		106
e. Total (a, b, c, & d)	143	39	68	5		255

Option B.

	K-6	7-8	9-12	Non-Severe	Severe	Total
a. Part I, line 8	143	39	68	5		255
b. Part I, lines 1,2,5 and 6 (total only)						149
c. 25 percent of Part I, line 7 (total only)						27
d. Subtract c from b (enter 0 if negative)	67	27	28			122
e. Total (a minus d)	76	12	40	5		133

PART III - Determination of Existing School Building Capacity

	K-6	7-8	9-12	Non-Severe	Severe
Line 1. Classroom capacity	1,900	324	1,080	65	
Line 2. SER adjustment	66	11	37	2	
Line 3. Operational Grants					
Line 4. Greater of line 2 or 3	66	11	37	2	
Line 5. Total of lines 1 and 4	1,966	335	1,117	67	

I certify, as the District Representative, that the information reported on this form is true and correct and that:
 I am designated as an authorized district representative by the governing board of the district; and,
 This form is an exact duplicate (verbatim) of the form provided by the Office of Public School Construction (OPSC).
 In the event a conflict should exist, then the language in the OPSC form will prevail.

SIGNATURE OF DISTRICT REPRESENTATIVE

DATE

ELIGIBILITY DETERMINATION

SAB 50-03 (Rev. 01/03) Excel (Rev. 4/29/2003)

OFFICE OF PUBLIC SCHOOL CONSTRUCTION

Page 4 of 4

SCHOOL DISTRICT

CENTER UNIFIED

BUSINESS ADDRESS

8408 WATT AVENUE

CITY

Antelope, CA 95843

FIVE DIGIT DISTRICT CODE NUMBER (see California Public School Directory)

73973

HIGH SCHOOL ATTENDANCE AREA (HSAA) OR SUPER HSAA (if applicable)

COUNTY

SACRAMENTO**Part I - The following individual(s) have been designated as district representative(s) by school board minutes:**

DISTRICT REPRESENTATIVE

TELEPHONE NUMBER

E-MAIL ADDRESS

Dr. Kevin J. Jolly

916.338-6409

DISTRICT REPRESENTATIVE

TELEPHONE NUMBER

E-MAIL ADDRESS

R. John Loehr

916.338.7580**Part II - New Construction Eligibility** ☐ NEW ☒ ADJUSTED

	K-6	7-8	9-12	Non-Severe	Severe
1. Projected Enrollment (Part G, Form SAB 50-01)	2,978	984	1,963	98	
2. Existing School Building Capacity (Part III, line 5 of Form SAB 50-02)	1,966	335	1,117	67	
3. New Construction Baseline Eligibility (line 1 minus line 2)	1,012	649	846	31	
4. Adjustment to the baseline eligibility.	(805)	(924)	(533)		
5. Adjusted Baseline Eligibility (line 3 plus or minus line 4)	207	(275)	313		

Part III - Modernization Eligibility ☐ NEW ☐ ADJUSTED

1. SCHOOL NAME:

Option A	K-6	7-8	9-12	Non-Severe	Severe
2. Permanent classrooms at least 25 years old					
3. Portable classrooms at least 20 years old					
4. Total (lines 2 and 3)					
5. Multiply line 4 by: 25 for K-6, 27 for 7-8 and 9-12; 13 for non-severe and 9 for severe					
6. CBEDS enrollment at school					
7. Modernization eligibility (lesser of the totals of line 5 or 6)					

Option B

2. Permanent space at least 25 years old (report by classroom or square footage)	
3. Portable space at least 20 years old (report by classroom or square footage)	
4. Total (lines 2 and 3)	
5. Remaining permanent and portable space (report by classroom or square footage)	
6. Total (lines 4 and 5)	
7. Percentage (divide line 4 by line 6)	0%

	K-6	7-8	9-12	Non-Severe	Severe
8. CBEDS enrollment at school site					
9. Modernization eligibility (multiply line 7 by each grade group on line 8)					

I certify, as the District Representative, that the information reported on this form is true and correct and that:

I am designated as an authorized district representative by the governing board of the district; and:

A resolution or other appropriate documentation supporting this application under Chapter 12.5, Part 10, Division 1, commencing with Section 17070.10, et seq., of the Education Code was adopted by the School District's Governing Board

on _____; and,

This form is an exact duplicate (verbatim) of the form provided by the Office of Public School Construction (OPSC). In the event a conflict should exist, then the language in the OPSC form will prevail.

SIGNATURE OF DISTRICT REPRESENTATIVE

DATE

RESOLUTION NO. 36/2008-09

**RESOLUTION OF THE GOVERNING BOARD OF THE
CENTER JOINT UNIFIED SCHOOL DISTRICT
APPROVING A SCHOOL FACILITY NEEDS ANALYSIS
AND ADOPTING ALTERNATIVE SCHOOL FACILITY
FEES IN COMPLIANCE WITH GOVERNMENT CODE
SECTIONS 65995.5, 65995.6, AND 65995.7 AND MAKING
RELATED FINDINGS AND DETERMINATIONS (LEVEL 2
& 3 FEES)**

WHEREAS, the Governing Board ("Board") of the Center Joint Unified School District ("District") provides for the educational needs of K-12 students within all or portions of the cities of Antelope, Elverta, and Roseville and unincorporated portions of Placer and Sacramento Counties; and

WHEREAS, the Board has previously adopted and imposed statutory school facility fees ("Statutory School Facility Fees") pursuant to Education Code section 17620; and

WHEREAS, the Board heretofore has elected to participate in the school facilities funding program established pursuant to the Leroy F. Greene School Facilities Act of 1998 (the "Act") and appointed a representative ("District Representative") for such purposes and for the purpose of requesting an Eligibility Determination relative to considering the adoption of alternative school facility fees and amounts pursuant to Government Code sections 65995.5 ("Level 2 Fees") and 65995.7 ("Level 3 Fees"); and

WHEREAS, the District Representative has caused the completion and certification of Form SAB 50-01, the Enrollment Certification/Projection and Form SAB 50-03, the Eligibility Determination, and has submitted such forms to the State Allocation Board ("SAB") for approval pursuant to the Act; and

WHEREAS, the District has received notification from the SAB that the District meets the eligibility requirements for new construction funding pursuant to the provisions of the Act; and

WHEREAS, the District satisfies at least two of the requirements set forth in Government Code section 65995.5(b)(3); and

WHEREAS, new residential construction continues to generate additional students for the District's schools and the District is required to provide grades K-12 school facilities ("School Facilities") to accommodate those students; and

WHEREAS, overcrowded schools within the District have an impact on the District's ability to provide an adequate quality education and negatively impact the educational opportunities for the District's students; and

WHEREAS, the District does not have sufficient funds available for the construction of the School Facilities, including acquisition of sites, construction of permanent School Facilities, and acquisition of interim School Facilities, to accommodate students from new residential construction; and

WHEREAS, the Board caused to be prepared a report entitled, "School Facility Needs Analysis, April 2009" pursuant to applicable law including, but not by way of limitation, Government Code sections 65996.6 and 66000, *et seq.*, (the "Needs Analysis"); and

WHEREAS, the Board has received and considered the Needs Analysis which includes all matters required by applicable law, including an analysis of: (a) the purpose of the Level 2 Fees and the Level 3 Fees (collectively the "Alternative School Facility Fees"); (b) the use to which the Alternative School Facility Fees are to be put; (c) the nexus (roughly proportional and reasonable relationship) between the residential construction and (1) the facilities for which the Alternative School Facility Fees are to be used, (2) the need for School Facilities, (3) the cost of School Facilities and the amount of Alternative School Facility Fees from new residential construction; (d) an evaluation and projection of the number of students that will be generated by new residential construction by grade levels of the District as described by Government Code section 65995.6; (e) a description of the new School Facilities that will be required to serve such students; and (f) the present estimated cost of such School Facilities; and

WHEREAS, the Needs Analysis in its final form has been available to the public, for at least thirty (30) days prior to the public hearing on the adoption of the Needs Analysis and the Alternative School Facility Fees; and

WHEREAS, all notices of the Needs Analysis and adoption of Alternative School Facility Fees have been given in accordance with applicable law and copies of the Needs Analysis have been provided no less than thirty (30) days prior to the public hearing related to the adoption of the Needs Analysis to every person who made a written request forty-five (45) days prior to the public hearing; and

WHEREAS, the Needs Analysis has been provided to all local agencies responsible for land use planning for review and comment in compliance with Government Code sections 65995.6(c) and 65352.2; and

WHEREAS, as to the approval of the Need Analysis and Alternative School Facility Fees, Government Code section 65995.6(g) provides that the California Environmental Quality Act, Division 13 (commencing with Section 2100) of the Public Resources Code may not apply to the preparation, adoption, or update of the Needs Analysis or adoption of this Resolution; and

WHEREAS, the District desires to adopt and approve the Needs Analysis and the Alternative School Facility Fees pursuant to Government Code sections 65995.5, 65995.6, and 65995.7 for the purpose of establishing Alternative School Facility Fees that may be imposed on residential construction calculated pursuant to Government Code section 65995(b);

NOW, THEREFORE, THE GOVERNING BOARD OF THE CENTER JOINT UNIFIED SCHOOL DISTRICT DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

1. That the Board does hereby find and determine that the foregoing recitals and determinations are true and correct and that the Needs Analysis meets all applicable legal requirements.

2. That the District has received notification from the SAB that the District meets the eligibility requirements for construction funding pursuant to the provisions of the Act.

3. That pursuant to the Act, the District Representative made a timely application to the SAB for construction funding for which it is eligible.

4. That the District has caused to be prepared the Needs Analysis, which is on file at the District's administrative office and is incorporated herein by this reference, complies with all applicable statutory requirements, including the provisions of Government Code section 65995.6.

5. That the Board hereby approves and adopts the Needs Analysis for the purpose of establishing Alternative School Facility Fees as to future residential construction within the District.

6. That the Board finds that the purpose of the Alternative School Facility Fees imposed upon new residential construction are to fund the School Facilities to serve the students generated by the residential construction upon which the Alternative School Facility Fees are imposed as provided in the Needs Analysis and applicable law.

7. That the Board finds the Alternative School Facility Fees are hereby established as applicable and will be used to fund those School Facilities described in the Needs Analysis, and that these School Facilities are to serve the students generated by the residential construction within the District as provided in the Needs Analysis.

8. That the Board finds that there is a roughly proportional, reasonable relationship between the use of the Alternative School Facility Fees and the new residential construction within the District, because the Alternative School Facility Fees imposed on new residential construction by this Resolution will be used to fund School Facilities which will be used to serve the students generated by such new residential construction, in accordance with applicable law and as set forth in the Needs Analysis.

9. That the Board finds that there is a roughly proportional, reasonable relationship between the new residential construction upon which the Alternative School Facility Fees are imposed and the need for additional School Facilities in the District, because new students will be generated from new residential construction within the District and the District does not have capacity in the existing School Facilities to accommodate these students.

10. That the Board finds that the amount of the Alternative School Facility Fees imposed on new residential construction as set forth in this Resolution is roughly proportional and reasonably related to, and does not exceed the cost of, providing the School Facilities required to serve the students generated by such new residential construction within the District.

11. That the Board finds that separate funds have been created or authorized to be established for all Level 2 and 3 Fees received by the District (the "Funds") for the deposit of such Level 2 and 3 Fees and that said funds will be separately maintained, except for temporary investments, with other funds of the District as authorized by law.

12. That the Board finds that the monies of the separate Funds consisting of the proceeds of Level 2 and 3 Fees have been imposed for the purposes of constructing those School Facilities necessitated by new residential construction as further set forth in the Needs Analysis and, thus, these monies may be expended for all those purposes permitted by applicable law.

13. That the Needs Analysis determines the need for new School Facilities for unhoused pupils that are attributable to projected enrollment growth from the construction of new residential units over the next five years, based on relevant planning agency information and the historical generation rates of new residential units constructed during the previous five years that are of a similar type of unit to those anticipated to be constructed within the District and the County.

14. That the Board has identified and considered, and/or subtracted, as set forth in the Needs Analysis, the following information in determining amounts of the Level 2 and 3 Fees.

a. any surplus property owned by the District that can be used as a school site or that is available for sale to finance school facilities pursuant to Government Code section 65995.6(b)(1);

b. the extent to which projected enrollment growth may be accommodated by excess capacity in existing facilities pursuant to Government Code section 65995.6(b)(2);

c. local sources other than fees, charges, dedications, or other requirements imposed on residential construction available to finance the construction of school facilities needed to accommodate any growth in enrollment attributable to the construction of new residential units pursuant to Government Code section 65995.6(b)(3);

d. the full amount of local funds the Board has dedicated to facilities necessitated by new construction, including fees, charges, dedications or other requirements imposed on commercial or industrial construction pursuant to Government Code section 65995.5(c)(2).

15. That the Board has calculated, as set forth in the Needs Analysis, the maximum square foot fees, charges, or dedications to be established as Alternative School Facility Fees that may be collected in accordance with the provisions of Government Code sections 65995.5(c) and 65995.7(a).

16. That the Needs Analysis in its final form has been made available to the public for a period of not less than thirty (30) days.

17. That the public has had the opportunity to review and comment on the Needs Analysis, and the Board has responded to written comments it has received regarding the Needs Analysis.

18. That notice of the time and place of the public hearing ("Hearing") to adopt the Needs Analysis and Alternative School Facility Fee, including the location and procedure for viewing or requesting a copy of the proposed Needs Analysis and any proposed revision, therefore, has been published in at least one newspaper of general circulation within the jurisdiction of the District at least thirty (30) days prior to the Hearing.

19. That the Board has mailed a copy of the Needs Analysis no less than thirty (30) days prior to the Hearing to any person who made a written request forty-five (45) days prior to the Hearing.

20. That the Needs Analysis has been provided to all local agencies responsible for land use planning for review and comment in compliance with Government Code sections 65995.6(c) and 65352.2.

21. That the Board conducted the required Hearing prior to the adoption of the Needs Analysis and the Alternative School Facility Fees, at which time all persons desiring to be heard on all matters pertaining to the Needs Analysis were heard and all information present was duly considered.

22. That the Board hereby adopts Alternative School Facility Fees and establishes the Alternative School Facility Fees on new residential construction projects within the District in the following amounts.

a. Pursuant to Government Code section 65995.6, Level 2 Fees in the amount of \$3.27 per square foot of assessable space as defined in Government Code section 17620 for new residential construction, including manufactured homes and mobile homes as authorized under Education Code section 17625, excluding any construction described in Government Code sections 65995.1 or 65995.2.

b. Pursuant to Government Code section 65995.6(f), Level 3 Fees in the amount of \$6.44 per square foot of assessable space as defined in Government Code section 17620 for new residential construction, including manufactured homes and mobile homes as authorized under Education Code section 17625, excluding any construction described in Government Code sections 65995.1 or 65995.2, when it is determined by the Board that the State's school building funds for new school facilities is exhausted as set forth in Government Code section 65995.7.

23. That the proceeds of the Alternative School Facility Fees established pursuant to this Resolution shall continue to be deposited into the Funds identified in Section 11 of this Resolution, the proceeds of which shall be used exclusively for the purpose for which the Alternative School Facility Fees are to be collected.

24. That the District's Superintendent, or Superintendent's designee, is directed to cause a copy of this Resolution to be delivered to the cities and/or counties within the

District's boundaries, along with a copy of all supporting documentation referenced herein and a map of the District clearly indicating the boundaries thereof, advising the cities and counties that new residential construction is subject to the Alternative School Facility Fees increased pursuant to this Resolution and requesting that no building permit or approval for occupancy be issued by any of these entities for any new residential construction, mobile home or manufactured home subject to the Alternative School Facility Fees absent a certificate of compliance ("Certificate of Compliance") from the District demonstrating compliance of such project with the requirements of the Alternative School Facility Fees.

25. That the Superintendent is authorized to cause a Certificate of Compliance to be issued for each new residential construction project, mobile home and manufactured home for which there is compliance with the requirement for payment of the Alternative School Facility Fees in the amount specified by this Resolution. In the event a Certificate of Compliance is issued for the payment of Alternative School Facility Fees for a new residential construction project, mobile home or manufactured home and it is later determined that the statement or other representation made by an authorized party concerning the construction as to square footage is untrue or in the event the zoning is declared invalid, then such Certificate of Compliance shall automatically terminate, and the appropriate cities and/or counties shall be so notified.

26. That regarding the timely provision of a Certificate Compliance by the District for residential construction, although not required by applicable law, the Board hereby determines that the Need Analysis is a proposed construction plan for purposes of requiring payment of Alternative School Facility Fees prior to the issuance of any building permit for residential construction in accordance with Government Code section 66007, and that all Alternative School Facility Fees are appropriated for the purpose of accomplishing such construction plan.

27. That no statement or provision set forth in this Resolution, or referred to herein shall be construed to repeal any preexisting fee or mitigation amount previously imposed by the District on any residential or non-residential construction. Notwithstanding the preceding, the Alternative School Facility Fees authorized herein shall be in lieu of the collection of the Statutory School Facility Fees for new residential construction, however, if the District ceases collecting the Alternative School Facility Fees herein, the District is still authorized to collect the Statutory School Fees for new residential construction.

28. That if any portion or provision hereof is held invalid, the remainder hereof is intended to be and shall remain valid.

29. That the Level 2 Fees shall take effect immediately after adoption of this Resolution and shall be in effect for one year and that the effective date of the Level 3 Fees will remain contingent upon the determination by the Board that exhaustion of the State's school building funds for new school facilities has occurred, as set forth in Government Code section 65995.7.

APPROVED, PASSED AND ADOPTED by the Governing Board of the Center Joint Unified School District, this 3rd day of June, 2009.

President of the Governing Board of the
Center Joint Unified School District

I hereby certify that the foregoing Resolution was duly and regularly introduced, approved, passed and adopted by the members of the Governing Board of the Center Joint Unified School District at the Board Meeting of said Board on June 3, 2009, and that it was so adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Clerk of the Governing Board of the
Center Joint Unified School District